



Anti-Discrimination Guidelines

for the Hotel and Accommodation Industry

**AHA
NSW**
AUSTRALIAN
HOTELS
ASSOCIATION
(NSW)

TAA | Tourism
Accommodation
Australia (NSW)
A division of the AHA



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These guidelines explain the rights and responsibilities of hoteliers and their employees under anti-discrimination law.

They have been produced by the Anti-Discrimination Board of NSW, the Australian Hotels Association (NSW) (AHA (NSW)) and Tourism Accommodation Australia (NSW) in consultation with the Office of Liquor, Gaming and Racing.

If you have any questions about these guidelines please contact AHA (NSW), the Anti-Discrimination Board or the Office of Liquor, Gaming and Racing. Our addresses and phone numbers are at the back of these guidelines.



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Role of the NSW Anti-Discrimination Board

The Anti-Discrimination Board (the Board) was set up under the *Anti-Discrimination Act 1977* to administer that Act. It is under the jurisdiction of the NSW Attorney General's Department.

The role of the Board is to promote anti-discrimination and equal opportunity principles and practices throughout NSW. To do this, the Board:

- provides an enquiry service for people about their rights and responsibilities under anti-discrimination law;
- investigates and conciliates discrimination complaints;
- tries to prevent discrimination happening — by running education programs, seminars, talks, and producing publications and a website;
- advises the Government on discrimination matters and makes recommendations about the law.

The Board is an impartial agency and does not act as an advocate for either side in seeking a resolution to a complaint.

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Anti-Discrimination law

The NSW Anti-Discrimination Act says that it is unlawful in NSW to discriminate against someone, that is to treat them unfairly compared with others, or harass them because of the following characteristics:

- sex, including pregnancy and breastfeeding;
- race, including colour, nationality, descent and ethnic, ethno-religious or national origin;
- marital or domestic status — whether they're single, married, de facto (including same sex couples), divorced or separated;
- disability — physical, intellectual or psychiatric; past, current or future; actual or presumed;
- homosexuality — actual or presumed;
- age, including compulsory retirement (however, it is not against the law to exclude people aged under 18 from restricted areas of hotels, or to exclude a person under the age of 18 years who is found in the authorised area not in the immediate company of a responsible adult);
- transgender (transsexuality) — actual or presumed;
- carer's responsibilities (in employment only);
- discrimination because a relative or associate has one of these characteristics (except carer's responsibilities).

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Federal legislation, which is administered by the Australian Human Rights Commission, also covers discrimination based on someone's:

- religion;
- political opinion;
- trade union activity;
- medical record;
- criminal record;
- sexual preference; and
- social origin.

It is against the law to discriminate in two areas that concern hotels. These are:

- the goods and services the hotel provides, including accommodation (carer's responsibilities discrimination is not unlawful in this area); and
- the hotel's employment practices.



Both direct and indirect discrimination are against the law

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Direct discrimination

Direct discrimination means treatment that is unfair or unequal.

Indirect discrimination

Indirect discrimination means having a requirement, a rule, policy, practice or procedure that is the same for everyone but which has an effect that is unfair to particular groups. Unless the requirement is reasonable with regards to the circumstances it is likely to be indirect discrimination.

Example of direct discrimination

A bar attendant refuses to serve someone because they are Aboriginal. This would be direct race discrimination.

Example of indirect discrimination

A hotel insists that customers can only use a driver's licence as proof of age even though the Liquor Act allows for other forms of identification to be used, such as a passport or proof of age document. This:

- is a requirement that is the same for everybody;
- means that people with certain types of disabilities who are unable to drive will be unable to show a driver's licence as an ID;
- is probably not reasonable with regards to the circumstances, as there are other forms of identification that could serve the same purpose as a driver's licence.

Therefore, the requirement that only a driver's licence can be used as proof of age may be indirect disability discrimination.



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Sexual harassment

Sexual harassment is also against the law.

Sexual harassment is:

- unwelcome sexual advances or requests, or;
- sexual conduct in relation to a person that, in the circumstances, a reasonable person would have expected the person to be offended, humiliated or intimidated.

