

EQUAL OPPORTUNITY OBLIGATIONS FOR LOCAL COUNCILS

As employers and providers of services and accommodation, local councils also have obligations under the Under the Equal Opportunity Act it is against the law to:

- discriminate against a person on the basis of a personal characteristic protected by law (such as age, sex or race)
- sexually harass someone
- victimise someone for making a complaint or helping another person to make a complaint.

In addition, councillors of local councils must not, in performing public functions, discriminate against another councillor of that council or a member of the committee of that council. However, this obligation does not apply to discrimination on the basis of political belief or activity.

Importantly, local councils can be held vicariously liable for acts of discrimination or sexual harassment by their employees or agents that occur in the workplace or in connection with a person's employment.

Positive duty

The Equal Opportunity Act introduced a positive duty requiring all organisations covered by the Act, including local councils, to take proactive, reasonable and proportionate measures to eliminate discrimination, sexual harassment and victimisation.

For local councils, complying with the positive duty may include:

- developing or reviewing policies aimed at preventing discrimination and harassment
- having a good complaint handling or grievance procedure
- conducting ongoing staff training and education to ensure that staff are aware of their obligations
- reviewing services and external operations to prevent discrimination (for example, reviewing community engagement practices, assessing the accessibility of physical structures, and ensuring written products are available in alternate formats and languages)
- having a process for reviewing and improving compliance.

Reasonable adjustments

Local councils have an obligation to make reasonable adjustments for employees (or people who have been offered employment) with disability if the adjustments are required in order to perform the genuine and reasonable requirements of the employment. The requirement to make reasonable adjustments will involve balancing the need for change with the expense or effort involved in making the change.

Local councils also have an obligation to make reasonable adjustments if the adjustments are required in order for a person with disability to participate in, or access, services provided by a council.