



Discrimination and
Aboriginal and Torres
Strait Islander Women

**Get the facts:
Know your rights**

Indigenous Women and Pregnancy Discrimination

FACT SHEET 1

What is discrimination?

Discrimination can occur when a person or a group of people are treated less favourably than another person or group because of race, colour, national or ethnic origin; sex or marital status; disability; religion or political beliefs; sexual preference; or some other central characteristic.

For many Aboriginal and Torres Strait Islander women, discrimination is still a common experience.

Discrimination occurs when a person is denied the opportunity to participate freely and fully in normal day-to-day activities. That includes being denied entry to public places and other facilities; being denied goods and services; difficulty in obtaining appropriate accommodation and housing; not being able to join a trade union and discrimination in the workplace.

Australia's laws protect women in their employment against discrimination because of their sex. Sex discrimination includes discrimination because a woman is pregnant, may become pregnant or is breastfeeding.

Laws also protect people against discrimination on the basis of their race or the colour of their skin.

As well as national discrimination laws, individuals' rights at work are governed by State discrimination laws, employment laws, and laws about health and safety in the workplace. Industrial awards and agreements which regulate employment in industries or workplaces also help to protect women and ensure workplaces are free from discrimination and harassment.

These help to make sure that women have not just the right to work while they are pregnant or breastfeeding, but they are treated the same as other employees. Generally, it is against the law for employers to treat you differently from any other employee unless you need and ask for special arrangements to be made because of health and safety reasons.

Example: Carla has applied for a job as a beautician. When she arrives for an interview the employer tells her that the salon's clients will not like being treated by Aboriginal women and so she won't be able to offer her the position. The law calls this direct discrimination.

The information in this package is intended as a general guide only and you should obtain legal advice if you have specific questions about your rights under discrimination legislation. Fact Sheet 12 in this series contains details of organisations who can assist you if you think you have experienced discrimination.

These fact sheets and brochure have been developed by the Human Rights and Equal Opportunity Commission (HREOC) in partnership with the National Network of Indigenous Women's Legal Services Inc.

Funding has been provided by the Attorney-General's Department, the Australian Government Office for Women, and the Office of Indigenous Policy Coordination.



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FACT SHEET 2

Discrimination and Having a Baby

Pregnancy Discrimination

It is against the law in Australia for you to be discriminated against because you are pregnant, you might become pregnant, or you are breastfeeding your baby.

Example: Julie works in her local supermarket. When she tells her employer she is pregnant he says that his customers don't like being served by pregnant women and that he will have to let her go. The law calls this direct discrimination.

Discrimination in the workplace can also be less obvious. Indirect discrimination means a rule or arrangement which appears to treat all employees fairly, but in fact some people are less able to meet.

Example: Sally works as a security officer and wearing a uniform is a part of her job. When her employer finds out she is pregnant and is starting to show, she is told that because she can no longer fit into her uniform, she will have to take leave for the rest of her pregnancy. The law calls this indirect discrimination.

The law also tells employers they should at least consider reasonable arrangements to help mothers manage their family responsibilities at work. These arrangements could include such things as flexible hours or part time work.

If you are pregnant, may become pregnant, are on maternity leave or returning from maternity leave or you are breastfeeding your baby, your employer cannot:

- refuse to employ you
- transfer or demote you
- change your part time position to full time or the reverse
- make you a casual if you are a permanent employee
- reduce or increase your hours of work
- change your days of work
- give you work that is less, or more, skilled or demanding
- stop you having access to education or training
- stop you getting a promotion or any other benefit or opportunity that other employees have access to
- terminate your employment (sack you) or
- disadvantage you in any other way unless you ask for or agree to the change.

Example: Jo returned from maternity leave to find her employer had changed her job from one in which she supervised other staff and had lots of responsibility to a less important job. This may amount to discrimination.



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FACT SHEET 2

Discrimination and Having a Baby CONTINUED

Sexual harassment can happen during pregnancy

Sexual harassment is against the law. Sexual harassment includes things like unwelcome physical touching such as pinching someone's bottom, staring and leering at a person's body, requests for sex, sexual insults, questions about someone's private life, displaying pornographic material such as posters or magazines, sending sexual jokes or pictures on email. Sexual harassment can happen while you are pregnant.

Example: Betty works in a small community organisation. When she announced she was pregnant one of her co-workers kept commenting about the size of her breasts and touching her belly, even when she asked him to stop. Even though he said he was her friend and was just joking, this could be sexual harassment which is a type of unlawful discrimination.

Anti-discrimination laws apply to all employees no matter who your employer is, and whether or not you are covered by an award or agreement in your workplace.