Examples of sexual harassment include:

- intrusive questions about sexual activity, or offensive jokes with sexual content;
- staring or leering in a sexual manner, sexual or physical contact, such as slapping, kissing, touching or hugging;
- repeated sexual or personal invitations after the person has refused similar invitations before;
- sexual assault (also a crime under the Crimes Act).

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Complaints handled by the Anti-Discrimination Board

A woman worked as a casual kitchen hand in a restaurant, and formed a social relationship with the chef outside the workplace. She said she wanted their relationship to remain platonic, but the chef continually asked her to have a sexual relationship with him. After she rejected his advances she was not offered any further work. The complaint of sexual harassment was lodged against the employer and the cook. It was resolved with the help of the Board and included a payment of \$3,000.

A woman worked as a bar attendant at a club. She alleged that during her employment a number of club patrons continually made a number of unwelcome comments to her about the size of her breasts. She further alleged that when she complained to a director about the conduct, he also proceeded to make similar comments. The complaint was settled following a conciliation conference when the club agreed to provide the woman with a statement of regret; undertake to train all staff and to review its policies on discrimination and harassment. The woman was compensated with a payment of \$5,000 for the humiliation suffered.



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Harassment

In general, harassment is any type of behaviour that:

- someone does not want and does not return;
- offends, humiliates or intimidates them; and
- targets them because of their sex, pregnancy, race, or ethnic group, age, disability, homosexuality, transgender or carer's responsibilities (employment only).

Examples of harassment include:

- material that is racist, sexist, homophobic (anti-gay) and so on, that is displayed in the workplace, circulated on paper or by email, or put on a computer or fax machine or on the internet, or in someone's personal belongings;
- verbal abuse or comments that put down or stereotype people because of their sex, pregnancy, race, age, marital status, homosexuality and so on.

Complaint handled by the Anti-Discrimination Board

A man alleged that he was subjected to ongoing harassment from his immediate supervisor who repeatedly humiliated him because of his stutter. The man lodged a complaint of disability discrimination with the Board. The complaint was resolved at a conciliation conference at the Board with the employer agreeing to pay the man \$13,000 for pain and suffering, provide him with a statement of employment, an apology, and an undertaking to train all staff.



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It is also against the law to victimise someone, that is treat them unfairly, because they have:

- complained about discrimination to you or an organisation like the Anti-Discrimination Board;
- supported someone with a discrimination complaint; or
- acted as a witness to a discrimination complaint.

Complaint handled by the Anti-Discrimination Board

A man complained to his boss that he had been discriminated against because of his race. The next day he was dismissed. The man alleged racial discrimination and the dismissal amounted to victimisation under the NSW Anti-Discrimination Act. During a conciliation conference at the Board, the employer agreed that they had done the wrong thing by dismissing the man and not taking his complaint of race discrimination seriously. The man was reinstated and received \$4,000 for the racial discrimination.



Vilification

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Racial vilification, homosexual vilification, HIV/AIDS vilification and transgender vilification are also against the law

Vilification means any public act that could incite or encourage hatred, serious contempt for, or severe ridicule towards someone or a group of people because of their race, homosexuality, HIV/AIDS or transgender status.

Examples of possible racial, homosexual, HIV/AIDS or transgender vilification are:

- graffiti scrawled on hotel walls that vilifies people because of their race, homosexuality, HIV/AIDS or transgender status;
- posters, cartoons or notices on hotel noticeboards that vilify people because of their race, homosexuality, HIV/AIDS or transgender status;
- abuse that happens publicly between people in the hotel that vilifies people because of their race, homosexuality, HIV/AIDS or transgender status.

Complaint handled by the Anti-Discrimination Board

A Jewish woman asked a public authority to remove anti-Semitic graffiti from a public place they were responsible for. They did not respond. She came to the Board and after a conciliation conference, the authority removed the graffiti.

