

What is unlawful discrimination?

What is unlawful discrimination?

- It is unlawful discrimination when a person is treated less favourably (worse) than other people because they have a particular characteristic, such as their age, race, sex or disability.
- It is also discrimination when a person is disadvantaged compared to other people because they have a particular characteristic.

When is discrimination against the law?

- Discrimination is **unlawful** under the *Anti-Discrimination Act 1998* (Tas) (the Act) if it is discrimination on the basis of one or more of the 22 characteristics listed in the Act (these characteristics are called 'attributes'), and if it happens in an area of activity that is listed in the Act

The attributes listed in the Act are:

- Age
- Race
- Disability
- Irrelevant medical record
- Gender
- Gender identity
- Intersex
- Breastfeeding
- Pregnancy
- Sexual orientation
- Relationship status
- Lawful sexual activity
- Marital status
- Family responsibilities
- Parental status
- Irrelevant criminal record
- Religious belief or affiliation
- Religious activity
- Political belief or affiliation
- Political activity
- Industrial activity
- Association with a person who has or is believed to have any of the other attributes.

The areas of activity listed in the Act are:

- Employment (paid and unpaid)
- Education and training

- Provision of facilities, goods and services
- Accommodation (all types)
- Membership and activities of clubs
- Administration of any law of Tasmania or any State Government program
- Awards, enterprise agreements or industrial agreements

Is it ever okay to treat someone differently?

- Treating someone differently isn't necessarily unlawful discrimination. It is permitted if it is necessary to properly allow for individual needs, as this is not 'less favourable' treatment.
- Less favourable treatment is not always unlawful discrimination. A person may be treated less favourably than others if it is for lawful reasons such as to ensure that the person appointed to do a job can perform the job's inherent requirements.

What are some examples that are not unlawful discrimination?

- Not employing a pregnant woman for a 12 month contract in Antarctica makes good sense for logistic reasons.
- Not allowing an employee that suffers from severe vertigo to work on scaffolding is good management and meets other legal obligations such as occupational health and safety laws.
- An employer changing an employee's duties (with consultation) while the employee does more training to further develop skills (after making a number of mistakes on a project), may be the best management approach in a situation. This is not unlawful discrimination as the job has been changed because of poor performance and not an because of (or linked to) an attribute.

For more information on what is unlawful discrimination in Tasmania go to;
http://www.antidiscrimination.tas.gov.au/information_on_the_act