

EMPLOYEES GUIDE

Know your rights in employment

Information for Muslim employees

You have a right to equal treatment

Everyone has the right to be treated equally and without discrimination. In Victoria, equal opportunity and vilification laws protect your rights. These laws make discrimination, sexual harassment, victimisation, and racial and religious vilification against the law.

Discrimination in employment

When we talk about a person being discriminated against, it means they're being treated badly or unfairly because of a personal characteristic that is protected by the law. The [Equal Opportunity Act 2010](#) describes it as being treated "unfavourably". The law protects people from unfair treatment in [public life](#), not private behaviour.

Apart from employment, these areas of public life include the provision of goods and services, education, accommodation, sport, clubs and club membership, disposal of land and local government.

In Victoria it is against the law for employers to discriminate against you because of a range of [personal characteristics](#), including your race, colour, nationality, ancestry or ethnic background. All employers must follow the law.

When you apply for a job

When you apply for a job, it is against the law for the employer or employment agency to discriminate against you because of any of the personal characteristics that are protected by law.

This means it is against the law for them to discriminate against you because you are Muslim. The job should go to the person who can do it best, regardless of their background and personal characteristics.

It is against the law for an employer or employment agency to ask about your personal characteristics and then refuse you a job based on this information. Their questions should focus directly on the skills and abilities needed to do the job.

Example of discrimination when applying for job

Fauziah applies for a job. The employer is keen to interview her as she has some highly relevant skills and has performed in a similar role previously.

But when she goes to the interview, Fauziah is told she won't be needed because the company can't have people wearing headscarves representing them.

This is discrimination.

When you are in a job

The law protects all workers, including full-time, part-time and casual employees, contract workers, trainees and apprentices.

Discrimination can include:

- getting more than your fair share of the unpopular jobs
- getting more than your fair share of the unpopular rosters or shifts
- missing out on, or being excluded from, opportunities or information
- not being given the resources you need to do your job well
- not being considered for a promotion because you are Muslim.

Example of discrimination in the workplace

Mustafa works for a large design firm and asks for time off at specific times to observe his daily prayers. He proposes to make up the time by taking a shorter lunch break.

Mustafa's employer refuses this request even though it wouldn't have any impact on client services. The company says this is because it does not want to give him special treatment and extra breaks.

This is discrimination.

Example of indirect discrimination in the workplace

Nadya works for a finance company where staff go for drinks every Friday night. Nadya doesn't drink and doesn't feel comfortable attending these events.

Her supervisor asks why she doesn't join in. She suggests Nadya comes along and has one drink as that has been a subject of discussion among staff who feel Nadya thinks she is better than they are.

This can be indirect discrimination.

As part of their equal opportunity responsibilities, your employer should try to accommodate reasonable requests for flexibility in a role.

Example of accommodating religious practices at work

Shareef works as a data analyst.

When he started with his new employer, he spoke to his boss about being a Muslim and asked if it would be okay to start earlier on Fridays so he could take a longer lunch break to go to Friday congregational prayers at the Mosque.

Shareef's supervisor agreed that this would be okay and was a reasonable change to his work arrangements.

Victimisation

Victimisation is when someone is treated badly or unfairly because they have made a complaint about discrimination, sexual harassment or racial and religious vilification, or they've helped someone else to make a complaint.

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

The law protects you from discrimination and you are entitled to speak up or make a complaint about it. It doesn't matter who does it – your boss, manager, co-workers or anyone else in your workplace.

Example of victimisation

Aalia is a casual worker and has regular shifts.

She makes a complaint of discrimination because her co-workers keep harassing her about her hijab, telling her to take it off or go back to her home country, even though she has asked them to stop.

After she makes the complaint, her shifts are reduced because her boss doesn't like people who complain.

This is victimisation and is against the law.

Racial and religious vilification

Vilification is public behaviour that encourages others to hate, disrespect or abuse a person or group of people because of their race or religion. The legal definition is conduct that 'incites hatred, serious contempt, revulsion or severe ridicule'.

