

GENDER IDENTITY DISCRIMINATION

Your gender. Your reality.
Your rights.

Equal Opportunity Tasmania

(the office of the Anti-Discrimination Commissioner)

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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.

We all have a gender identity. It is the deeply rooted internal sense of who we are in terms of gender. For many, however, the gender they identify with is different from that assigned at birth.

Some people who are designated as male at birth identify as female and some designated as female identify as male. Some identify as neither male nor female, or as both.

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 and friends sometimes experience discrimination because of their relationship with a person who is transgender or transsexual (or thought to be). 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 (see separate brochure: *Offensive behaviour*).

Exceptions to the law

There are no specific exceptions to discrimination on the basis of gender identity under Tasmanian law. 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 had gender-reassignment surgery when she was in her 20s to reflect her female identity. Her new employer, having found out about the surgery, asks Caroline to use the men's toilet instead of the women's. This is discrimination on the basis of gender identity.

Sascha was designated male when born but decided to make the transition to female to reflect her gender identity. She has been taking hormone-replacement drugs to assist with the transition, but has not had gender-reassignment surgery. Sascha tries to make an appointment to have a routine prostate check and is told she is not eligible because the service is available only to men. The provision of health services or procedures exclusively to women or men risks excluding those whose biological sex is different from their gender identity. This is also discrimination on the basis of gender identity.

Francis identifies as male. His work colleagues continually refer to him as 'her' and 'she' despite him asking them 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.