This includes if you:

- work for a small business or a privately owned company such as a shop, restaurant, bank, hairdresser or transport company
- are employed under a Community Development Employment Project (CDEP) scheme
- work for a Government department or your local Council or Shire
- work for a childcare centre, school, TAFE or university
- work for a hospital or nursing home or are employed by an agency to do work like caring for older people or people with a disability in their homes
- work for a community organisation such as an Aboriginal Medical Service or Land Council
- are on a traineeship or are an apprentice
- are employed on a farm.

CDEP schemes

The arrangements for CDEP schemes are currently being changed. For advice about your entitlements as a CDEP participant you should contact

- the Department of Employment and Workplace Relations CDEP Customer Service Line on **1800 805 260** or
- your closest Indigenous Coordination Centre. To be connected to your nearest ICC call **1800 079 098**, except in the Nhulunbuy area (call **1800 089 148**), the Kalgoorlie area (call **1800 193 357**), or the Kununurra area (call **1800 193 348**).



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FACT SHEET 3

Pregnancy and Getting a Job

At a job interview you should be asked questions about your ability to do the job, not about your family or personal situation.

Example: Debbie went to a job interview as a cadet journalist based in a country town. At the interview she was asked if she was pregnant or intended to have children. The newspaper editor said that this was because the job would require travel around the State and women with small children would not be able to spend enough time away from home. This is likely to be unlawful discrimination.

There are a small number of situations where an employer may be able to ask you personal questions about whether you are pregnant or intend to have children. This would only occur in a very small number of situations where there is a health and safety hazard in the workplace which creates a particular danger for pregnant women.

Example: Leila applied for a job as an assistant at a veterinarian's surgery and was asked if she was pregnant. In this situation it could be important for her employer to find out if she was pregnant because there are a number of animal diseases which can cause miscarriage such as toxoplasmosis which is caught by handling cat litter. It is important to note that she generally cannot be refused employment in this situation, even though she may be asked a question about pregnancy at her interview, provided separate arrangements can be made for Leila to do the job – for example so that she does not have to handle cat litter while she is pregnant.

Some State and Territory Government employees have less protection from pregnancy discrimination when they are applying for a job. If you have a problem when you are applying for a job with a State or Territory Government agency or you are already employed by a State or Territory organisation, you should contact your State anti-discrimination agency for advice or call HREOC who can give you their details.

Probationary Employment

When you are first employed as an ongoing full time or part time employee you may be placed on a probationary period. This generally does not happen for casual employees. A probationary period is the initial period in a new job that allows you and your employer to decide if the job is suitable for you.

Probationary periods last for a set period and you must be informed before you start the job whether there is a probationary period and what that period is. The length of the probationary period will depend on what you and your employer have agreed and can be from a day up to 3 months or longer depending on the kind of work you are doing. You must be paid for any work you do during this period. Generally the law allows a new employee to be dismissed more easily while they are on probation.

Discrimination laws still apply to employees who are on probation and you are still entitled to be treated like any other employee even if you are pregnant or breastfeeding.



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FACT SHEET 4

Pregnancy and Casual and Temporary Employees

Sometimes it can be difficult to know if you are a casual or permanent employee. Generally, casual employees are employed on an hourly or daily basis with no regular hours or rosters covering when they work. A casual employee is not entitled to paid sick leave or annual leave and has no guarantee of on-going employment. A temporary employee is one who is employed for a set period of time only. If you are not sure if you are a casual, temporary or permanent employee you should ask your employer or check your employment agreement or letter of employment.

It is against the law for an employer to discriminate against casual and temporary workers who are pregnant, may fall pregnant or are breastfeeding. You should not be treated any differently from any other casual or temporary employee in your workplace, unless you especially ask for changes to be made to your working arrangements.

Generally casual, temporary or seasonal employees are not eligible for parental leave, however if you have worked on a regular basis for at least a year with the same employer then you are likely to be eligible for up to 12 months of unpaid parental leave. This means that you have the right to return to your old job after your parental leave.

Example: Judy had been working as a casual shop assistant at a department store after school and on weekends for two years when she found out she was pregnant. Her employer told her that because she was casual she would have to leave when she had her baby. As Judy is a long term employee, it is discriminatory for her employer to refuse her further work because she is having a baby.

Even if you are not entitled to parental leave as a casual, temporary or seasonal employee, it is still against the law for your employer to discriminate against you because you are pregnant, may fall pregnant, need time off to have your baby or are breastfeeding. To find out if you are eligible for parental leave as a casual you could ask your employer, or contact your union, the Working Women's Centre in your State or Territory or the Australian Government Department of Employment and Workplace Relations' WageLine information line on **1300 363 264**.