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Generally, the hotelier is responsible for ensuring that anti-discrimination legislation is followed in their hotel. When someone who has been specifically authorised to act on behalf of the hotelier, such as a manager or supervisor, acts in a discriminatory or harassing way, the hotelier will still be legally liable for the discrimination or harassment — unless they can show that they took reasonable steps to prevent the discrimination or harassment from happening.

Reasonable steps

A hotelier can take reasonable steps by:

- implementing Equal Employment Opportunity (EEO) policies, harassment policies and grievance procedures;
- training staff to ensure that they are aware of their rights and responsibilities in relation to anti-discrimination legislation; and
- making clear what is not acceptable behaviour in the workplace.

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Reasonable Steps Case decided by the NSW Administrative Decisions Tribunal

A female bar attendant was sexually harassed (including having her breasts grabbed) by a co-worker but didn't complain until the third incident. Once management was aware of the allegations, it investigated immediately and the man was dismissed.

The woman, however, argued that the employer had failed to take reasonable steps to prevent the sexual harassment and was, therefore, liable for the man's behaviour. Management hadn't been aware of the specific incidents until the woman complained, but it had known that the man in question had a negative reputation with women.

The Tribunal found that management did, therefore, know that the man's conduct towards women was unacceptable. The Tribunal also found that management had failed to take all reasonable steps to prevent the conduct.

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The more a hotelier can show that they implemented appropriate policies and procedures fairly and consistently, the more they will be able to demonstrate that they took all reasonable steps to prevent discrimination or harassment from happening.

A hotelier may be able to transfer legal liability to a manager if they are able to show that the manager did not implement the organisation's anti-discrimination, harassment and EEO policies properly or neglected to take steps that should have been taken. For example, if someone authorised to hire staff discriminates unlawfully, the hotelier would be liable for the this person's action, unless the hirer acted against the hotelier's specific instructions not to discriminate. The hotelier is also generally legally liable when any other employee behaves in a discriminatory or harassing way.

In some instances individual harassers have been found jointly legally liable with the employer. This is particularly the case for sexual harassment, where the Anti-Discrimination Act allows employees to lodge a complaint against an individual harasser.

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The employer did have policies and procedures covering sexual harassment but:

- the short, internal training sessions for staff were inadequate;
- management failed to recognise that the man's behaviour was potentially unlawful;
- there were no appropriate monitoring processes
- the man was not warned that his behaviour was inappropriate

The woman was awarded \$15,000 for pain and suffering



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Check the services your hotel provides

In general, the goods and services you and your staff provide at your hotel must be open to everyone regardless of their race, ethnic group, sex (including breastfeeding and pregnancy), marital or domestic status, disability, age (apart from underage gambling and drinking and restricted access to certain areas of licensed premises), homosexuality or transgender status.

Certain areas within the premises may be restricted to functions or invited guests only, so long as there remains an area which is open to the general public.

Hotel staff must treat everyone fairly and equally. This applies to all services provided by the hotel, such as hiring out part of the hotel premises for meetings or functions arranged by any groups, clubs or societies.

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Refusing entry, service or barring people

Neither the *Liquor Act 2007* nor the Anti-Discrimination Act allows a hotel to refuse entry, refuse service, remove someone from the premises or bar them because of their sex (including breastfeeding and pregnancy), race, marital or domestic status, age (apart from underage drinking and gambling and restricted access to certain areas of licensed premises), disability, homosexuality or transgender status, or that of their relatives or associates. Customers should be served on a first come, first served basis so that everyone is treated fairly. Everyone who provides services at the hotel should take care to treat all customers courteously.

Also be aware of unspoken rules about where customers are allowed based on their race. For example Aboriginal customers shouldn't be expected to sit in one area of the hotel, while non-Aboriginals sit in another.

Section 77 of the Liquor Act allows a hotel to refuse entry, refuse service, or remove someone from the premises to ensure a safe environment for other patrons and staff or if they disrupt the orderly conduct of the business. Additionally, a person smoking in a smoke-free area may be removed and a hotelier can refuse access to the licensed premises if doing so is in

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Refusal of Service Case decided by the NSW Administrative Decisions Tribunal

A man was barred from a casino because his GP had written asking them to do so because he could not gamble responsibly due to a mental illness. The letter stated that the man had consented to his doctor writing it.

