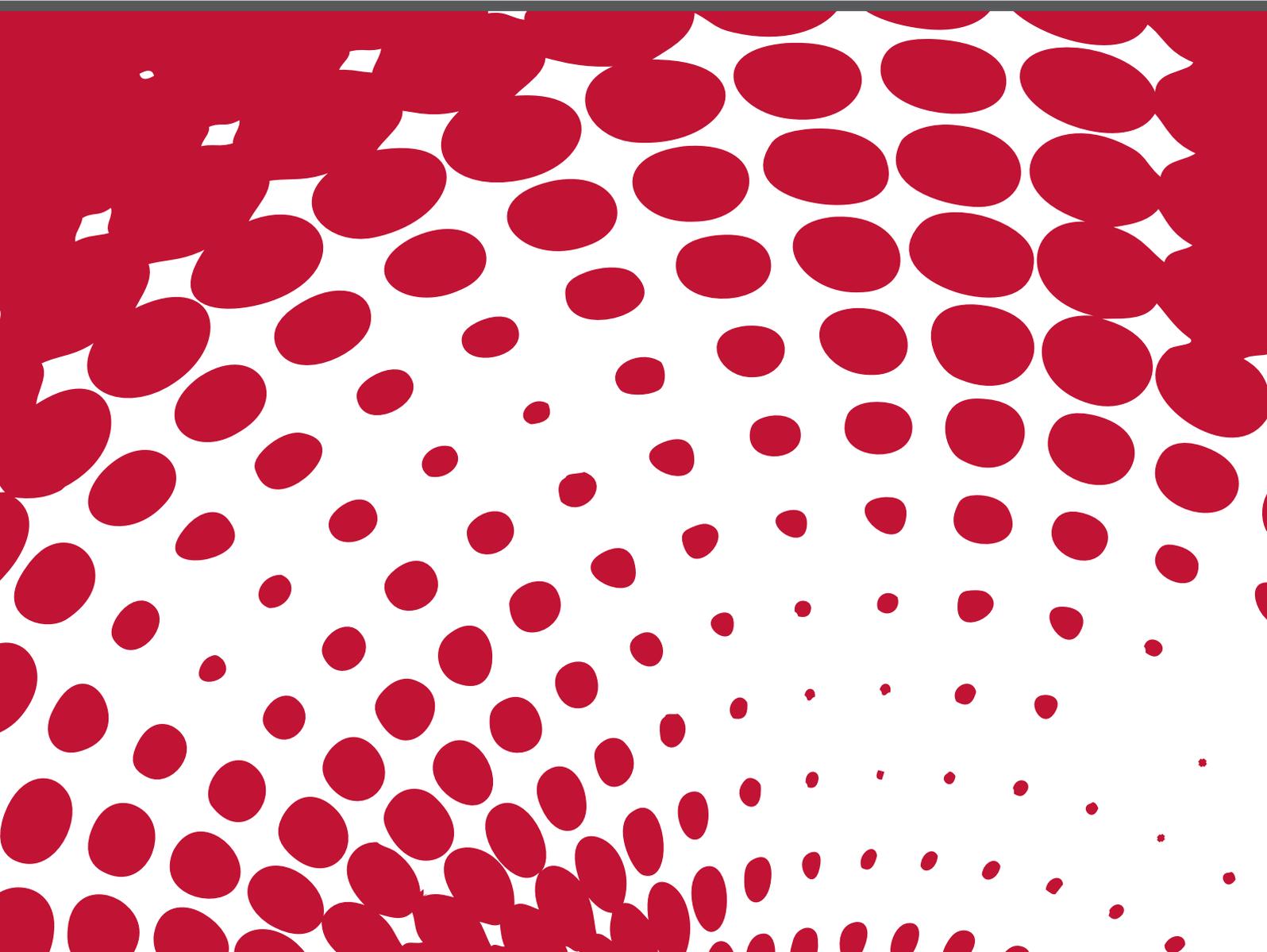


Legislation and business operations



Anti-discrimination legislation

Anti-discrimination legislation is enforceable by law and must be complied with. The Anti-Discrimination Act 1991 is described as an Act to promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity and from sexual harassment and certain associated objectionable conduct.

This act is a public act and applies to any form of communication to the public, including by speaking, writing, printing, displaying notices, broadcasting, telecasting, screening or playing of tapes or other recorded material, or by electronic means. As well as any conduct that is observable by the public, including actions, gestures and the wearing or display of clothing, signs, flags, emblems or insignia.