Example: Claire has been employed by her Shire Council on a six month contract to carry out a survey of local Aboriginal people. Her baby is due around the same time her employment contract runs out. Although Claire is not entitled to maternity leave and will not be able to return to the same position after her baby is born, the Council can not sack her before the end of her contract or discriminate against her in any other way because of her pregnancy.



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FACT SHEET 5

Pregnancy Discrimination in Education

Pregnant students and young parents have the right to an education in a safe and supportive environment, free from harassment and discrimination. There are lots of things your school can do to make it easier for you to finish school if you are pregnant or have a child. Mostly this will involve your school being supportive and a bit flexible with things like assessment times, uniforms, attendance, and allowing you to have contact with your baby during the day to breastfeed.

There are also some schools in all States and Territories which have a special focus on helping young mums to stay at school. They have programs and teachers there to help you deal with having a baby and being a young parent. To find out more about these schools, contact the Department of Education in your State or Territory.

Australian discrimination laws apply to educational institutions including schools, universities and technical colleges. In general, as a student (or a teacher) at a public school, technical college or university you cannot be discriminated against because you are pregnant, may become pregnant or because you are breastfeeding. That means that you cannot be expelled or not allowed to enrol because of your pregnancy.

Trainees and apprentices are also covered by anti-discrimination laws. If you are at TAFE and doing an apprenticeship you may need to suspend your apprenticeship while you take time out to have your baby, but you can still return to it.

Example: Rebecca is in year 10 at high school when she finds out she is pregnant. Her school principal says that she will not be allowed to come back to school after the holidays because it would set a bad example to the other girls. This is likely to be unlawful discrimination.

Why should I leave school just because I'm pregnant?



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FACT SHEET 6

Sickness and Pregnancy

Pregnancy is a normal healthy part of life for most women. You will need to take some time away from work or study to have your baby and if you take unpaid maternity leave, you will need to take at least six weeks after the birth of your baby. If you take another type of leave there is no limit to the smallest amount of time you can take and if you want to, you can return to work a few days after your baby is born.

However, many women find themselves experiencing some sickness during their pregnancies, ranging from a small amount of morning sickness to dangerous illnesses like toxæmia (high blood pressure in pregnancy).

When you are pregnant, you are still able to take all your normal leave entitlements like sick leave. Often you can use your sick leave to attend appointments with your midwife, doctor or hospital ante-natal clinic during your pregnancy. Some industrial awards, particularly some of those covering women working in retail, have special leave called pre-natal leave to allow you to go to appointments with your doctor or midwife while you are pregnant.

You cannot be sacked because you are sick and need to take leave during your pregnancy. If you have no paid leave entitlements your employer must grant you unpaid sick leave or special maternity leave if you are too sick to go to work during your pregnancy.

Example: Mel began to feel very ill early in her pregnancy. She took paid sick leave when she was unable to come to work because of severe vomiting. She used all her paid sick leave in the first 3 months. So when she had to be hospitalised for dehydration due to the vomiting she thought she might need to resign from work. Mel phoned her employer at the Aboriginal Land Council where she worked who explained that even though she had used up her paid sick leave, she could take unpaid sick leave for as long as she needed, until she began maternity leave.

Example: Erin works as a cook on a farm, a long way from the nearest town. To travel into town to see a doctor during her pregnancy takes a whole day. Erin talks to her employer about taking time off to attend doctor's appointments. Her employer agrees that she can use her sick leave to attend appointments and will arrange the appointments in advance so that a replacement can be organised to cover her work when she is not there.

Discrimination law in Australia also covers the provision of goods and services as well as employment and education. This means you cannot be refused access to services including health care, because you are Indigenous, a woman, pregnant or breastfeeding. It is also against the law to be treated less favourably than other people by a business or service such as health care services.

Example: Jenny goes to her local hospital for a check up during her pregnancy with her mum and her aunty. When Jenny says to the doctor that she would like to have her baby at home with her aunty who is a midwife instead of coming into the hospital, the doctor abuses them saying that Aboriginal women can't be trusted to make sensible decisions. These comments could amount to unlawful discrimination. Jenny and her family make a complaint to the hospital about the doctor's behaviour.



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FACT SHEET 7

Health and Safety for Pregnant Workers

Depending on the type of work you do, your employer might need to make special arrangements for pregnant employees. This can include simple things like supplying special uniforms for pregnant women, providing a chair to an employee who normally stands up at work, and allowing more toilet breaks. Depending on your job, it may also be important that you do not lift very heavy weights, climb up high ladders or carry firearms.

Laws about health and safety at work are there to make sure that workplaces are safe for ALL workers, including pregnant women. If there is a danger at your workplace such as a slippery floor, it is a danger to everyone and your employer has a legal responsibility to fix it.

