



Human rights and discrimination in employment

Information for people making complaints

What does the Commission do?

- Federal human rights law says that people can make complaints to the Commission about breaches of human rights by the Commonwealth (or one of its agencies). The law also says that people can complain about discrimination that is covered under the international 'Convention concerning Discrimination in respect of Employment and Occupation'. This convention deals with discrimination in employment based on a person's religion, criminal record, trade union activity, sexual preference, political opinion and social origin.
- The President of the Commission can investigate and try to resolve these complaints.
- The Commission is an independent agency. Staff who deal with complaints on behalf of the President, are not advocates for the person making the complaint (the complainant) or the person or organisation the complaint is about (the respondent).
- You do not need a lawyer to make a complaint or respond to a complaint. However, you may want to organise a lawyer or other type of advocate to assist you. If necessary, we can provide you with contact details for advocacy services such as Community Legal Centres, which provide free legal advice.

What happens when the Commission receives a complaint?

- We may contact you to get more information about your complaint. It is important that you provide as much detail as possible about what happened and say why you think it is a breach of human rights or discrimination.
- In some cases, the President may decide not to investigate a complaint. If this happens, we will explain why.
- Usually, we will contact the person or organisation you are complaining about and give them a copy of your complaint. We may ask them to provide specific information and/or a response to the complaint. We will let you know what they say about your complaint.
- In some cases, the President may decide to stop investigating a complaint. If this happens, we will explain why.
- We may also talk to you about trying to resolve your complaint by conciliation.

What is conciliation?

- Conciliation is where we try to help you and the respondent, find a way to resolve the complaint.
- Conciliation is not like a court hearing. The person who manages the conciliation (the conciliator) doesn't decide who is right or wrong or how the complaint should be resolved. The conciliator's role is to help ensure the process is fair, help both sides talk to each other and help negotiate an agreement. The conciliator can also provide information about the law and how other complaints have been resolved.
- Conciliation can take place in a face-to-face meeting or a meeting over the telephone. In some cases, complaints can be resolved through an exchange of letters and conversations with the conciliator.
- The conciliator decides how the conciliation process will run and who will participate. If you need special assistance such as a language or sign language interpreter, the Commission can arrange this for you.
- Conciliation is a 'confidential' process. This means that if the President has to decide whether there has been a breach of human rights or discrimination, the President will not consider anything that was said or done in conciliation.

What happens if the complaint is not resolved?

- If the complaint is not resolved, we may ask you for more information before making a final decision about the complaint.
- The President may decide not to continue with a complaint. For example, where the President is of the opinion that the complaint does not have merit or has already been dealt with by another agency. If this happens, we will explain why.
- If the complaint is not discontinued and the President is of the opinion that there has been a breach of human rights or discrimination, the President may report the matter to the Federal Attorney-General. This report may include recommendations, for example, the President may recommend that the respondent change its policies or practices.

What if I have more questions?

- If you have more questions, please contact the officer who is managing your complaint.
- More information is also available on the Complaint page of the Commission's website – www.humanrights.gov.au/complaint-information.

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