One of the purposes of the Act is to promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity, including work, education and accommodation.

The Act prohibits discrimination on the basis of the following 'Attributes':

- (a) sex
- (b) relationship status
- (c) pregnancy
- (d) parental status
- (e) breastfeeding
- (f) age
- (g) race
- (h) impairment
- (i) religious belief or religious activity
- (j) political belief or activity
- (k) trade union activity
- (l) lawful sexual activity
- (m) gender identity
- (n) sexuality
- (o) family responsibilities
- (p) association with, or relation to, a person identified on the basis of any of the above attributes.

The act also prohibits both **direct** and **indirect discrimination**.

Direct discrimination – this occurs when a person is treated or it is proposed they be treated less favourably, on the basis of them having an attribute, than a person without the attribute is, or would be treated in the same situation.

Example

R refuses to rent a flat to C because—

- C is English and R doesn't like English people
- C's friend, B, is English and R doesn't like English people
- R believes that English people are unreliable tenants.

In each case, R discriminates against C, whether or not R's belief about C's or B's nationality, or the characteristics of people of that nationality, is correct. This is because the refusal to rent is based on an attribute.

Indirect discrimination – this occurs when a person proposes to impose, or imposes a term with which a person with a certain attribute cannot, or won't be able to comply with.

This can also take the form of imposing or proposing to impose a term with which a higher proportion of people without the attribute comply or are able to comply.

Example 1

An employer decides to employ people who are over 190cm tall, although height is not essential to effective performance of the work. This disadvantages women and people of Asian origin, as there are more men of non-Asian origin who can comply. The discrimination is unlawful because the height requirement is unreasonable, there being no genuine occupational reason to justify it.

Example 2

An employer requires employees to wear a uniform, including a cap, for appearance reasons, not for hygiene or safety reasons. The requirement is not directly discriminatory, but it has a discriminatory effect against people who are required by religious or cultural beliefs to wear particular headdress.

If you are offering a service, or advertising for new employees, it is important that you refer to the *Anti-Discrimination Act 1991* to ensure that you are not and do not discriminate directly or indirectly.

For more information, please refer to the full *Anti-Discrimination Act 1991*.

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/A/AntiDiscrimA91.pdf>

Ethical principles

As a business owner and operator you may wish to formulate your own ethical principles to map out the key values you and your employees will be governed by. The ethical principles together are often referred to as a *Code of Ethics*. While these in themselves will not be enforceable by common law or legislation, it is important to recognise that legislation prohibits or limits certain acts. Ethical principles cannot be enforced if they contravene Queensland legislation.

A Code of Ethics is intended to assist you and your employees in identifying and resolving ethical issues that might arise. It is designed to guide you in your dealings with other people, whether they are customers, co-workers, suppliers or anyone else you deal with. The Code of Ethics puts forward a set of general principles rather than detailed prescriptions. It stands beside, but does not exclude or replace, rights and obligations under common law or legislation. *Codes of Practice* provide more specific information about policies, rules and expectations based on these principles.

Ethical principles may include statements referring to:

- Respect for people
- Equality and justice
- integrity and impartiality
- accountability and transparency
- Personal and professional responsibility.

A good source of information regarding online ethics can be found at the Electronic Journal of Business Ethics: <http://ejbo.jyu.fi/>

Codes of practice

As a business owner and operator you may wish to draft your own Code of Practice based on your ethical principles to guide employees on the way to conduct themselves in the workplace or when they are representing your organisation.

The Code of Practice or Code of Conduct is based on principles, values and behaviours outlined in the Code of Ethics. This Code applies to all staff and contractors, their employees and representatives, and visitors engaging in any activity related to your business are expected to conduct themselves in a manner consistent with this Code.

The Code of Practice underlines:

The rights of employees to be treated fairly and equitably in the workplace;

Avenues for resolving complaints or breaches of policies and Codes; and

The legal and ethical obligations and expectations of all staff to act in accordance with the expressed standards of conduct, integrity and accountability contained in relevant legislation, work policies and Agreements.

The objectives of the Code are to:

Provide direction to staff around expected conduct whilst affiliated with the organisation;

Assist staff in dealing with ethical issues in ways that reflect the organisation's values and standards;

Promote professionalism and excellence;

Express shared assumptions and organisational values;

Provide staff with direction in ethically ambiguous situations;

Detail the organisation's social responsibilities; and in some instances

Provide a statement on public accountability and corporate governance.