The man claimed that he had been discriminated against because of his disability. The casino argued, however, that he was excluded because of the GP's letter.

To prove discrimination it is necessary to show that you have been treated less favourably than other people in the same or similar circumstances.

The tribunal found that there was no evidence that a patron in similar circumstances, who did not have the man's mental illness, would be treated more favourably. The complaint was, therefore, dismissed.



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accordance with a condition on the licence or consented to as part of a Local Liquor Accord initiative, for example, a general lockout by hotels at midnight.

A hotel can also bar someone for some time after a particular incident. However, this can only happen if the person:

- is intoxicated, violent, quarrelsome or disorderly;
- is using the hotel for the purposes of prostitution;
- is doing anything that makes the licensee liable for a penalty;
- is hawking, selling or peddling goods on the premises;
- has a prohibited drug in their possession.

Most problems happen when a hotelier or a member of staff has to decide if someone is 'intoxicated, violent, quarrelsome or disorderly'. A hotel must not use this section of the Liquor Act to unlawfully discriminate. For example:

- the standard for refusing service to people who are intoxicated should be the same for everyone and not be based on someone's racial group, sex and so on;
- be aware that people with certain types of disabilities, which may affect the way they walk or talk, may appear to be intoxicated when they are not;
- if people who have caused trouble in the past happen to

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Race Discrimination Case decided by the NSW Administrative Decisions Tribunal

A man of Pacific Islander background, was twice refused entry to a hotel. Security guards had said to him 'No Islanders allowed' the first time and 'No Islanders or Lebs' the second time he tried to get in.

The security guards were employed by two separate security companies. When the man complained, the security companies alleged that he was refused entry because he was drunk. He denied this and took his case to the NSW Administrative Decisions Tribunal. He complained that he had been discriminated against by both the security companies and the Hotel.

The man wanted an apology and entry to the hotel, subject to dress and behaviour rules. Management

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belong to a particular racial, age or any other group, don't assume that others from that group will also cause trouble. A hotel should only warn or bar customers if they actually do cause trouble.

In addition, customers may be assertive or eccentric without being disorderly. They may question the hotel's decisions or defend their rights, and not be quarrelsome within the meaning of the Liquor Act. Check the reasons why someone seems to be upset. There may be a good reason why they are acting in a particular way. For example, someone may be upset because the dress standard has not been fairly applied to them in comparison to other customers.

The Office of Liquor, Gaming and Racing recommends that hotels maintain an Incident Register. Hotels that operate after midnight at least once a week or listed as declared premises under section 4 of the Liquor Act must maintain an Incident Register.

Incidents to be recorded include anti-social or violent behaviour and people being refused entry or asked to leave under section 77 of the Liquor Act.

For more information contact the Office of Liquor and Gaming or [read their guidelines](#).

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of the Hotel argued that his evidence could not be believed. After hearing all the facts, however, the Tribunal was satisfied that it was 'more probable than not' that he had been treated less favourably than other people because of his race.

The Hotel argued that it was not responsible for the discrimination because the security guards were not employed by it. The Tribunal, however, accepted evidence that it was hotel policy to exclude Islanders and Lebanese people and that, in any event, it did nothing to prevent the conduct.

The hotel and the security companies were ordered to pay the man \$6,000, jointly. In addition, the security firms were ordered to pay \$2,000 and \$1,000 respectively for aggravation.

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How long a hotel can bar people

How long a hotel bars customers should relate to the offence, and whether this is the first, second or third incident the person has been involved in. Hotels should also apply their rules consistently and fairly. For example, if a customer is barred for six months for disorderly behaviour, all other customers should be barred for the same length of time for the same type of behaviour and not be given a heavier penalty if they are Aboriginal.

If a hotel has to bar people from its premises frequently, it might be worthwhile displaying the hotel's barring rules, explaining what people can expect for different types of offences.

