

Sex work discrimination: What are my responsibilities?

Organisations have obligations under the *Equal Opportunity Act 2010* (Vic) to not discriminate against sex workers and workers in the sex industry as well as preventing discrimination and responding to any discrimination that does occur.

As part of the *Sex Work Decriminalisation Act 2022* (Vic), reforms have been introduced that make it unlawful to discriminate against sex workers and those in the sex industry based on their profession, trade or occupation (unless an exception applies). Preventing discrimination against sex workers should form part of your overall discrimination prevention strategy. These changes will help combat the long history of sex workers experiencing stigma and unfavourable treatment because of their work.

Who has obligations under the Equal Opportunity Act?

The Equal Opportunity Act covers most areas of public life, including employment, education, accommodation, clubs and sporting groups and the provision of goods and services.

For example, if you run a business, are renting out an apartment or providing a service you have an obligation to eliminate discrimination against sex workers and those in the sex industry.

You should be especially aware of your obligations if you operate within any of the common areas of sex work discrimination identified by sex workers and sex industry workers including:

- financial services
- employment
- advertising
- accommodation and housing
- health and support services
- police interactions (in certain circumstances)
- local government

What do sex work discrimination and other forms of unlawful conduct toward sex workers look like?

Discrimination

Sex work discrimination is when someone discriminates against a sex worker or another worker in the sex industry, including treating them unfairly because of their profession, trade or occupation.

- **Direct sex work discrimination** is when someone treats another person unfairly because of they are a sex worker or work in the sex industry – that is, because of their profession, trade or occupation.

For example, a bank refuses to open a bank account for a sex worker or sex industry business owner because of their profession, trade or occupation.

- **Indirect sex work discrimination** is when there is an unreasonable requirement, condition or practice that disadvantages sex workers or people who work in the sex industry – that is, because of their profession trade or occupation.

For example, a media company has a blanket rule that prohibits any material of a sexual nature being advertised on its platform, which disadvantages sex workers who are unable to advertise their services.

Sexual harassment

Sexual harassment of sex workers is also against the law. Sexual harassment is any unwanted conduct of a sexual nature which could reasonably be expected to make the other person feel offended, humiliated or intimidated.

For example, a health professional administers a medical procedure for a sex worker and asks inappropriate questions of a sexual nature about their sexual activity with clients.

Victimisation

Victimisation may occur where a sex worker is treated badly because they have raised an issue or made a complaint about alleged discrimination or other unlawful conduct they have experienced. This is also against the law.

For example, a sex worker who experienced poor customer service at a hotel because of their sex worker status is then banned from the hotel because they made a formal complaint about their treatment.

What are my obligations?

In Victoria, the Equal Opportunity Act includes a positive duty which means that duty holders need to take reasonable and proportionate measures to eliminate discrimination, sexual harassment and victimisation as far as possible. This includes sex work discrimination.

How to comply with my legal duties toward sex workers?

The positive duty is a legal obligation placed on all duty holders in Victoria. It is not just about technical compliance with the law. It encourages best practice and systemic change which has a range of significant benefits for everyone involved.

The Victorian Equal Opportunity and Human Rights Commission has developed six minimum standards that all organisations should comply with to satisfy the positive duty to prevent sex work discrimination (and other forms of discrimination), sexual harassment and victimisation.

The standards cover:

- knowledge and understanding needed in order to be able to **identify** sex work discrimination when you see it in your organisation
- **preventing** sex work discrimination from happening in the first place
- **responding** to unlawful conduct, including sex work discrimination, when it happens.

For more information on sex work discrimination and your obligations under the law, you can contact the Victorian Equal Opportunity and Human Rights Commission on 1300 292 153 or download the *Guideline: Sex work discrimination* from our website at humanrights.vic.gov.au.