There are a small number of workplaces which create special dangers for pregnant women. These include jobs where you work with toxic chemicals like lead or mercury, use pesticides, herbicides or fertilizers, use paint thinners, some cleaning chemicals or degreasers, are exposed to infectious diseases or x-rays, or work with sick animals. You can normally reduce these risks by wearing proper protective clothes such as gloves, masks, and overalls, and these should be the right size to fit your pregnant shape.

If there is a genuine risk to your health and safety during your pregnancy, your employer must consider

- moving you temporarily to another safer job or work area while you are pregnant, but this should not be a job with less pay, status or career opportunity
- changing your hours of work to avoid any risks or
- offering you the choice to take paid or unpaid leave.

In general, the decision about what you can and can't do at work during your pregnancy should be made by you and your doctor, especially if you have health problems. It is against the law for your employer to sack you or move you to another job without your agreement during your pregnancy. If you think your workplace is unsafe for you while you are pregnant you should get a medical certificate from your doctor saying what you are able to do and give it to your employer.

Example: Sharon works as a lab assistant in a university. Because she is required to handle chemicals which could harm her baby, she requests to be moved to another type of work during her pregnancy. Sharon is moved to the science faculty office on the same pay and conditions for the duration of her pregnancy.



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FACT SHEET 8

Maternity and Parental Leave

Parental leave allows mothers and fathers to be able to take time off work to care for their new baby. This includes adopted babies. Parental leave includes maternity leave (for mothers), paternity leave (for fathers) and adoption leave (for either parent).

Unpaid parental leave is available to all full time and part time workers who have worked for at least 12 months for the same employer. Many regular casuals are also able to take parental leave. It is available to you whether you are married, single, living in a de facto relationship, and no matter how old you are.

It is important to check your industrial award or agreement to determine the amount of unpaid parental leave you can take and to see if you are able to take any paid maternity leave. Your State or Territory may also have laws about maternity leave.

Awards and agreements are legally binding documents which set out the entitlements and conditions of your employment such as how much you are paid, what hours you work and what holidays and other leave you are allowed to take. Workplaces are required to make a copy of your award or agreement available to all employees.

If you are not sure about whether you are covered by an award or agreement in your workplace you can ask your employer, contact your union or the Australian Government Department of Employment and Workplace Relations' WageLine information line on **1300 363 264**.

Recent changes to workplace relations laws mean that more people are likely to be employed under an Australian Workplace Agreement (AWA). An AWA is an individual written agreement between an employee and employer and must contain a provision about unlawful employment discrimination. For advice and information about AWAs contact the Office of the Employment Advocate on **1300 366 632**.

The arrangements for CDEP schemes are currently being changed. For advice about your entitlements as a CDEP participant you should contact

- the Department of Employment and Workplace Relations CDEP Customer Service Line on **1800 805 260** or
- your closest Indigenous Coordination Centre. To be connected to your nearest ICC call **1800 079 098**, except in the Nhulunbuy area (call **1800 089 148**), the Kalgoorlie area (call **1800 193 357**), or the Kununurra area (call **1800 193 348**).

At the very least, mothers in Australia who have worked for the same employer for at least one year and have an expectation of on-going employment are entitled to 12 months unpaid parental leave. This can be shared with your husband or partner if you have one. Generally you can take a week off together when the baby is first born, but after that it is likely you will only be able to take leave at different times. Some awards allow parents to take eight weeks off at the same time.

Some workers are also able to request to take more than 12 months of unpaid parental leave and/or to return to work part time following parental leave. You should check your award or agreement to see if you are eligible. In many cases, your employer will have a duty not to unreasonably refuse such a request.

One of the most important things about unpaid parental or maternity leave is that it allows you to return to your job after the leave.

If you are a teacher, work in a hospital or work for a government department or council you are likely to be entitled to paid maternity leave. Some community organisations also offer paid maternity leave.



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FACT SHEET 8

Maternity and Parental Leave CONTINUED

If you are entitled to parental or maternity leave it is against the law for your employer to sack you because you are planning to take that leave, you are on that leave or you have returned from that leave. It is your right to return to the job that you held before you went on leave and if that no longer exists, to a job that is as near as possible to the same in pay and status.

Often, Indigenous women need to return to their home for the birth of their children, which can take some time if you come from a rural or remote community. This can be especially important for women with strong ties to traditional culture. A mother can usually start maternity leave at any time she needs before the birth of her baby, provided she gives her employer notice that she intends to take maternity leave. If your employer refuses to allow you to take reasonable leave to fulfil your cultural obligations to travel home to have your baby it may amount to discrimination on the basis of race.

