

# Much ado about tattoos: Workplace rules

Tattoo discrimination is a very real problem in South African business, but do organisations have an inkpot to stand on?



Image source: Oha Ruskykh from [Pexels](#)

People with tattoos often face discrimination. They've been dismissed from their company, had their roles changed – or struggled to get a promotion – and they've been judged on the basis of their ink.

This issue came to prominence last year when the Minister of Police Bheki Cele suggested that people with tattoos couldn't get jobs in the police force because they are more likely to be gangsters, or have gangster tendencies. The protection of an employee's right to have a tattoo, and to protect them against discrimination or unfair judgement, says Nicol Myburgh, Head: CRS Technologies HCM Business Unit, is not clearly mandated in the Constitution or in the Employment Equity Act, but the courts tend to rule in favour of the employee over the company.

## Freedom of expression

"There are, as with all things in labour law, exceptional circumstances that can influence whether or not a court will rule in the company's favour, but as a rule, tattoos fall under the jurisdiction of freedom of expression," he says. "Some companies, of course, don't mind at all if a person is covered in tattoos, but others may find this to be unacceptable in light of the kind of work that the person does, such as working on the Johannesburg Stock Exchange (JSE) or as a doctor. There are still old perceptions influencing how customers and patients feel about tattoos and those who wear them."

The Employment Equity Act clearly makes room for the freedom of expression. People are protected when it comes to expressing themselves and how they use their bodies – it is also a Constitutional right. So, if an employer impedes that right, then they are actively discriminating against you. However, there is the balance in this situation where, as an employee, you have to act in good faith towards your employer.



## I own the copyright of my tattoo... don't I?

Rob Richardson 9 May 2018



“If you are applying for a very visible role in a company, or perhaps a traditionally very professional-looking role, then having tattoos could realistically limit your getting the role, or keeping it,” says Myburgh. “That said, if your tattoos can be covered during working hours, there is no reason why a person can’t take on such roles even if they are inked all over. If customers can’t see the tattoos, then it’s absolutely fine. This understanding is reflected in a lot of company rules – they often say that they are fine with tattoos as long as they’re not too visible.”

## Creatives and covers

So, wear a long-sleeved shirt or a jacket or long pants if you’re hiding tattoos on your arms and legs, and avoid getting tattoos on your face and neck unless they are religious or tribal in nature. The other side of this equation is that even though there are preconceived ideas about tattoos in the workplace, these can work in an organisation’s favour. If the head of creative walks into the room with tattoos all over, there is an immediate sense of validity – this person is a true creative.

“The world has changed a lot, and new companies with fresh ideas and creative leaders don’t have issues with tattoos,” says Myburgh. “It’s become a way of life, a form of creative and individual expression, and a completely accepted part of how an employee looks. The only people still struggling with tattoos are the old-school leaders who think tattoos mean gangs, drugs and guns. It’s not true, of course, but fortunately that way of thinking is on the way out.”

At the end of the day, you are allowed to have tattoos but try to keep them within reasonable limits within the office and aligned with how your organisation manages its dress code and customer meetings. If you’re fired for having a tattoo, you have a very strong foundation from which to fight the ruling thanks to the Constitution, but, as with anything, within realistic boundaries.

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