

How to make a complaint

Fact sheet from: Human Rights and Equal Opportunity Commission, 1995.

How to Make a Complaint

What is Racial Discrimination?

Racial discrimination happens when a person is treated less favourably than someone else in a similar situation, because of their race, colour, descent, or national or ethnic origin.

Racial discrimination can also occur when a particular rule or policy disadvantages more people of a particular race, colour, descent, national or ethnic origin, than others.

The *Racial Discrimination Act* makes racial discrimination against the law.

Who can make a complaint?

Complaints can be made by:

- one or more persons who believe they have been discriminated against on the grounds of their race, colour, descent, or national or ethnic origin, on their own behalf or on behalf of other people who have been discriminated against in the same way;
- person(s) included in a class of people who believe they have been discriminated against, on behalf of that class;
- a trade union on behalf of its members.

If you are discriminated against because of your race, colour, descent, or national or ethnic origin, at work, or in relation to accommodation, buying goods or using services, or any of the other areas listed on the “What is the Racial Discrimination Act?” Fact Sheet, *you have a right to take action.*

What Are the Options if Racial Discrimination Occurs?

- You should try to sort out the problem with the person who has discriminated against you.
- You can get help from someone like a supervisor or union delegate, community centre worker or a church leader.
- If the problem remains, you can contact the Human Rights and Equal Opportunity Commission to enquire about making a complaint.

What can the Commission do?

Enquiries

You can get confidential information and advice from the Commission. An Enquiry Officer can answer your questions over the telephone or in person.

Pursuing a complaint is not easy. It can be very stressful at times.

How do I lodge a formal complaint?

If you decide to lodge a formal complaint, it must be made in writing.

If you are unable to put your complaint in writing or if you need assistance, staff at the Commission can help you. Your union, a friend, relative, or anyone else, can help you write your complaint.

A complaint can be made in any language. The Commission can arrange to provide an interpreter in your language if you would like one. The Commission can also translate a

complaint written in your language and provide sign language interpreters if required.

Your letter should say you believe you have been discriminated against because of your race, colour, descent, or national or ethnic origin. You should describe what happened, when and where it happened, who was involved, and give the names of anyone else who saw or heard what happened.

While you do not need to prove your complaint at this stage, you should provide any relevant information and documentation. It is the Commission's responsibility to investigate the complaint.

There is no charge by the Commission for receiving, investigating and handling complaints. Your privacy will be respected.

What Happens If I Make a Complaint?

When you make a complaint about racial discrimination, the Commission will see whether it is covered by the law, and whether there is sufficient information to investigate it.

If it is not covered by the law, the Commission cannot investigate it and you will receive a letter explaining this. Also, if there is not enough information about what happened, the Commission may not be able to investigate it without further details and will also write to you explaining this.

If the Commission can investigate, one of the staff will discuss the details with you, and may also write to the other person or organisation ("the respondent") to get their side of the story. The relevant officer may also interview witnesses or request documents to provide more background to the complaint.

If there appears to be evidence that unlawful behaviour has occurred, the Commission will then help in working out a solution which is acceptable to both sides. This process is called conciliation. Conciliation is informal and

confidential.

You can have a friend, family member, or other person with you if you wish. You do not need to have a solicitor, although you can hire one yourself if you wish.

An agreement may include the respondent agreeing to provide one or more of the following:

- an apology;
- financial compensation;
- agreement to stop a particular practice or procedure;
- changes in policies or practices;
- introduction of training programs, grievance procedures or education, to prevent future occurrences of racial discrimination.

Most complaints are satisfactorily resolved by conciliation.

What Happens if a Complaint Cannot be Resolved by Conciliation?

When an agreement cannot be reached, and there appears to be evidence of unlawful behaviour, you can ask for your complaint to be referred to a hearing held by the Commission.

This is a formal, public process heard by a Hearing Commissioner, in which both sides may have legal representation. Evidence will be given by both sides, and other witnesses may be asked to give evidence. Representatives of the media are allowed to attend and report on the hearing.

The Hearing Commissioner can make a determination and issue orders, depending on the circumstances of the complaint. In a complaint about racial discrimination in employment, for example, orders may include:

- financial compensation;
- employment, reinstatement, promotion, or transfer to a different section or location;
- putting in place new procedures, or education or training programs to stop this kind of discrimination from happening again.

If you would like any further information about making a complaint contact: The Complaints Information Line: (02) 9284 9800 Charge free: 1800 021 199 TTY: 1800 620 241 Human Rights and Equal Opportunity Commission GPO Box 5218 SYDNEY NSW 2001

Disclaimer: The information on this fact sheet is intended as a guide only. It is not a substitute for legal advice.

May 1995