Applying for maternity leave

Normally you should give your employer at least 10 weeks notice that you intend to take maternity leave. Four weeks before you plan to start your leave (or your baby is due) you should apply in writing for leave, giving notice of when you would like to start and end your leave and providing your employer with any documents he or she requires. This might include a medical certificate from your doctor or midwife saying when your baby is due or a statutory declaration stating how much leave your partner is planning to take. If your baby arrives early it doesn't matter because you have told your employer when he or she was due.

If you are entitled to annual leave or long service leave, you can also take it, instead of, or as well as, unpaid maternity leave, but, all the leave together must not add up to more than 52 weeks. In many jobs you cannot take, for example, a combination of 52 weeks maternity leave plus four weeks annual leave - you can only take 48 weeks maternity leave plus four weeks annual leave. But again, check your award or agreement to make sure there are not better arrangements in your workplace.

You can extend the amount of leave you plan to take only once. You do this by giving your employer at least 14 days written notice of how much more leave you are planning to take. If your employer agrees you may be able to extend the time again. You can also shorten the time of your maternity leave and come back sooner than you planned by writing to your employer giving them 14 days notice of when you are planning to return.

What happens if I have a miscarriage or my baby dies

If you have a miscarriage or your baby dies before you had started maternity leave, your maternity leave will usually be cancelled. If you have paid sick leave you are able to take that. If you have a miscarriage within 28 weeks of the expected date of birth you can take special maternity leave. This leave is unpaid and you will need to provide a medical certificate stating how long you will be unfit for work.

If you have already started maternity leave and your baby dies or is stillborn, you can normally stay on maternity leave until your leave would have finished or you feel well enough to return to work. You are also able to write to your employer and tell them that you would like to return to work sooner. In that case your employer must tell you a date within the next month when you can start back at work.



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FACT SHEET 9

Returning to Work

When you return to work after parental leave, you have the right to return to the same job you had before you went on leave. If you changed your job during your pregnancy for a reason related to your health and safety during pregnancy, you have the right to return to your original job. It is against the law for your employer to refuse to let you return to your job.

If there has been a change in your workplace during the time you were away and your job no longer exists, you have the right to be given another job that is as close as possible in pay and status to the one you held before.

Many women find that when they return to work with a new baby they like to work part time or reduce their hours. Any reduction in hours has to be something that you decide. It is against the law for your employer to force you to reduce your hours when you return to work.

Example: Maria returned to work in a medical centre after taking maternity leave with her second baby. When she came back her employer told her that he had decided that she should work only 10am till 3pm each day instead of full time because she would need to spend time with her baby. Making this decision without Maria's agreement could amount to unlawful discrimination.

Working Part Time

Some awards and agreements have special arrangements for part time work but mostly it is something decided between you and your employer. Some awards provide the right for employees to request part time work on their return to work from parental leave and before their children are at school. Under these awards, your employer has a duty not to unreasonably refuse such a request.

If there is nothing in your award or agreement, you should discuss what you would like to do with your employer and write it down if you agree. In some States and Territories this can be done through making a formal part time work agreement, but writing a letter that you and your employer both sign usually works just as well.

If you agree to return to work under different arrangements from those you worked previously, make sure that you write down

- how many hours a day you will be working
- what days you will be working
- what start and finish times you will have
- whether you will be permanent part time or casual (that is no longer a permanent employee)
- how long the agreement is for and
- when you can/must return to your full time job.

It is important to write down and keep a copy of part time work arrangements, because often women find that they are in disagreement with their employer about whether they are a full time or part time worker, and the employer may refuse to let you return to full time work later on. This might not seem important when you have a little baby, but when your child is older women often want and need to return to full time work.

It may be discriminatory for you to be unreasonably refused access to part time work if you need part time work to care for your children or other family members. If you are refused part time work when you return from maternity leave you should consider getting some advice from a union, legal service or anti-discrimination agency like HREOC.



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FACT SHEET 9

Returning to Work CONTINUED

Other flexible work arrangements

There are other ways you might like to change your work arrangements when you come back to work after having a baby. These are called flexible work practices and include such things as jobsharing, working from home, flexible start and finish times, flexible rosters, taking your baby to work or variable working hours arrangements.

Like part time work, it is very important with flexible work arrangements to come to an agreement with your employer and write down what the arrangement is, how long it will last for, and when (or if) you will go back to your normal job.

Childcare

Depending on where you live, childcare can be expensive and hard to get. It can be much easier if you live in a community close to family who can help out, but that isn't possible for everyone. It is important to think about childcare while you are pregnant to make sure that you can access childcare when you return to work.

