

Understanding Discrimination

Year 9 Civics & Citizenship



Understanding Discrimination

Each of the following scenarios is an example of a person experiencing discrimination.

Think about why the events described in each scenario are discriminatory.



Scenario 1:

Alexia and Daniel are university students who work at a local pet store.

Alexia has been working there for two years and has acted as manager several times when the regular manager, Jason, is away.

Daniel started working at the store a few months ago. He seems to get along very well with the store's owner, Paul.

Last week Jason resigned and Alexia has just found out that Paul has offered the role of manager to Daniel.

Alexia is concerned that Paul did not discuss the role with her, the more experienced employee.

Why is this discrimination?

- It is unlawful to discriminate against a person in employment because of their sex.
- The Sex Discrimination Act 1984 (Cth) makes it unlawful to discriminate against a person in certain areas of public life (e.g. employment, education, provision of goods and services) on the basis of their sex, pregnancy, family responsibilities, sexual orientation, marital/relationship status, gender identity and/or intersex status.

Scenario 2:

Eli has been attending his local primary school since kindergarten. A few years ago, he was diagnosed as on the Autism Spectrum.

Eli loves going to school and his parents have been very happy with the support provided by the school administration and Eli's teachers over the years. However, they have noticed that Eli has become increasingly withdrawn over the last few months and were surprised by his year 4 teacher's comments at a recent parent teacher interview.

Ms Toomey told them that she finds it distracting when Eli stands at the back of the classroom rather than sitting at his desk like his classmates. Eli's parents explained to her that Eli finds it difficult to sit for long periods of time and reminded her that his doctor has advised allowing him to stand when he needs to do so.

His previous teachers have found that this significantly improves Eli's attention and concentration and have encouraged him to stand when he needs to do so.

Why is this discrimination?

- It is unlawful to discriminate against a person in education because of their disability.
- The Disability Discrimination Act 1992 (Cth) makes it unlawful to discriminate against a person in certain areas of public life (e.g. employment, education, provision of goods and services) because they have a disability.
- Disability is broadly defined and includes: physical disability, intellectual disability, psychosocial disability, sensory disability, neurological disability, learning disability, genetic conditions/predispositions, physical disfigurement, work related injuries, medical conditions.
- It is also unlawful to discriminate against a person because you think they have a disability or because they are an associate (e.g. a friend, family member, carer etc.) of a person with disability.
- The law requires that reasonable adjustments be made to accommodate a person's disability. An adjustment will be reasonable if it does not impose 'unjustifiable hardship' on the other party. For example, it may be considered a 'reasonable adjustment' to allow Eli to stand in the back of the classroom.

Scenario 3:

Tony and Mohammed are best friends who recently tried out for their local U16 soccer team.

Tony made it onto the team but Mohammed did not. Tony is really upset that his friend didn't make the team, especially because Mohammed is a much better player than he is. He even used to represent his country of birth in the U13 tournament.

When Tony asked the coach why Mohammed didn't make the team, he said that Mohammed wasn't "Aussie enough."

Why is this discrimination?

- It is unlawful to discriminate against a person in certain areas of public life (e.g. employment, education, provision of goods and services) because of their race.
- The Racial Discrimination Act 1975 (Cth) makes it unlawful to discriminate against a person because of their race, colour, ethnic origin or immigrant status.

Scenario 4:

Fergus is 24 years of age and has been working at an accounting firm for a year, since finishing his degree. He was recently made redundant.

Fergus says that during his employment his supervisor continually made negative comments about his age referring to him as the 'young fella' and saying that he was 'out of his depth in the job' and maybe he should go work for his dad's business (he owns a restaurant).

Fergus was the only person made redundant and he believes that this is because of his age.

Why is this discrimination?

- It is unlawful to discriminate against a person in employment because of their age.
- The Age Discrimination Act 2004 (Cth) makes it unlawful to discriminate against a person in certain areas of public life (e.g. employment, education, provision of goods and services) because of their age.
- However, there are some exemptions and exceptions including: the inherent requirements (e.g. you must be over 18 to serve alcohol) of the role; youth wages (different wages for people under the age of 21, as prescribed under the law); superannuation and insurance and pensions; and allowances and benefits.

In the case that discrimination occurs:

- Under Commonwealth law, it is unlawful to discriminate against a person with respect to certain attributes, including (but not limited to) sex, disability, race or age.
- A person who alleges that they have experienced discrimination based on their sex, disability, race or age, can take the matter to court. However, this tends to be highly stressful, expensive and time consuming.
- A person may also engage in conciliation through the Australian Human Rights Commission (The Commission) in an attempt to resolve their discrimination complaint.
- The Commission can support individuals who may have experienced discrimination under the Age, Disability, Sex and Race Discrimination Acts, as well as the Australian Human Rights Commission Act.

What is Conciliation?

- Conciliation is an informal and flexible approach to resolving complaints.
- Conciliation usually takes place through a face-to-face meeting, or via telephone. In some cases, complaints may be resolved through an exchange of letters and conversations with the conciliator.
- Neither party is required to prove or disprove a complaint; the focus is to come to a resolution that all parties agree to.
- If a resolution cannot be reached, then the issue may escalate to being heard in a court.
- Conciliation is usually voluntary, meaning both parties must agree to participate. However, in some cases it may be ordered by the court.
- A number of agencies and organisations offer conciliation as a form of alternative dispute resolution. The Australian Human Rights Commission can support individuals who may have experienced discrimination under the Age, Disability, Sex and Race Discrimination Acts, as well as the Australian Human Rights Commission Act.