When a new licensee takes over a hotel, they should review the previous licensee's barrings, checking that they were applied fairly before going along with them or establishing a new barring system.

'No Excuse' — refusing a request to leave.

It is an offence, under the Liquor Act, for a patron not to leave a venue when asked, and they can be given a fine of \$550 by the NSW Police.

Race Discrimination **Case decided by the Anti-Discrimination Tribunal, QLD**

An Aboriginal man went to a hotel to talk to the hotel manager about constructing a bridge in the town to make the area more accessible for tourists. The two men began arguing. At one point, the manager drew a knife on the man, telling him to leave the hotel and barring him in future. In addition, the manager had also called the Aboriginal man 'Abo' on the occasions he'd gone to the pub as a customer over a two-year period. The Tribunal ordered that the man be awarded the sum of \$31,500 with interest, and \$450 in costs.



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Dress rules

Hotels can set reasonable standards of dress for both customers and staff. This includes different standards of formality for different parts of the hotel, or for different times of the day. People who do not comply with the dress code may be refused entry.

To ensure no discrimination is applied, a dress code should be displayed at the hotel's main entrance. In general, the same dress standards should apply to everyone.

- While a hotel doesn't have to have exactly the same dress rules for men and women, the standard of formality or informality should be roughly the same for both sexes. For example, if men wearing work singlets are refused entry to the hotel, women wearing equivalent work clothes should also be refused entry.
- If a hotel has a rule that says no-one must enter with bare feet or thongs, this rule should be applied to everyone, not just members of a particular group, such as Aboriginal people or Torres Strait Islanders. In addition, some customers may have a disability that makes it difficult for them to wear shoes.
- In some instances it may not be appropriate to have a

Example of discrimination

Refusing entry to someone, who has to wear a hat or scarf due to a medical condition could be disability discrimination.

Similarly, refusing entry to someone who has to wear a head covering because they are a cultural requirement might be ethno-religious discrimination.

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global ban on headgear. For example, a hotel may need to take people's ethno-religious beliefs into account, such as allowing Sikhs to wear a turban and Muslim women to wear a headscarf, or they could be at risk of indirect race discrimination.

Charges and special or free deals

A hotel should not discriminate with the prices it charges people for entry to certain events or parts of the premises, or for drinks or food. For example, it is against the law to charge different rates for different races, or to charge men and women different amounts for the same service, or to give only one sex a special deal, such as cheaper drinks for women. 'Women only' or 'men only' nights, lunchtimes, or events — even if they are confined to one area of the hotel — could also be against the law, unless you provide similar events, or time slots, for the other sex. It could also be against the law to only allow large groups of women into the hotel, while barring large groups of men under the same circumstances.

Example of discrimination

If an entry fee is charged for male customers, but not female customers, this could be sex discrimination.

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Dealing with sexual harassment

It is a hotelier's legal responsibility to make sure that their hotel is free of sexual harassment in the way it provides goods and services. The hotelier should make it clear to staff that sexual harassment of customers or staff members will not be tolerated and that staff will be disciplined if they engage in harassing behaviour. Also, the hotel should have clear policies concerning acceptable conduct between customers and staff on its premises

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Sexual Harassment Case decided by the Anti-Discrimination Tribunal, QLD,

The QLD Anti-Discrimination Tribunal found that a hotel proprietor sexually harassed a female employee for the five months she was employed at a hotel in 2002. The harassment included inappropriate comments the proprietor made to the employee both privately and in front of customers, and touching her inappropriately in circumstances where it might have appeared accidental or innocent.

The hotel proprietor was ordered by the Tribunal to pay the woman \$12,675 in damages and costs, and to publish an apology in the town's newspaper to acknowledge the 'hurt, humiliation and embarrassment' he caused by his conduct.



