

# GENDER IDENTITY DISCRIMINATION

Your gender. Your reality.  
Your rights.

**Equal Opportunity Tasmania**

**Phone:** 1300 305 062 (in Tasmania) or (03) 6165 7515

**E-mail:** [office@equalopportunity.tas.gov.au](mailto:office@equalopportunity.tas.gov.au)

**Text:** 0409 401 083

**Translating and Interpreting Service:** 131 450

**National Relay Service**

TTY Users: Phone 133 677 then ask for 1300 305 062

Speak and Listen: 1300 555 727 then ask for 1300 305 062

**Office:** Level 1, 54 Victoria St, Hobart TAS 7000

**Post:** GPO Box 197, Hobart TAS 7001

[www.equalopportunity.tas.gov.au](http://www.equalopportunity.tas.gov.au)

Celebrating Difference  
Embracing Equality



# GENDER IDENTITY DISCRIMINATION

It is gender identity discrimination to treat a person unfairly, or for them to be denied the same opportunities as others, because of their gender identity. This includes a person's appearance or mannerisms, or other gender-related characteristics, including gender expression. This includes people who identify as transgender or transsexual.

We all have a gender identity. For many, however, the gender they identify with is different from that assigned at birth.

A person's designated sex at birth is irrelevant. Nor does it matter what label they choose to describe themselves. Everyone has a right to express their own gender as they wish and to live and behave in accordance with their gender identity.

Relatives, friends and co-workers sometimes experience discrimination because of their relationship with another person, because of that other person's gender identity (or assumptions about that other person's gender identity). The law protects them too.

## In what situations is gender identity discrimination unlawful?

To be against the law, gender identity discrimination must be related to one of these places or activities:

- Work – whether the work is paid or voluntary
- Training or studying – for example at school, TAFE or university, or workplace training
- Providing or accessing facilities or services
- Buying or selling goods
- Club membership or club-related activities
- Hotels and pubs

- Housing and accommodation – including short-term accommodation such as a hotel or hostel
- Office and other business premises
- The design or implementation of state laws or programs
- Making or implementing industrial awards, enterprise agreements or industrial agreements

## Other unlawful behaviour

It is also against the law to offend, humiliate, intimidate, insult or ridicule a person because of their gender identity, or to publicly incite hatred, serious contempt or severe ridicule on the basis of gender identity (see separate brochures: *Offensive behaviour* and *Inciting others*).

## Exceptions to the law

There are no specific exceptions (defences) to discrimination on the basis of gender identity under the Tasmanian *Anti-Discrimination Act 1998*. There are general exceptions that may apply. For example, providing specific health services to people with diverse gender identities is likely to be allowed.

## Exemptions

If you think there is a valid reason for doing something that someone might consider to be discriminatory on the basis of gender identity, you may apply to the Anti-Discrimination Commissioner for an exemption for that activity (see separate brochure: *Discrimination law - should you be exempt?*).

## Do you feel you have been discriminated against on the basis of gender identity?

If you want to make a complaint, contact our office. This service is free. We cannot give legal advice, but we can explain how the law works and what it covers. We can also help with writing down a complaint.

## The law in action

Caroline was designated male when she was born. She identifies as female. Her new employer asks Caroline to use the men's toilet instead of the women's. This is discrimination on the basis of gender identity.

Francis identifies as non-binary and likes to be called 'they'. Their work colleagues continually refer to them as 'her' and 'she' despite Francis asking their colleagues to stop. The use of inappropriate pronouns is discriminatory and can cause humiliation and offence. Francis may be able to make a complaint of discrimination and offensive conduct on the basis of gender identity under the Act.