

# Human Rights in British Columbia

## AGE DISCRIMINATION

British Columbia's *Human Rights Code* protects people 19 and over from being treated differently and poorly because of their age.

We all have a duty to respect each other's human rights. The B.C. *Human Rights Code* (the Code) is an important law that protects people from discrimination, including harassment. The Code allows a person or group to file a complaint with the BC Human Rights Tribunal if they believe they have been discriminated against or harassed, and protects them from retaliation if they make a complaint.

## AGEISM AND AGE DISCRIMINATION

Ageism is stereotyping and prejudice against individuals or groups because of their age. Ageism can lead to individual acts of discrimination, as well as discrimination that is systemic in nature, such as in the design and everyday operations of workplaces, services, programs and facilities.

Age discrimination means treating someone differently and poorly, or harassing or insulting someone, because of their age. Discrimination may also happen when a rule, condition, policy or practice that is the same for everyone has an unfair effect on a person because of their age.

The Code protects people 19 and over from age discrimination. Age can refer to an individual's actual age, their membership in a specific age group or a generalized characterization of age (like too old or too young). People under 19 are protected from other forms of discrimination, like sexual harassment or race- or disability-related discrimination, but not age.

## In B.C., it is illegal to discriminate against or harass a person because of their:

- race;
- colour;
- ancestry;
- place of origin;
- religion;
- marital status;
- family status;
- physical or mental disability;
- sex (includes pregnancy, breastfeeding, and sexual harassment);
- sexual orientation;
- age (19 and over);
- criminal conviction (in employment only);
- political belief (in employment only);
- lawful source of income (in tenancy only).

## Where?

The *Human Rights Code* applies to all businesses, agencies, and services in B.C., except those regulated by the federal government. It protects people from discrimination in **public situations**, which include schools, workplaces, universities, hospitals, medical clinics, stores, restaurants, provincial and local government offices, and transit services. It also protects people against discrimination in printed publications and in areas such as employment and tenancy.

## DOES THE AIM OR INTENT MATTER?

Discrimination does not have to be intentional to be against the law. If the person responsible for the action or words did not mean to be hurtful or harmful, it could still be discrimination.

## PROHIBITED ACTIVITIES UNDER THE CODE

### Employment

An employer cannot refuse to interview, hire, promote or decide to fire an employee because of their age (19 and over).

An employer cannot make age an issue or advertise for a certain age when hiring. An ad must not say “only mature people need apply” or “young people wanted.” An employer cannot refuse an older applicant because “the job requires a lot of energy and enthusiasm and the company is looking for someone with career potential.”

When hiring, an employer can ask someone if they are legal working age, but cannot ask anything that could reveal age. After hiring, an employer might legitimately need to know the employee’s age for a purpose like enrolment in a pension or benefits plan.

As of Jan. 1, 2008, mandatory retirement is no longer allowed in British Columbia (with some exceptions). The choice about when to retire is up to the employee. Early retirement benefits can be offered to all employees as an incentive to retire, but an employee cannot be forced to retire.

Situations where age distinctions are allowed in employment:

#### Jobs with Age Limits

There may be some jobs with age limits because of the duties or needs of work or because of safety issues or dangers. These true demands of a job are called bona fide occupational requirements. The employer must be able to show that the reasons for the age limits are acceptable under the Code.

#### Pension and Insurance Benefits

Pension plans can make distinctions based on age. They can set early and standard retirement ages, but cannot force an employee to retire. These age distinctions allow programs to keep operating. Group or employee insurance plans, whether self-funded by employers or provided by a third party, can

also make distinctions based on age. Again, these age distinctions allow programs to keep operating.

With respect to workers’ compensation benefits and age, WorkSafeBC can make its own rules about benefits. For more information, visit: [www.worksafebc.com/](http://www.worksafebc.com/)

#### Tenancy

Generally, landlords cannot deny someone the right to occupy space as a tenant because of age. Landlords cannot evict tenants because of their age or use age as a term or condition of a tenancy agreement. It is discriminatory to refuse to rent an apartment to someone in their 20s, for example, because of the stereotype that younger people are noisy.

Situations where age distinctions are allowed in tenancy:

- With some exceptions, landlords can restrict rentals to persons 55 and over in seniors’ buildings.
- Landlords can restrict rentals in a rental unit or house where the person renting will share the use of sleeping, bathroom or cooking facilities with the landlord.

