



## Fact Sheet #1 for Managers and Supervisors

# Discrimination

## What is discrimination?

Discrimination occurs if a person treats or proposes to treat a person with one of the attributes covered by the legislation unfavourably because of that attribute or personal characteristic.

Discrimination is unlawful under the Victorian Equal Opportunity Act 2010. Individuals who engage in behaviour which constitutes discrimination not only put the University at risk of liability, but also expose themselves to possible legal action.

It is unlawful to discriminate against people on the basis of age, breastfeeding, carer status, employment activity, family responsibilities, disability, gender identity, industrial activity, marital status, parental status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex and sexual orientation.

Managers, supervisors and team leaders must take all reasonable and practical measures to ensure that their staff are not subject to discrimination or sexual harassment, and do not participate in any form of behaviour which might constitute discrimination.

### ***This Fact Sheet covers:***

- Age
- Race
- Industrial activity
- Disability
- Physical features

### **Everyone has a right to...**

- work in an environment free from discrimination and sexual harassment
- be respected and valued at work regardless of your personal characteristics
- have opportunities to reach your full potential and participate in all aspects of University life

### **You have a responsibility to...**

- be aware of, identify and prevent discrimination and harassment
- be approachable, clear and fair
- encourage all staff to behave accordingly
- intervene in inappropriate behaviours
- respond to and resolve complaints

## Age

It is against the law to discriminate against someone because of their actual or assumed age. Discrimination on the basis of age can occur across all age groups.

As a supervisor, be aware that you must treat staff equitably regardless of their age and not make assumptions about someone's ability or knowledge based on their age. If workplace policy or practice is setting requirements that a person of a certain age cannot comply with (such as minimum years of experience) this is also potentially discriminatory.

### **Example**

Alice is the youngest staff member in a specialised work area. When she makes a suggestion at a staff meeting as to how a work procedure could be improved, one of her colleagues compliments her on her idea and states publicly that she is "a young intelligent girl who shows maturity beyond her years". Another staff member refers to her as "work experience girl".

Alice is annoyed about her colleague's attitude, and feels that due to her age, she is being patronised and not fully appreciated for the skills she brings to the job. At times she is not taken seriously by her older colleagues. She tells her supervisor that she finds comments about her age inappropriate. Her supervisor agrees to talk to the two staff members involved. One of the co-workers apologises to Alice and the age-related comments stop.

## Race

Race refers to colour, descent, nationality, ancestry, ethnic background or any characteristics associated with a particular race.

### **Example**

Bill supervises a small team which includes people from culturally and linguistic diverse backgrounds. In a meeting with his team and clients, a client makes offensive racial comments which Bill ignores. After the meeting, a team member, George, spoke to Bill and told him that he found the comments offensive and that Bill should raise this with the client. Rather than speaking to the client, Bill decided to exclude George from future meetings with them. When George found out about this he approached Bill. Bill stated that he didn't want to lose the client's business and that he didn't want George present, as he believed he was too sensitive about the comments made and the client found George to be a bit awkward.

George reported the matter to a senior manager, who then spoke to the client's CEO about the unacceptable and inappropriate behaviours at that meeting. The CEO and client apologized about the behaviour in the next group meeting. The senior manager spoke to Bill about his rights and responsibilities as a supervisor to prevent discrimination from happening.



## Industrial activity

Industrial activity relates to participation in and membership of an industrial organisation. It also refers to the refusal to join and/or participate in an industrial organisation. As a supervisor of a staff member who is taking industrial action, be aware that this is legal and that you cannot discriminate against staff on these grounds.

### **Example**

Mehmet is a union member and decides to join the union in strike action. A unit meeting is scheduled for this day and Mehmet advises his supervisor that he won't be able to attend. The supervisor says that he will be at a disadvantage if he does not attend the meeting and it may lead to him not being considered for professional development opportunities. Mehmet points out that he is protected under legislation against any adverse action due to his industrial activity.

## Disability

Disability or impairment includes:

- Total or partial loss of body function or a body part
- The presence of organisms (such as HIV or Hepatitis C) that may cause disease or impairment, malformation or disfigurement of the body
- Mental or psychological disorders
- Conditions that may result in a person learning more slowly

Past disability includes childhood illnesses, having a broken leg or a period of psychiatric illness.

Assumed disability is when someone believes another person has a disability or impairment based on an assumption, not fact, such as assuming that someone who speaks slowly has an intellectual disability.

### **Example**

Peter is conducting David's annual performance review. In questioning David on why his work has been poor for the last few months, David discloses that he has been suffering from anxiety and depression due to circumstances at home. Peter tells David that he'll have to assess him as under-performing, as critical targets were not met. Peter tells David that he should have told him earlier about his condition. David responds that he did not feel comfortable in doing so. Peter then suggests that David should move into a role of lower responsibility until he gets himself right. He wants David to get better, but he can't compromise the project and it wouldn't be fair to the rest of the team. David seeks advice from the Commission and is informed that Peter's actions could be discrimination.



### **Tips**

If a disability is disclosed at the time of the performance review as the reason for not meeting agreed performance targets, the supervisor must allow for this in assessing the staff member's performance, otherwise it is discrimination. As a supervisor of students or staff, don't make assumptions about anyone's ability or disability. Ensure that you clearly set out the requirements of a job or a unit of study unit and be prepared to be flexible and inclusive in allowing people to meet these.

## Physical features

Physical features refer to a person's height, weight, size, shape or other bodily characteristic. It includes facial features, hair and birthmarks.

Be aware that we do often respond differently to people based on differing physical features. Notice when you or others do this and draw people's attention to this possibility if you see it occurring. Be aware that you cannot discriminate against someone on the basis of any physical feature. As a supervisor, be aware that you must not discriminate against someone on the basis of any physical feature.

### **Example**

Abhati is tall and elegant, and is often asked to accompany her supervisor when meeting with clients, although this is not a requirement of her position. Marian is short and walks with a limp. She works in the same position as Abhati but is seldom asked to meet with people from outside the workplace. A new position becomes available which involves more client interaction, as well as management of staff. Marian is aware that she is well qualified for the position but is discouraged from applying by her manager. She also feels that she has been overlooked for experience in this area in favour of Abhati because of her looks.

Marian lodges a complaint with the Equity and Diversity Unit. After discussions between Marian and her supervisor, facilitated by the Equity and Diversity Unit, the issue is satisfactorily resolved and Marian takes part in the interview process.

## Getting Help

Deakin University is committed to providing equitable employment and education opportunities so that staff and students can participate in all aspects of University life.

The University has implemented policies and procedures to ensure that it provides a supportive, inclusive, fair and safe working and learning environment for its staff and students. These apply to employees and prospective employees, casual staff, contractors, students, prospective students, clients and visitors and can be found on the Equity and Diversity Unit's website.

The University encourages managers and supervisors to contact the Equity and Diversity Unit to seek advice on any of the issues presented above.

The University has trained Harassment and Discrimination Contact Officers who can also provide advice, support and information for people with discrimination complaints. See [www.deakin.edu.au/equity-diversity/contact-officers.php](http://www.deakin.edu.au/equity-diversity/contact-officers.php).

These, and further examples of discrimination are listed on the Equity and Diversity Unit's website. [www.deakin.edu.au/equity-diversity/discrimination.php](http://www.deakin.edu.au/equity-diversity/discrimination.php).