Without childcare, it will make it very hard for you to return to work, unless you have family or other support. Sometimes you might be able to work from home or take your baby to work, but just remember that this is unlikely to work for very long because you will probably find it hard to do your paid work and look after your baby at the same time.

If you need childcare at a childcare centre or family day care (which is where someone will look after your baby in their own home) you should contact the Australian Department of Family and Community Services Child Care Access Hotline on **1800 670 305** who will be able to give you details of the childcare and family day care available in your area.

Family responsibilities

Anti-discrimination laws make it unlawful for you to be sacked because you have responsibilities to care for your children or another close family member. This means that you cannot lose your job if you have to take time off work to look after your children or a sick, elderly or disabled family member. Some cases that have gone to court in recent years have also found that being sacked because you can only work part time while you are caring for family members is against the law. If you have been sacked or forced to leave your employment for this reason you should seek help as quickly as possible and may be able to have your employment reinstated or be compensated for losing your job.

Example: Liz works in a hotel bar. A few months after she returned to work after having her second baby, Liz's father became very ill with lung cancer. She approached her boss about having some time off work to take her dad to the hospital for treatment and to help look after him while he was sick. Her employer said she had already had too much time off work, that his business couldn't manage without reliable employees and he couldn't keep her on any longer. This is likely to be unlawful discrimination.



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FACT SHEET 10

Breastfeeding and Work

The law in Australia protects you from being discriminated against because you are a breastfeeding mother. This includes if you are expressing milk by hand or with a breast pump to give your baby later.

When you return to work there are a number of things your employer can do to help you to continue breastfeeding.

Work Breaks

Taking a break to express milk or to breastfeed your baby is important if you want to keep up your milk supply and be comfortable while you are at work. If you stop breastfeeding all day and don't express milk, often your milk will dry up. See if you can get someone to bring your baby to you at work so you can feed him or her. Talk to your employer about how you can take breaks during the day – this might mean making up the time later or reducing the hours you are paid for.

Space

While babies can be breastfed anywhere and anytime, to express milk most women find they need:

- an area that is clean and private and can be locked up (or has a lockable cupboard);
- a comfortable seat, a sink to wash your hands, your bottles and/or pump, and a power point; and
- fridge or freezer space to store the milk.

Many workplaces can provide these at almost no cost. If there is no parents' room, or not much space, you may be able to use a first aid or sick room or other unused room. Your workplace might be able to share a room with another business in your building or close by.

Support from the employer and co-workers

It can make a big difference if your employer makes other workers aware that he or she supports breastfeeding at work and explains what it involves.

Flexible work options

Settling your baby into childcare, even with a grandmother, aunty or other family member, and learning to express breastmilk can sometimes take a bit of time. Having a bit of flexibility when you return from maternity leave, or a gradual return to work can really help breastfeeding mums. You may also be able to do some of your work from home.

Example: Anna returned to work as a nurse in a community health centre when her son Davy was six months old. Anna's mother who lives close by minds Davy while Anna is at work. Anna wants to continue to breastfeed so she speaks to her supervisor about allowing her to take a break each morning and afternoon so she can go to her mother's house and breastfeed. Anna's employer, a State Health Department, allows breastfeeding mothers to take lactation breaks of up to one hour per eight hour work day to feed their baby or express milk. This means Anna can take a paid break during work time to breastfeed her son.



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FACT SHEET 11 Getting Help

Seek Advice

If you think you might want to make a complaint about discrimination you should contact HREOC's Complaints InfoLine on **1300 656 419** as soon as possible.



This is especially important if you have been sacked, because if you decide to take legal action to get your job back through an Industrial Relations Commission, you may have as little as 21 days to lodge an application. For most complaints about discrimination to anti-discrimination agencies such as HREOC you have between six months and one year to make a complaint.

There are lots of other organisations that can help you if you need more information about discrimination, pregnancy at work or breastfeeding. At first it can help to talk to other women in your family or community. They might not be able to give you all the answers, but it can help you to work out what you would like to do and give you personal support.

Some of the best places to get advice about discrimination at work are from an Indigenous Women's Legal Service, general Aboriginal Legal Services or Working Women's Centre in your area. These organisations have lots of experience with issues about work and have a special focus on working with Indigenous women. You can find your nearest service by contacting one of the Indigenous Women's Legal

Services listed on the Contacts Fact Sheet or contacting the National Association of Community Legal Centres on **(02) 9264-9595** or at **www.naalc.org.au**.

Trade unions are also there to make sure that their members' rights at work are protected. They will be able to give you advice about the industry you work in if you are a member. Some unions also have specialist staff who look after Indigenous workers and/or women members. If you don't belong to a union you can find out which union to join by contacting the Australian Council of Trade Unions (ACTU) Union helpline on **1300 362 223**.

