

Hep C factsheets

Discrimination



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The Act says that it is against the law to harass or treat someone with hep C unfairly because:

- A person has hep C or someone thinks they have it.
- A person had hep C in the past, or someone thinks they had it in the past.
- Someone thinks a person might get hep C in the future.
- A person has a relative, friend or work colleague who has or is thought to have hep C.

Hep C discrimination

In general, discrimination against someone because they have hep C is against the law. This includes:

- in most types of employment, for example when someone is applying for a job, when they are in a job or when they are leaving a job.
- when someone is prevented from getting a promotion or dismissed because they have hep C. (Employers also have a legal duty to provide employees with any special facilities or services they need to help them do the job, as long as it won't cause the employer 'unjustifiable hardship').
- when someone tries to get most types of goods or services, such as from banks, shops, pubs and government departments.
- when a person with hep C is seeking health care services, they are entitled to proper medical treatment from doctors, hospitals and dentists. (In some cases, the Board will not be able to intervene, for example anything to do with court decisions, such as child custody or divorce settlements).
- when someone rents or try to rent accommodation, for example, a unit, a house, commercial premises, hotel or motel room or a caravan.

Introduction

Discrimination occurs when someone is treated less favourably than other people in the same or similar circumstances because of a particular characteristic they have, such as having hep C.

The basis for hep C related discrimination is usually peoples' fear of contracting the virus, or their attitude towards injecting drug use (the primary transmission risk behaviour in Australia).

As an example, 'Joan' attends a dentist surgery and while waiting fills out a form and mentions that she has hep C. The dentist then tells Joan that she will have to wait until the day's last appointment. That dentist could be discriminating against Joan if he/she supposes that Joan is a drug user and adopts non-standard practices for fear that his/her workspace might become contaminated and that hep C might be passed on to other patients or himself/herself.

NB: 'Standard infection control procedures' are practiced in all medical settings. These procedures ensure that workspaces do not become contaminated with blood or other body fluids.

Anti-Discrimination Act

People with hep C are considered to have a disability under the NSW Anti-Discrimination Act (1977).

- when someone applies to get into a course or are studying in any state educational institution, in a government school, college, TAFE or university.
- when someone with hep C tries to enter, join or get services from a registered club.

Other legislation

The Disability Discrimination Act 1992, a federal law administered by the Human Rights and Equal Opportunity Commission also covers discrimination against people with hep C.

It may also be against the law if an employer, workmate or service provider tells anyone else that someone has hep C when the person hasn't given consent. This may also be against state and federal privacy laws.

For more information on privacy laws contact Privacy NSW on 9228 8585 or the Federal office of the Privacy Commissioner on 1300 363 992.

For more information about discrimination and the law, contact the Anti-Discrimination Board (ADB) enquiry service on 9268 5544 (Sydney) or 1800 670 812 (toll free NSW).

Making a complaint

The ADB can provide information about everyone's rights. The Board treats all complaints confidentially and their services are free.

The ADB has the legal power to investigate a complaint and if it appears to be against the law, try to conciliate it. Conciliation means helping the person making the complaint and the person or organisation they're complaining about reach a private settlement that everyone can agree on.

The settlement will depend on each case. Most complaints are conciliated (resolved through private settlement). If a case isn't conciliated, it may go to the Administrative Decisions Tribunal, a court that provides a legal judgement in order to try to settle complaints.

Legal advice

The HALC legal centre is an accredited community legal centre that provides free advocacy and advice on a range of issues including hep C related discrimination, privacy and health care complaints.

- For more information, visit www.halc.org.au or call 9206 2060 (Sydney & NSW).

The NSW Disability Discrimination Legal Centre aims to help people with disability to use disability discrimination laws. Their role is to provide accurate and easy to comprehend advice to people with disability in NSW who want to make a complaint of disability discrimination.

- For more information, call 9310 7722 (Sydney) or 1800 800 708 (toll free NSW).

In some instances the Human Rights and Equal Opportunity Commission (HREOC), the federal body dealing with anti discrimination issues, may also be able to help.

- HREOC can be contacted on 9284 9600 (Sydney) or 1800 021 199 (toll free NSW).

If you want to phone and speak to the above services in a language other than English, call a telephone interpreter on 13 1450. Ask for an interpreter and when he/she comes on line, ask them to call the number you want. You will then be able to speak via the interpreter.

Also see

Disclosure (factsheet)

Workplace issues (factsheet)

My Rights (booklet)

My Choice To Tell (booklet)

- This factsheet was developed by the Hepatitis C Council of NSW, assisted by the Anti-Discrimination Board of NSW and Privacy NSW.