

## Make a complaint to the Commission

If you think you have been discriminated against, sexually harassed, victimised or vilified, contact us. We can send you information about the complaint process. If we can't help you we will try to refer you to someone who can.

You can also make a complaint to us by sending us a letter or email or filling in our online complaint form. You can make a complaint in your preferred language or you can call us and we can help you write the complaint down. It does not cost anything to make a complaint to us and you do not need a lawyer to make a complaint.

The Commission will try to help you resolve your complaint, but we do not advocate for you or for the person or organisation you are complaining about.

When you lodge a complaint we will contact you to talk about your complaint and we may ask you for more information. We may talk to you about trying to resolve the complaint through conciliation and the outcome you want to achieve.

Generally, the Commission will contact the person or organisation you are complaining about, give them a copy of your complaint and ask for their comments. We will let you know what they have said in response to your complaint.

In some instances we may decide we cannot deal with your complaint. If this happens we will contact you and explain why.

In many cases we will help you and the person or organisation you are complaining about try to find a way to resolve the complaint by conciliation. Conciliation can take place in a face-to-face meeting, by telephone conference or contact through the conciliator.

Complaints can be resolved in many different ways, for example by an apology, a change in policy, staff training or compensation.

## About the Commission

The Victorian Equal Opportunity and Human Rights Commission is an independent statutory body with responsibilities under three laws:

- *Equal Opportunity Act 2010*
- *Racial and Religious Tolerance Act 2001*
- *Charter of Human Rights and Responsibilities Act 2006.*

### Commission services include:

- Enquiry Line service available by telephone, email or webchat
- a free, fair and timely dispute resolution service
- information (and education) about equal opportunity, racial and religious vilification and the Charter of Human Rights and Responsibilities
- education, training and consultancy services.

Please contact us for more information.

**1300 292 153** or **(03) 9032 3583**

**[enquiries@veohrc.vic.gov.au](mailto:enquiries@veohrc.vic.gov.au)**

**[www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)**

Level 3, 204 Lygon Street Carlton Vic 3053

Fax: **1300 891 858**

Hearing impaired (TTY): **1300 289 621**

Interpreters: **1300 152 494**

Online complaint form: **[www.humanrightscommission.vic.gov.au/complaints](http://www.humanrightscommission.vic.gov.au/complaints)**

Follow us on: **Twitter @VEOHRC**

Find us at: **[www.facebook.com/VEOHRC](http://www.facebook.com/VEOHRC)**

DISCLAIMER: This information is intended as a guide only. It is not a substitute for legal advice.

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Victorian Equal Opportunity  
& Human Rights Commission

# Sexual orientation and gender identity discrimination

> Know your rights



[humanrightscommission.vic.gov.au](http://humanrightscommission.vic.gov.au)

## What is sexual orientation and gender identity discrimination?

Discrimination is treating someone unfavourably, or proposing to, because of a personal attribute protected by Victoria's *Equal Opportunity Act 2010*.

Discrimination can also happen if an unreasonable policy or practice is applied that can, or does, disadvantage someone because of a personal attribute. It can still be discrimination if the policy or practice is proposed; it doesn't have to be put into action.

Equal opportunity laws protect people from discrimination, sexual harassment, victimisation, and racial and religious vilification.

In Victoria it is against the law to discriminate against someone because of their actual or assumed sexual orientation, gender identity or lawful sexual activity.

### Sexual orientation

Whether you are homosexual, lesbian, bisexual or heterosexual you have the same rights under equal opportunity law. That means it is against the law for someone to discriminate against you because of your sexual orientation.

### New attribute: expunged homosexual conviction

On 1 September 2015, an attribute was added to section 6 of the Equal Opportunity Act 2010 to prohibit discrimination on the basis of an expunged homosexual conviction.

The purpose of expunging historical homosexual records is to remove the stigma of a criminal record and the practical impediments created by a criminal record in relation to travel, employment, volunteering, appointments, licences and permissions.

## Gender identity

People have the right to identify as a member of a particular gender. People can do this by the way they dress, a change of name and medical intervention, which can include hormone therapy, counselling and surgery.

### Example of discrimination

Anne-Marie has recently legally changed her name from Joseph and identifies as a female. Even though most of Anne-Marie's colleagues have been supportive, her boss is uncomfortable with her gender identity. When Anne-Marie applies for a promotion to a position that involves external presentations, her boss says that she is not appropriate for an external role because she might make clients uncomfortable.

### Lawful sexual activity

Victoria's laws protect us all from discrimination because of lawful sexual activity – sex between consenting adults. That means who you have sex with should have no bearing on whether you get a job, a promotion, accommodation, a loan or a place on a sporting team.

Lawful sexual activity includes taking part in, or choosing not to take part in, any form of sexual activity that is legal in Victoria, including legal prostitution. Sexual activities that are against the law are not covered, regardless of a person's gender or sexual orientation.

## Where discrimination can happen

Victoria's Equal Opportunity Act makes discrimination against the law when it happens in:

- accommodation
- clubs
- education
- employment
- goods and services
- land sales and transfers
- local government
- sport.

In some circumstances there may be exceptions. Contact us for more information.

## Victimisation

It is against the law to punish or threaten to punish someone because they have:

- asserted their rights under equal opportunity law
- made a complaint
- helped someone else make a complaint
- refused to do something because it would be discrimination, sexual harassment or victimisation.

The legal definition of victimisation is when someone 'subjects or threatens to subject the other person to any detriment'.

### Example of victimisation

Tom is an openly gay high school student and chairs the school's gay-straight alliance. He makes a discrimination complaint under the Equal Opportunity Act against a teacher for making homophobic comments. Following the complaint, the teacher refuses to give Tom information about completed assessments and says he will withhold Tom's results until the complaint is resolved.

## How should I respond to discrimination?

Every person needs to make their own choices about how to respond to serious issues in the workplace or public life, but it's important to know that there are a range of services and agencies that can advise, support and help you make informed decisions about what to do next.

Even if you don't want to make a complaint, we can help.

If you have any questions about discrimination, sexual harassment, victimisation or vilification you can contact the Commission. We won't act on what you tell us unless you ask us to.