These services can give you advice in private and will protect your confidentiality. You do not need to have decided to make a formal complaint and can discuss what is happening at work so that you have enough information to make a decision about what to do. Legal and women's services will also be quite happy for you to take a friend or family member with you when you go to talk to someone about your situation.

Making a complaint about discrimination

If you think you have been treated unfairly or discriminated against in your workplace it is often best to talk to your supervisor, employer or manager first. It may be that the problem can be sorted out in your workplace without you having to take any further action, which can be the quickest and easiest way of solving the problem. Obviously, you might not want to do this if it is the supervisor, employer or manager who is causing you the problem and there is no requirement that you do so.

You can also talk to an organisation such as an Aboriginal Legal Service, Community Legal Centre, Working Women's Centre or trade union who may be able to approach your employer on your behalf and make sure that the problem is fixed. **It is against the law for you to be victimised or further discriminated against because you have made a complaint or are intending to make a complaint.** This includes other people if they are helping you make a complaint or providing evidence about your complaint.



Get the facts: Know your rights
Human Rights and Equal Opportunity Commission

Indigenous Women and Pregnancy Discrimination

FACT SHEET 11

Getting Help CONTINUED

HREOC's Complaints Process

Step 1: Phoning HREOC's Complaints InfoLine

Many complaints begin with a phone call to HREOC's Complaints InfoLine. This can be of help in checking whether or not what you are complaining about is covered by the law and whether you would be better off making your complaint to another organisation such as an anti-discrimination agency in your State or Territory. HREOC staff can refer you to other agencies if appropriate. **Making a complaint is free.**

Step 4: Conciliation

After HREOC receives a response from the person you have complained about they can decide to conciliate the complaint. Conciliation means that HREOC organises a meeting with you and the person you have complained about and tries to help you to resolve the complaint.

You do not need to get a lawyer or other advocate to make a complaint although many people will take a lawyer or someone like a union representative with them to a conciliation conference. It is up to the HREOC conciliator to decide who can attend a conciliation conference so you will need to discuss it with that person before hand.

Around one third of complaints are resolved at conciliation. The kinds of things that can be agreed to in conciliation are an apology from the person you have complained about, an agreement that the unlawful behaviour will stop, an agreement to give you your job or former position back, an agreement to provide payment for lost wages or other financial compensation, or a commitment from your employer to provide training about workplace discrimination to all staff.

Once an agreement is reached, it is usually written down and signed by you and the person you have complained about. HREOC will close your file after the complaint has been conciliated.

If you cannot come to an agreement at conciliation your complaint will be terminated by HREOC. This is because HREOC is not a court and cannot make a judgement on what should happen.

Step 2: Lodging a written complaint

Complaints about discrimination must be made in writing. If you cannot write the complaint down yourself for some reason, you can ask a friend or someone who has given you advice to do it for you. You can also contact HREOC who can organise someone to help you.

Step 3: Investigation

After you write to HREOC to make a complaint it generally takes a couple of weeks for a complaints officer to be allocated to look after your complaint. Once your complaint has been accepted, HREOC decides what investigation needs to be done and usually writes to the person you have complained about and asks for a response to your complaint. This usually includes sending this person a copy of your complaint so they can respond to what you have said.

Step 5: Going to court

If your complaint is terminated by HREOC you have 28 days to make an application to have your case heard in the Federal Court of Australia or the Federal Magistrates Court. You would probably need to discuss this with a lawyer or legal service.

Get the facts: Know your rights

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Indigenous Women and Pregnancy Discrimination

FACT SHEET 12

Contacts

All these services are free. Staff will be able to give you advice or may refer you to another agency if appropriate.

Human Rights and Equal Opportunity Commission (HREOC)

Complaints InfoLine 1300 656 419
General Enquiries (02) 9284 9600
TTY 1800 620 711
www.humanrights.gov.au

Indigenous Women's and Women's Legal Services

National Network of Indigenous Women's
Legal Services Inc.
Phone (08) 9221 9544

Wirringa Baiya: NSW Aboriginal Women's Legal
Service

Toll free 1800 686 587 (NSW Only)

NSW Women's Legal Resource Centre
Indigenous Women's Legal Contact Line
Toll free 1800 639 784

Rural Women's Outreach Program
Community Legal Service for Western NSW (Dubbo)
Toll free 1800 655 927

Women's Outreach
Northern Rivers Community Legal Centre (NSW)
Toll free 1800 689 889

Queensland Aboriginal and Torres Strait Islander
Women's Legal and Advocacy Service
Toll free 1800 442 450