Note: The Code does **not** protect against age discrimination when someone buys property.

#### Publications

A person cannot publish, display or release material to the public if it discriminates against a person or group of people because of their age (19 and over).

#### Accommodation, Service and Facility

A person or business that provides services to the public cannot discriminate against someone because of their age (19 and over) when providing:

- short-term accommodation, such as a hotel room;
- public services, such as health care, restaurant or retail services, government services or transit; and
- other public facilities, such as recreation centres.

For example, it would be discriminatory to charge a group of 20 year olds a \$100 damage deposit at a campground when a deposit was not required from an older couple. As well, a doctor's office cannot refuse to take an older patient because she may take up too much time because of her age.

If there are good reasons for differences based on age (called bona fide and reasonable justifications), these can be offered to explain the differences in the policy or practice.

However, the Human Rights Tribunal might not accept those reasons as a good defence if the policy or practice could be changed without undue hardship to the service provider (see section on Rights and Responsibilities).

## **RIGHTS AND RESPONSIBILITIES**

The duty to accommodate means there is a legal duty to adjust a policy, practice or service to meet a person's special needs because of their age. To adapt to special needs, landlords, service providers and employers must follow the same standards that apply for other protected groups. For example, an older person's special needs may require that changes be made to the usual way things are done.

Often, reasonable and practical adjustments can be found when parties work together to accommodate a special need.

Unless adjusting to their needs would result in undue hardship, refusing to take reasonable steps to serve the special needs of an older person could be discriminatory.

To accommodate someone's needs, an employer, landlord or service provider may have to suffer or incur some expense, inconvenience or disruption. The law does not require them to suffer undue hardship in the process. While each situation is different, there are some general factors to consider when determining if undue hardship exists:

- costs;
- size and flexibility of the business, workplace or facility;
- economic situation;
- the kind of changes needed; and
- impact on the health and safety of everyone involved.

## **DEALING WITH DISCRIMINATION BASED ON AGE**

If you feel you are being discriminated against or harassed because of your age:

- If it is safe to do so, tell the person firmly that their actions or comments are unacceptable and ask them to stop. If you find this difficult, consider asking a friend for help.
- Keep a written record of exactly what happened and when and what was said.
- If it happens in your apartment building, in a store or restaurant or at work, ask your landlord, manager or supervisor to do something about it.
- File a human rights complaint with the BC Human Rights Tribunal.

## HELP WITH COMPLAINTS

A complaint must normally be filed within six months after the alleged discrimination or harassment occurs. Filing a complaint initiates a legal process that is similar to a court proceeding. Assistance is available when either filing or responding to a complaint. A publicly funded legal clinic provides assistance, including legal representation, to eligible persons everywhere in B.C., free of charge. (See Contacts.)

## CONTACTS

### **BC Human Rights Tribunal**

Suite 1170 – 605 Robson St.  
Vancouver, BC V6B 5J3  
Phone: 604 775-2000  
Toll Free (in BC): 1-888-440-8844  
TTY (for hearing impaired): 604 775-2021  
Web: [www.bchrt.gov.bc.ca](http://www.bchrt.gov.bc.ca)

### **BC Human Rights Clinic**

*For complainants anywhere in the province:*  
BC Human Rights Coalition  
Suite 1202 – 510 West Hastings St.  
Vancouver, BC V6B 1L8  
Phone: 604 689-8474  
Toll Free: 1-877-689-8474  
Web: [www.bchrcoalition.org](http://www.bchrcoalition.org)

*For respondents anywhere in the province  
and Victoria-area complainants:*  
University of Victoria Law Centre  
Third Floor 1221 Broad St.  
Victoria, BC V8W 2A4  
Phone: 250 385-1221  
Toll Free: 1-866-385-1221  
E-mail: [reception@thelawcentre.ca](mailto:reception@thelawcentre.ca)

### **Ministry of Attorney General**

Dispute Resolution Office  
Justice Services Branch  
PO BOX 9222 STN PROV GOVT  
Victoria, BC V8W 9J1  
Phone: 250 356-1480  
TTY: Please call Enquiry BC: 1-800-661-8773  
Web: [www.ag.gov.bc.ca/human-rights-protection](http://www.ag.gov.bc.ca/human-rights-protection)