

Factsheet Fifteen

Workplace Discrimination

You have the right to a workplace that is free from discrimination and treated fairly when it comes to getting a job, in opportunities for training and promotion, in your working conditions and if you are dismissed. This applies whether you work full-time, fixed term, part-time, casually, as an apprentice, probationary employee, trainee or as a contractor.

Employees in the NT are covered by both the NT Anti-Discrimination Act and federal discrimination legislation 'Australian Human Rights Commission Act as well as the federal Sex Discrimination Act, Race Discrimination Act, Disability Discrimination Act and Age Discrimination Act.

The Northern Territory Anti-Discrimination Act defines discrimination as any distinction, restriction, exclusion, or preference made based on an attribute that has the effect of impairing equality of opportunity, and harassment on the basis of that attribute.

These attributes include:

- Race;
- Colour;
- Sex;
- Age;
- Sexuality;
- Parenthood;
- Pregnancy;
- Trade union or employer association activity;

- Religious belief or activity;
- Political opinion, affiliation or activity;
- Irrelevant criminal or medical record;
- Marital status;
- Impairment (disability);
- Breast feeding;
- Association with a person who has or is believed to have one of these attributes;.

New Reforms to the NT legislation

In July 2023 changes to the NT Anti-Discrimination Act were passed providing protection for the following attributes:

- Language, including sign language;
- Gender identity;
Sex characteristic;
- Accommodation status;
- Employment status;
- Employment in sex work or engaging in sex work including past employment in sex work or engagement in sex work;
- HIV/Hepatitis status;
- Subject to domestic violence;

Positive Duty

Under the federal Sex Discrimination Act, organisations now have a positive duty to eliminate and respond to sexual harassment, as far as possible in relation to the following unlawful behaviour:

- Discrimination on the ground of sex in a work context;
- Sexual harassment in connection with work;
- Sex-based harassment in connection with work;
- Conduct creating a workplace environment that is hostile on the ground of sex;
- Related acts of victimisation;

The Australian Human Rights Commission have a range of practical information and resources to help organisations meet their positive duty obligations. You can visit their website at [The Positive Duty under the Sex Discrimination Act](#).

The Northern Territory Anti-Discrimination Act and federal discrimination laws may have slightly different grounds for discrimination, so it is best to check to see which law best applies to your situation.

What is adverse Action by an Employer?

Adverse action is unlawful if it was taken for a discriminatory reason by your employer. Under the Fair Work Act (FWA) adverse action includes threatening, or organising or doing any of the following because of a protected attribute listed above or for exercising a workplace right, your union membership status:

- Dismissing an employee;
- Injuring a employee in their employment;
- Altering an employee's position to their detriment, such as demoting them;
- Treating one employee worse than another employee because of one of the protected attributes such as race, sex, age or disability;
- Refusing to employ a prospective employee;
- Discriminating against a prospective employee on the terms and conditions in the Offer of employment;

The Fair Work Ombudsman investigates allegations of unlawful workplace discrimination and may initiate litigation in some circumstances against a national system employer for contravening the Fair Work Act.

You may also be able to lodge an application with the Fair Work Commission. If you have not been dismissed but allege that there has been a contravention of the discrimination protection provisions of the Fair Work Act, you may make an application to the Fair Work Commission to deal with the dispute.

Where can I get more help?

NT Working Women's Centre
Ph: 1800 817 055
www.ntwwc.com.au

Your Union
Unions NT
Ph: 8941 0001
www.unionsnt.com.au

NT Anti-Discrimination
Commission
Ph: 1800 813 846
adc.nt.gov.au

Australian Human Rights Commission Ph: 1300 656 419 www.humanrights.gov.au	Fair Work Ombudsman Ph: 13 13 94 www.fairwork.gov.au	Fair Work Commission Ph: 1300 799 675 fwc.gov.au
NT Police Ph: (emergency) 000 If calling from a mobile: 112	Office of the Commissioner of Public Employment (OCPE) Ph: 8999 4129 www.ocpe.nt.gov.au	NT WorkSafe Ph: 1800 019 115 www.worksafe.nt.gov.au
Your HR Department	Aboriginal Interpreter Service Ph: 1800 334 944 www.ais.nt.gov.au	To access an interpreter Interpreting and Translating Service NT Ph: 1800 676 254 www.itsnt.nt.gov.au/

The NT Working Women's Centre (NTWWC) provides free and confidential information, advice and assistance to women about work. The information, opinions and advice contained have been prepared with due care and are believed to be correct at the time of publication. NTWWC expressly disclaim any liability whatsoever to any person who suffers any loss arising from the contents of, errors in, or omissions from this publication. This Factsheet is not intended as a substitute for legal advice. Please seek advice for further information about your situation. August 2024.