It is important to remember that for every organisation the Code of Practice will vary and it does not and cannot cover every possible situation.

Upon employee, employee may be asked to sign to say they agree with the organisation's Code of Practice. As part of the Code, a term may state that any breach of the Code may result in disciplinary action being taken.

As with the Code of Ethics, a Code of Practice stands beside, but does not exclude or replace, rights and obligations under common law or legislation. Again, consider reviewing information at the Electronic Journal of Business Ethics: <http://ejbo.jyu.fi/>

Privacy laws

The *Privacy Act 1988* regulates 'information privacy'.

Personal information is the lifeblood of many businesses. This is because a large number of business transactions rely on the use of personal information of customers.

When your business collects and uses personal information, you should protect and respect your customers' privacy. Respecting privacy helps garner customer trust and that's why we like to say 'good privacy is good business'.

You may disclose a client's or contact's personal information to service providers such as, but not limited to, graphic design firms and mail houses, but only so they can provide the services contracted out to them.

If clients or contacts have any enquiries regarding the information held about them, you may want to nominate a person as a Privacy Officer, who can answer any queries.



You should only collect personal information directly from individuals that is necessary to meet or fulfil your activities and functions or for direct marketing.

When collecting personal information, you should provide the following details to the individuals at or before the time the information is collected or as soon as practicable after it is collected:

- Your trading name and contact details
- The fact that they are able to gain access to the information collected
- The primary purpose for which the information is being collected and any law that requires the particular information to be collected
- The way you disclose or may disclose the information you have collected
- The consequences that may result if the information is not given to you
- The ways the individuals may opt-out if their personal information is being used or disclosed by you other than for the primary purpose for which it was collected.

Your business may also have to comply with other terms of the *Privacy Act*. The *Privacy Act* sets out rules about information handling, including how your business may collect, use, store and disclose personal information.

If your business is a private sector organisation (including a non-government organisation or not-for-profit organisation) you are likely to be covered by the *Privacy Act* unless you are a 'small business'.

In some cases, depending on what type of small business you are, you may be exempt from the *Privacy Act*.

A small business is a business with an annual turnover of \$3 million or less. If you fall into this category then you are probably not covered by the *Privacy Act*. However there are a number of exceptions to this rule.

To view the exceptions, please visit: <http://www.privacy.gov.au/materials/types/brochures/view/6053>.

For more information on the requirements under common law, please refer to: <http://www.comlaw.gov.au/Details/C2011C00133>.

If you send out electronic communication e.g. email, you will also have to comply with the Spam Act 2003. For more information, please refer to:

http://www.acma.gov.au/webwr/consumer_info/frequently_asked_questions/spam_business_practical_guide.pdf.

OHS

OHS is an acronym for Occupational Health and Safety. This is sometimes referred to as Workplace Health and Safety. *The Workplace Health and Safety Act 1995* sets out the laws about health and safety requirements affecting most workplaces, work activities and specified high risk plant in Queensland. It seeks to protect your health and safety and the health and safety of everyone at a workplace, while undertaking work activities or using specified high risk plant.

Health and Safety may refer to policies on drugs, smoking and alcohol, confidentiality, fire, evacuation and emergency procedures, first aid facilities, fitness for duty, protective equipment or clothing, security and proper reporting of incidents.

As an employer, there are standards which must be adhered to including:

- Providing and maintaining a safe workplace
- Developing and monitoring procedures for the safe use, handling, storage and transport of goods and substances
- Maintaining the workplace in a safe and healthy condition
- Providing adequate facilities to protect the welfare of all employees
- Providing information, training and supervision for all employees enabling them to work in a safe and healthy manner.

The actual Act itself either prohibits exposure to a risk or prescribes ways to prevent or minimise exposure to a risk. If a regulation exists for specific risks at your workplace (e.g. noise, hazardous substances, underwater diving, high risk plant, confined spaces), in order to meet your obligations under the Act you must do what the regulation says to prevent or minimise the impact of the risk. For full information on the Act itself, please refer to:

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WorkplHSaA95.pdf>.

As a business owner and operator, the Queensland Government has set up helpful guides to ensure you comply with the *Workplace Health and Safety Act 1995*. These can be found at:

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WorkplHSaA95.pdf>.

Other legislation

Use of the internet and online purchasing

Online security

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