Queensland Women's Legal Service (Annerley)
Toll free 1800 677 278
(Queensland outside Brisbane metro)

Indigenous Women's Unit - North Queensland
Women's Legal Service (Townsville)
(07) 47725400

North Queensland Women's Legal Service (Cairns)
(07) 40410066

Women's Legal Service South Australia Inc
Indigenous Community Worker
Toll free 1800 685 037

Rural Women's Legal Outreach (Port Augusta)
Toll free 1800 555 850

Women's Legal Service Tasmania
Toll Free 1800 682 468

Top End Women's Legal Service (NT)
Toll free 1800 041 998

Katherine Women's Information & Legal Service (NT)
Toll free 1800 620 108

Central Australian Women's Legal Service
(Alice Springs NT)
Toll free 1800 684 055

Women's Legal Centre (ACT & Region)
Toll free 1800 634 669

Women's Legal Service Victoria (Melbourne)
Toll Free 1800 133 302

Women's Outreach Murray-Mallee
Community Legal Program (Vic)
Mildura (03) 5023 5966
Swan Hill (03) 5032 4479

Rural Women's Outreach
(Warrnambool Vic)
Toll free 1800 672 473 (women only)

Women's Law Centre (WA) Inc (Inglewood)
Toll free 1800 625 122

Women's Outreach South Hedland Pilbara
Community Legal Service (WA)
(08) 91401613

Department of Employment and Workplace Relations

WageLine 1300 363 264

CDEP Customer Service Line 1800 805 260
www.workplace.gov.au

Australian Government Child Care Access Hotline

Toll free: 1800 670 305

Office of the Employment Advocate

1300 366 632
www.oea.gov.au

Indigenous Coordination Centres

To be connected to your nearest ICC
Freecall 1800 079 098
Nhulunbuy area (call 1800 089 148)
Kalgoorlie area (call 1800 193 357)
Kununurra area (call 1800 193 348)

ACTU Union Helpline

1300 362 223

National Association of Community Legal Centres

National Directory at www.naclc.org.au
Phone (02) 9264 9595

Get the facts: Know your rights

Human Rights and Equal Opportunity Commission



What can you do?

1. Find out about your rights:

- get more information from the kit Indigenous Women and Discrimination - Get the Facts: Know Your Rights available from HREOC or your local Aboriginal Legal Service or Women's Legal Service, or
- get some advice from HREOC, an Aboriginal Women's Legal Service, union, legal centre or working women's centre.

2. Talk to someone:

- talk to a friend or family member about what happened and what you would like to do
- talk to the person or organisation causing you problems

3. Stand up for your rights - make a complaint:

- call HREOC, your State or Territory anti-discrimination agency, a legal service, your union, or other organisation who can help you with advice on making a complaint.



For more information contact

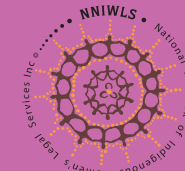


The Human Rights and Equal Opportunity Commission (HREOC)

Complaints Info Line: 1300 656 419

TTY: 1800 620 421

Email: complaintsinfo@humanrights.gov.au



The National Network of Indigenous Women's Legal Services Inc.

(08) 9221 9544

Printed & Designed by:

Deadly Design, Melbourne. www.deadlydesign.com.au



Discrimination and Aboriginal and Torres Strait Islander Women

Get the facts: Know your rights

For many Aboriginal and Torres Strait Islander women, discrimination is still a very common experience.

Discrimination can happen because of the colour of your skin, because you are Aboriginal or a Torres Strait Islander, or because you are a woman.

Discrimination on the basis of race, sex and disability is against the law in Australia. This includes discrimination because you are pregnant or breastfeeding.

You can help stop discrimination.

This leaflet explains your rights and how you can stand up for them.

Racial Discrimination

means being treated differently because you are Aboriginal or a Torres Strait Islander person or because of the colour of your skin. Examples include:

- being treated rudely or refused service in a shop because you are an Aboriginal person
- being racially abused at work
- being unfairly hassled by the police and
- being refused rental housing because you are a Torres Strait Islander



Sex Discrimination

means you are treated unfairly because you are a woman, you are pregnant or you may become pregnant, you are breastfeeding, because of your marital status, or your family responsibilities.

Example include:

- being sexually harassed at work
- being sacked because you need to take time off to care for your sick mother
- being asked to leave school because you are pregnant and
- being told to leave a café because you are breastfeeding your baby



Disability Discrimination

means being treated unfairly because you have a disability, injury or illness. Examples include:

- losing your job because you are HIV positive
- not being able to get into a government office because you use a wheelchair and
- not being able to travel in a taxi with your guide dog