Racial and religious vilification is against the law, and it can happen in the workplace.

Some behaviour may not be vilification if it is reasonable and done in good faith.

This includes art or a performance, discussion or debate in the public interest, and a fair and accurate report in the media.

Example of vilification

People at Sara's work put up offensive material on the work noticeboard that makes fun of Islamic beliefs, values and culture.

This can be vilification and against the law.

The positive duty

Under the *Equal Opportunity Act 2010*, all employers have a positive duty to eliminate discrimination, sexual harassment, and victimisation as far as possible.

Victoria is unique in having a positive duty, which puts a focus on preventing unlawful behaviour. It helps organisations put a healthy workplace culture in place, just as occupational health and safety laws require employers to take appropriate steps to ensure injuries don't occur.

Your employer must treat all complaints about discrimination and victimisation seriously and confidentially. Organisations must also put measures in place to ensure that complaints are responded to swiftly and appropriately when they do arise.

Read about some [examples of the positive duty](#) and the [six minimum standards](#).

What can you do if you experience discrimination or victimisation?

The Victorian Equal Opportunity and Human Rights Commission may be able to help you.

We can provide you with information about your rights and may be able to assist you to resolve the matter. Outcomes can include things like an apology, an undertaking to stop certain behaviour, change in policy, training for managers and compensation.

Information about your rights

We do not give legal advice, but we can tell you more about your rights and Victoria's laws that protect them. We can let you know if we can help with your problem.

Sometimes we cannot help you. If this happens, we will tell you why and try to suggest another organisation that can help.

Make a formal complaint

You can make a complaint about:

- discrimination
- sexual harassment
- racial or religious vilification
- victimisation.

If you make a formal complaint, we will try to help you solve your problem. Making a complaint is free and you do not need a lawyer.

Sometimes we cannot deal with your complaint. If this happens, we will tell you why and try to suggest an organisation that may be able to help you.

In many cases, we will offer to help you resolve the problem through our voluntary conciliation process.

Conciliation may be a way to work out your complaint with the person or organisation. It tries to let both sides explain what happened and find a way to resolve the issues.

Conciliation is often a successful way of resolving complaints. People who have used our conciliation process say it is fair and easy to understand and helps them to come up with good solutions.

Use the Community Reporting Tool

When people report to us what is happening in their community, it helps us know if there is a problem. We can use this information to provide better help to communities.

If you want to tell us about your experience, but you do not want to make a formal complaint, you can make a report to us using our [Community Reporting Tool](#).

The Community Reporting Tool is a quick way to tell us what has happened, or what you are worried about.

You do not have to tell us your name but, if you want to, you can ask for someone at the Commission to contact you and try to help you.

We will not share your details with anyone else. We will keep your information private.

More information

For more information, please contact our friendly Enquiries Team, or visit humanrights.vic.gov.au/for-organisations

Commission staff are available from 10am – 4pm, Monday to Friday.

Victorian Equal Opportunity and Human Rights Commission

Level 3, 204 Lygon Street, Carlton, Victoria 3053

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Fax	1300 891 858
NRS Voice Relay	1300 555 727 then quote 1300 292 153
Interpreters	1300 152 494
Live chat	https://alive5.com/Uu7Bill
Email	enquiries@veohrc.vic.gov.au
Web	humanrights.vic.gov.au
Twitter	twitter.com/VEOHRC
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This publication is available to download from our website at humanrights.vic.gov.au/resources in PDF. Please contact the Commission if you require other accessible formats.

We welcome your feedback!

Were these resources useful? Easy to use? Would you like to see something else included? Please email us at communications@veohrc.vic.gov.au

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Disclaimer: This information is provided as a guide only. It is not a substitute for legal advice. This information has been prepared to support employers to meet their obligations under the *Equal Opportunity Act 2010*. There may be other laws that also apply to your workplace.

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