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Dealing with racial, homosexual, HIV/AIDS or transgender vilification

Vilifying graffiti on any of the hotel's property should be removed as soon as practicably possible to ensure that the hotel is not seen as agreeing with or promoting public statements that could be against the law. If you know who is responsible, they should be warned that that sort of behaviour is unacceptable and may be against the vilification law. If there is vilification between customers in the hotel they should be warned as well. If such behaviour continues you may need to remove or bar the people involved. For more information about vilification, ask the Anti-Discrimination Board for a copy of their vilification fact sheet or go to their website.

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Example of discrimination

If racially vilifying comments are made in a hotel car park between customers, this could be racial vilification, depending on the severity of the comments.



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Providing access and services for people with disabilities

Most hotels have a very good record of providing access to all their facilities for people with disabilities. Ramps and other forms of access for people with disabilities should be provided whenever the expense of installing them is reasonable. People in wheelchairs should be allowed to use their wheelchairs on the dance floor if it is safe to do so.

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Disability discrimination **Case decided by the NSW** **Administrative Decisions Tribunal**

People with disabilities are entitled to access public facilities unless providing access would impose an unjustifiable hardship on the owner.

A man claimed disability discrimination because he couldn't access his local swimming pool. The car park was 75 metres from the pool and he was unable to walk that far. There was a service road and vacant area next to the pool but he was not allowed to use it.

Management argued that it had fulfilled its obligations because there was a path to the pool from the car park and he could use a wheelchair (he didn't have a wheelchair).

The Tribunal decided that providing car access for people who had disabilities and couldn't walk from the main car park would not be an unjustifiable hardship for the pool owners. The cost was reasonable and other people would also benefit.



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Rooms and accommodation

It is against the law to refuse a room or accommodation to someone because of their race, sex, pregnancy, marital or domestic status, disability, homosexuality, age or transgender status. This also applies to hiring out part of the premises for meetings or social functions.

Hotels must do their best to make sure that their accommodation is accessible to people with different types of disabilities. A hotel may, in certain circumstances, be able to refuse to let a room to a person with a disability if letting the room would pose a real health or safety risk to that individual or other people, or if the hotel has no suitable rooms available. A room should only be refused if it is reasonable, taking into account the facts of that particular case. If a hotel has rooms designed to accommodate guests with disabilities it is advisable that these are kept free until all other rooms in the hotel are booked, so they are more likely to be available if a disabled person arrives.

A hotel can also refuse accommodation if it is reasonably clear that the customer won't be able to pay for it. However, a hotel must not assume that someone won't be able to pay because they happen to be a certain race, sex, age, and so on, as this

Homosexual discrimination Complaint handled by the Anti-Discrimination Board

A woman wrote to us saying that a hotel had refused to let a room to her and her partner because they are lesbians. In a conciliation conference with the woman and the owner of the hotel, the owner agreed to compensate the complainant by donating a sum of money to the complainant's favourite charity and to give her a written apology.



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would be unlawful discrimination. There should be reasonable grounds for the decision, unrelated to the person's race, sex, sexual preference, etc.

The following situations could also be against the law:

- refusing accommodation to a person because they are accompanied by a guide or hearing dog could be disability discrimination;
- not letting a double room to a couple because they aren't married could be marital status discrimination;
- not letting a double room to two men or two women because you think they might be, or they are, homosexual could be homosexual discrimination;
- refusing to let a room to people who you think might have AIDS could be either homosexual or disability discrimination, depending on the circumstances. Information about AIDS can be obtained from a Public Health Unit at the NSW Health Department;
- refusing to let a room to people with children could be age discrimination, unless the rooms are too small for that number of people.

Example of discrimination

Under the Anti-Discrimination Act and the *Companion Animals Act 1998*, guide dogs accompanying someone with a vision impairment and hearing dogs accompanying someone with a hearing impairment are allowed into the hotel and its facilities, including places where food is served. These dogs are very well trained and are unlikely to cause any problems.

A taxi driver learned the hard way the folly of refusing someone entry because they have a guide dog with them. He refused to let the Federal Disability Commissioner get into his cab! He was fined \$750 and ordered to pay \$2500 in legal fees.



