

Anti - Discrimination List

EXEMPTION

APPLICATION NO A48/2012

The Victorian Civil & Administrative Tribunal has considered an application pursuant to section 89 of the Equal Opportunity Act 2010 (the Act) by Domestic Violence Victoria Inc (the applicant). The application for exemption is to enable the applicant to advertise for and employ women only (the exempt conduct).

UPON READING the material filed in support of this application, including the affidavit of Jeanine Jones and having heard from the applicant on 29 May 2012 and reviewed submissions made by the applicant and the Equal Opportunity & Human Rights Commission, the Tribunal is satisfied that it is appropriate to grant an exemption from sections 16, 107 and 182 of the Act to enable the applicant to engage in the exempt conduct.

In granting this exemption, the Tribunal noted:

- The applicant is a peak advocacy body funded by the Office of Housing, Department of Human Services, which comprises as its membership women's domestic violence services across Victoria. Its purposes include enhancing services available to women and children experiencing family violence; providing leadership in good practice and advocacy for violence prevention and systemic change; facilitating responses and commentary to government and key stakeholders; informing public policy and research; and raising community awareness and promoting community responsibility for violence prevention.
- The applicant is frequently contacted in person and by telephone by women seeking direct assistance in relation to family violence. Any staff member may be the first contact for those women. In addition, from time to time, the applicant is involved in projects which require its staff to liaise and work closely with victims of family violence. The applicant believes it appropriate that women only be employed as many users of the service would not avail themselves of the service if male employees were present. The applicant refers men who contact it seeking services to appropriate men's service providers.
- Previous exemptions have been granted to the applicant in similar terms. An interim exemption has been granted which expires on 31 October 2012. I am not satisfied that the exception contained in section 28 of the Act applies in respect of all roles within the applicant organisation. While some of the applicant's services may be special needs under section 88 of the Act, the evidence does not support a finding that, in respect of all roles within the applicant organisation, those services can be most effectively be provided by women. Accordingly, after 31 October 2012, in the absence of an exemption, the exempt conduct would amount to prohibited discrimination.
- When making decisions about exemptions, the Tribunal is required to give proper consideration to relevant human rights as set out in the Charter of Human Rights and Responsibilities Act 2006 (Charter). Arguably, this exemption limits the right to equality and, in particular, the right to equal and effective protection against discrimination of men who wish to be employed by the applicant. I am satisfied that, in the circumstances discussed above, the limit imposed by this exemption is reasonable and justified under the Charter.

The Tribunal hereby grants an exemption from the operation of sections 16, 107 and 182 of the Act to enable the applicant to engage in the exempt conduct.

This exemption is to commence on 1 November 2012 and remain in force until 31 October 2017.

Dated this 12th day of September 2012

A Dea
Membe

