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Genetic discrimination

Discrimination against an individual can appear in many forms. As DNA testing increasingly identifies differences in the genetic make-up of individuals, it becomes possible that people will be discriminated against based on genetic information.

What is meant by the term 'genetic discrimination'?

Genetic discrimination describes the different treatment of individuals or their relatives based on their actual or assumed genetic make-up. A person's genetic make-up may be identified by DNA testing or it can be assumed from the medical history of the person's family.

How is genetic discrimination applied in law?

The term genetic discrimination is generally used when people perceive they are being treated unjustly or unfairly because of their assumed or actual genetic status. However, not all behaviour that is perceived as unfair or unjust is necessarily unlawful.

In Australia, discrimination on the ground of genetic status is dealt with in existing Commonwealth, state and territory anti-discrimination laws. These laws generally cover circumstances where discrimination occurs in a public domain such as employment, life insurance, education or access to other services.

What is happening overseas?

If the full benefits of genetic and genomic information are to be realised, the risk of genetic discrimination must be minimised. As a consequence, a number of international statements have called for governments to take steps to prohibit genetic discrimination.

In the US, the Genetic Information Nondiscrimination Act was introduced in 2008.

European countries that have introduced legislation to prohibit genetic discrimination include Belgium, Norway, Austria, Denmark, France, Lithuania, Portugal, Sweden, and Germany. Other countries, such as the UK, have introduced a moratorium on the use of genetic test information for the purposes of life insurance applications.

Could my genetic information affect my health or life insurance?

The issue of genetic information affecting health insurance does not arise in Australia, as health insurance is 'community rated'. This means that everyone pays the same premium regardless of their personal or family health history or genetic test results, a situation similar to the UK and Canada.

On the other hand, in Australia, genetic information can be taken into account in applications for life insurance products such as cover for death or income protection because these types of insurance are 'risk rated'. However, any risks calculated by insurers to determine premium costs are required to be justified and reasonable.

In Australia, the life insurance industry has agreed that it will not require people to have DNA tests before taking out life insurance. However, if individuals have had DNA tests, they must report the results in their life insurance application.

DNA results from research projects only have to be declared to insurers if the participant in the project is informed about their individual results.

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