Check your hotel's employment practices (1 of 4 pages)

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▶ **Hiring staff**

▶ **Leave and employment opportunities**

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The following is a brief guide to non-discriminatory employment practices. The Anti-Discrimination Board and the Australian Hotels Association (NSW) have further resources to assist employers — for more detailed written information or advice please contact the Anti-Discrimination Board or the AHA (NSW)'s Industrial Relations Department using the contact details given at the end of these guidelines.

In general, you or your staff must not discriminate against, or harass other employees, potential employees or contractors because of their sex, pregnancy, race or ethnic group, marital status, disability, homosexuality, transgender status or carer's responsibilities.

To make sure that you don't discriminate, it is best to have a clear written policy on all of the following issues.

Hiring staff

In general, all jobs should be open to everyone, on the basis of merit, regardless of the applicant's sex, race, age, marital status, and so on. Be careful not to make stereotyped assumptions about the abilities of particular groups of people.

In hiring staff a hotelier would be entitled to discriminate

Examples of discrimination

If a hotelier decides to only hire male staff at night for security reasons, this could be sex discrimination.

If a hotelier decides not to hire older employees because they think that they won't be able to relate to younger customers, this could be age discrimination.

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against an applicant who is under 18 years of age and who therefore would not be able to enter the restricted areas and should only be in the authorised areas when in the company of a responsible adult. Such an employee would not be able to carry out any duties relating to the sale of liquor or gaming.

Leave and employment opportunities

All staff, including casual staff, should be treated fairly and equally when it comes to rates of pay, recreation leave, sick leave, maternity leave, training opportunities, shift rosters and promotion opportunities.

Dress codes while working

In general employers may impose reasonable standards of dress and appearance for staff. Some examples are:

- employers may require men and women to have their hair a certain length or for it to be tied back for legitimate occupational health and safety reasons;
- employers may require professional as opposed to casual dress where reasonable in relation to the nature of the work performed;

Examples of discrimination

Employees should be allowed to take time off for medical appointments if this is reasonable. If refused this *could* be disability discrimination.

A hotelier should allow staff who have children to be promoted into supervisory or managerial positions. If not, this *could* be age or carers' responsibilities discrimination.

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Check your hotel's employment practices (4 of 4 pages)

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- employers may require, in addition to an acceptable black and white combination, a special uniform supplied by the employer as required under the relevant award;
- employers may require staff to only wear jewellery of a particular type, such as sleepers, or cover tattoos or body piercings.

However in all these cases, the standards should be comparable for men and women and should not unreasonably impact on groups covered by anti-discrimination law. For example, some people wear particular clothing or jewellery, or have body tattoos or beards as part of their ethno-religious observations. Any dress codes should accommodate such ethno-religious needs. Also, any uniforms provided should be appropriate for both men and women, including pregnant women, and should take account of ethno-religious considerations.

Ending employment

Staff should be treated fairly in relation to disciplinary measures, issuing of warnings and dismissal arrangements.

Examples of discrimination

If female employees are allowed to wear earrings, then male employees should be allowed to wear earrings.

In general, Muslim employees should be allowed to wear a headscarf. If not, this could be indirect race discrimination. However, it won't be against the law to ask for someone to wear a headscarf in a particular colour to match a uniform.

Examples of discrimination

If a hotelier disciplines male employees more harshly than female employees, this could be sex discrimination.

How to handle a complaint (1 of 2 pages)

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What to do if there is a complaint against your hotel

A hotelier may have to deal with complaints from customers, contractors and staff.

- Someone within the hotel should be delegated to investigate internal complaints, such as a supervisor, manager or the hotelier.
- Depending on the seriousness of the complaint, the complaint could be verbal or in writing.
- Complaints should be handled quickly, within specific time frames, sensitively, impartially, fairly, confidentially and free of unfair repercussions or victimisation.
- The person investigating the complaint should get the other side of the story, either verbally or in writing.
- The investigator then needs to weigh up both sides of the story and make a decision based on what is most likely to have happened. If someone is found to have discriminated against or harassed another person, they should be disciplined in accordance with AHA (NSW) guidelines.

