



Human rights and discrimination in employment

Information for people and organisations responding to 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 because of 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?

- The Commission will notify you that it has received a complaint and give you a copy of the complaint. The Commission wants to hear your views on the matter and wants to make sure you have a fair opportunity to respond and resolve the complaint.
- If the Commission asks you to provide information or documents, you will also be asked to provide this within a specific timeframe. If you do not provide the information in the timeframe or you do not respond at all, the law says that in some circumstances the President of the Commission can compel you to provide the information.
- It is the Commission's usual practice, to give the complainant a copy of information and documents that you provide to the Commission. This can help the complainant understand how you see things.

- Where appropriate, the Commission will invite you to participate in conciliation.

What is conciliation?

- Conciliation is where we try to help the complainant 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 make a decision about 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 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 about the complaint process and conciliation, please contact the officer who is managing the 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.