

# What is discrimination?

In Australia, we don't have a constitutional right to equality or equal treatment. That's why it's important to know the discrimination laws in Australia and Queensland that give us these rights.

Currently, the rights of people with a disability in Queensland are protected through Commonwealth and state anti-discrimination laws and related disability standards.

The main way that a person with a disability can seek redress for violations of their rights is through Commonwealth and state complaint mechanisms. For more information about making a complaint, see the **Making a discrimination complaint factsheet**.

## What is discrimination?

Discrimination can be direct or indirect. Both types of discrimination are prohibited and may form the basis of a complaint to either the Australian Human Rights Commission or Queensland Human Rights Commission.

**Direct discrimination** occurs when a person with a disability is treated less favourably than people without a disability in the same or similar circumstances. On its face, the treatment is less favourable.

Example: A school refusing to enrol a student who requires a guide dog but enrolling students who don't require a guide dog.

**Indirect discrimination** occurs when there is a rule or policy that is the same for everyone, but it has an unfair effect on people with a disability. On its face, the treatment is neutral.

Whether the rule or policy is reasonable is also a factor. For example, what is the cost of an alternative rule or policy, or the consequence for not complying with the rule or policy?

It is also indirect discrimination if a person with a disability could comply with the rule or policy with reasonable adjustments, but these are not provided, and this disadvantages the person with a disability.

Example: A company arranges meetings for all staff using video-conference facilities. The company also refuses to provide an Auslan interpreter for their employees who are hearing impaired.

## Discrimination areas

Discriminatory conduct is only unlawful if it occurs within an area of protected activity. These are:

1. Education
2. Employment
3. Goods and services
4. Accommodation

The *Disability Discrimination Act 1992* (Cth) includes further areas: access to premise; land; clubs and incorporated associations; sport; administration of Commonwealth laws and programs.

## Unjustifiable hardship

People with a disability are entitled to reasonable adjustments to accommodate their needs. However, they are not entitled to adjustments that would cause an unjustifiable hardship on the person or organisation asked to provide them.

## Other exemptions

There are further exemptions to discrimination. You should see the **further resources** below to find out more.

## The legislation

- **Disability Discrimination Act 1992 (Cth)**: Prohibits discriminatory conduct against a person on the basis of their disability.
- **The Disability Standards and Guidelines**: Legally binding regulations set by the Attorney-General that help people and organisations understand their rights and responsibilities under the *Disability Discrimination Act 1992 (Cth)*.
- **Australian Human Rights Commission Act 1986 (Cth)**: Sets out the Australian Human Rights Commission's role and responsibilities. It gives effect to Australia's obligations under several international treaties, including the Convention on the Rights of Persons with Disabilities.
- **Anti-Discrimination Act 1991 (Qld)**: Prohibits discriminatory conduct against a person on the basis of several attributes, including impairment. It also establishes the Queensland Human Rights Commission and sets out the functions of the Queensland Civil and Administrative Tribunal in relation to contraventions of the Act.
- **Human Rights Act 2019 (Qld)**: Requires public entities to uphold the 23 human rights that are listed in the Act. It complements existing legislation such as the *Anti-Discrimination Act 1991 (Qld)*.

## Further resources

- [Queensland Human Rights Commission](#)
- [Australian Human Rights Commission](#)
- [Fair Work Commission](#) (workplace discrimination)
- [Disability Standards](#)
- [Department of Education](#) (education discrimination)
- [Queensland Law Handbook](#) published by Caxton Legal Centre Inc.
- [Legalpedia Queensland](#) hosted by LawRight

## Other organisations

- [Queensland Advocacy Incorporated](#)
- [LawRight](#)
- [Caxton Legal Centre Inc](#)
- [Legal Aid Queensland](#)
- [Queensland Collective for Inclusive Education](#)
- [Basic Rights Queensland](#)
- [Tenants Queensland](#)