For more information about AHA (NSW) grievance procedures, contact the AHA (NSW)'s Legal and Industrial Affairs Department using the contact details given at the end of these guidelines.

[Sample hotel complaint form](#)

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How to handle a complaint (2 of 2 pages)

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How someone can make a complaint to the Anti-Discrimination Board

If someone believes they have been discriminated against or harassed by a hotelier or one of their employees, they have the right to complain to the Anti-Discrimination Board of NSW.

The Board is responsible for investigating complaints of unlawful discrimination, sexual harassment, victimisation and vilification, and does not take sides. The Board will investigate the complaint, and if it appears that unlawful behaviour has occurred it may call a conciliation conference to get the parties together to see if they can resolve the complaint.

An agreed settlement will depend on the circumstances of the case. The outcome could be:

- that the person is no longer barred from the hotel;
- that the person gets the job they applied for;
- that the hotel runs an education program to make sure that people aren't discriminated against in future;
- that the hotelier pays some financial compensation to the person who complained.

Most complaints are conciliated. If a complaint can't be conciliated, it may be possible for the person who complained to go to the Equal Opportunity Division of the Administrative Decisions Tribunal (the Tribunal). If a complaint is heard at the Tribunal it will usually become a public matter. This means the media will be able to report it.

It is also against the law for anyone to victimise someone for making a complaint to the Board — even if their complaint turns out to be unfounded.

[Anti-Discrimination Board complaint form](#)



More information

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You can get further advice or information from the Australian Hotels Association of NSW, the Office of Liquor and Gaming or the Anti-Discrimination Board of NSW. All offices of the Anti-Discrimination Board have a specialist Employers Advisory Service.

Anti-Discrimination Board of NSW

Opening hours – 9am – 1pm and 2pm – 4pm, Monday to Friday

Sydney

Level 4
175 Castlereagh St
SYDNEY NSW 2000
ph (02) 9268 5555
fax (02) 9268 5500
*TTY (02) 9268 5522

Wollongong

84 Crown St
WOLLONGONG NSW 2500
ph (02) 4267 6200
fax (02) 4267 6261
TTY (02) 4267 6267

Newcastle

Level 3
97 Scott St
NEWCASTLE NSW 2300
ph (02) 4903 5300
fax (02) 4903 5376
TTY (02) 4929 5389

*TTY — telephone typewriter for deaf or hearing impaired persons

Enquiries Line/Employers Advisory Service — ph (02) 9268 5544

Toll free number 1800 670 812 if you are calling from outside the Sydney area

Website — <http://www.lawlink.nsw.gov.au/adb>

Australian Hotels Association (NSW) & Tourism Accommodation Australia (NSW)

Level 15, Hudson House
131 Macquarie Street
Sydney NSW 2000
Ph (02) 9281 6922
Legal and Industrial Affairs Direct Line — (02) 8218 1855
<http://www.ahansw.com.au>

Office of Liquor, Gaming and Racing

Level 6
323 Castlereagh Street
Haymarket
Ph: 02 9995 0300
Fax: 02 9995 0669
<http://www.olgr.nsw.gov.au>



Sample EEO and Harassment Policies

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A sample EEO policy and sample harassment policy have been developed to assist Hotel management in implementing non-discriminatory employment practices.

There are provided in Rich Text format (RTF) and are able to be amended to include your Hotel's name and appropriate contact names.

To open these documents click on the links below*. You can also open these documents directly by going to the Sample_Policies folder.

▶ [Sample EEO policy](#)

▶ [Sample Harassment policy](#)

* On some Windows computers these sample policies will open in a window behind this presentation. To view the sample policies do **ONE** of the following:

1. Press the Esc key on the top left of your keyboard. This will minimise this presentation, you will then be able to access the sample policy documents by clicking on their title on the task bar at the bottom of your screen.
2. Click on the Quit button above, this should enable you to see the sample policy document. (You will need to reopen this presentation if you want to continue browsing)
3. Open the documents directly by going to the Sample_Policies folder and double-clicking on the Sample Policy you wish to view.