

COVERAGE OF THE DISCRIMINATION ACT

The Government is aiming to modernise our *Discrimination Act 1991* (Discrimination Act) and put the ACT at the forefront of best practice in promoting equal opportunity, respect for diversity and social inclusion in our community.

You can find out more about the background to this project at the Pathway to Discrimination Law Reform website: <https://justice.act.gov.au/justice-programs-and-initiatives/canberra-inclusive-progressive-equal>

Protection from discrimination

Discrimination occurs when a person is treated differently to other people because of something about them (called **protected attributes** in ACT law). The **protected attributes** in the ACT are:

- | | | |
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| > accommodation status
(e.g. homelessness) | > immigration status | > race |
| > age | > industrial activity | > record of a person's sex
having been altered on an
official register |
| > association with a person
who is identified by
reference to another
protected attribute | > irrelevant criminal record | > relationship status |
| > breastfeeding | > parent, family, carer or
kinship responsibilities | > religious conviction |
| > disability | > physical features | > sex |
| > employment status | > political conviction | > sex characteristics |
| > gender identity | > pregnancy | > sexuality |
| > genetic information | > profession, trade,
occupation or calling | > subjection to domestic or
family violence. |

What areas are currently covered?

In the ACT, it is against the law to discriminate against a person:

- > at work;
- > in education;
- > when allowing access to premises;
- > when providing goods, services and facilities;
- > when providing accommodation; and
- > when clubs make membership decisions or offer benefits to members.

The Discrimination Act already provides broad coverage and will capture most types of public activity. For example, most types of work, schools and other places of learning, commercial transactions, and visits to places open to the public (e.g. pools, libraries, shopping centres, nightclubs etc) will be covered.

However, some areas that are not expressly covered or where there is uncertainty include organised sport, conduct of competitions and government functions.

For more information about the Discrimination Act see the **Discussion Paper** on the Discrimination Law Reform Project website: <https://justice.act.gov.au/justice-programs-and-initiatives/canberra-inclusive-progressive-equal>.

What reforms are being considered?

It would be simpler and offer the broadest possible coverage for the Discrimination Act to apply to all areas of public life, with an exception for private conduct. This approach would assume that sport, competitions, and government functions would be covered under the general concept of public life, as would the existing six listed areas.

The Government intends to amend the Discrimination Act to prohibit discrimination in all areas of public life, with an exception for private conduct.

How should public life be defined?

This approach would mean that a person would only have to show that the conduct they are complaining about occurred in public life. For certain types of conduct, there is likely to be an obvious connection to public life. For example, functions of public authorities that are of a public nature. However, the character of other types of conduct, such as group messaging on a social media platform, may be less clear.

What areas of private conduct should not be covered and how would these be defined?

Discrimination law does not apply to private activities – for example, things said or done between friends and family. There is no proposal to change this.

There are types of conduct that would clearly be considered as private conduct, such as organising a private birthday party. However, other types of conduct may be less clear. For example, a group of work colleagues having a work car-pool using private vehicles but who make an attribute such as race or gender a condition of joining.

Making a submission

Submissions on any of the issues raised here are invited by **midnight Sunday 9 January 2022**.

Submissions or questions about the Quick Guide can be sent to civilconsultation@act.gov.au.

If you require this document in an alternative, accessible format, or if you require assistance in making a submission, please contact us so we can help.

Submissions will be published on the ACT Government's Justice and Community Safety Directorate website unless you tell us that you would like your submission to be confidential.

The options discussed here are intended to promote informed public debate. They are not the Government's final proposals. All submissions received will inform the final reform proposals.