



## Human rights and ILO

# Information for people and organisations responding to complaints

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### What is the Commission's role in relation to complaints?

- 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 in employment because of their religion, political opinion, social origin, trade union activity and/or criminal record.
- When the Commission receives a complaint about an issue covered by the law, the President of the Commission can inquire into the complaint and try to resolve the complaint by conciliation.
- Commission staff who deal with complaints on behalf of the President, are not advocates for the person making the complaint (the complainant) or the person/organisation the complaint is about (the respondent).

### What happens when the Commission receives a complaint?

- The Commission will notify you that it has received a complaint and will provide you with 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.
- Where appropriate, the Commission will invite you to participate in conciliation.
- 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, in certain circumstances the President of the Commission has power under the law to 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.

- You do not need a lawyer to respond to a complaint. If you want a lawyer, you will need to organise this yourself. You can also seek advice from other organisations such as industry groups.

## **What is conciliation?**

- Conciliation is an informal process that allows the complainant and the respondent to talk about the issues in the complaint and try to find a way to resolve the matter.
- Conciliation is not like a court hearing. The conciliator does not decide who is right or wrong and the conciliator does not decide how the complaint should be resolved.
- The conciliator is there to help ensure that the process is fair and to help both sides discuss and negotiate an outcome. The conciliator can also provide information about the law and how it has been interpreted.
- Conciliation can take place in a face-to-face meeting called a 'conciliation conference' or through a telephone conference. In some cases, complaints can be resolved through an exchange of letters or by passing messages through the conciliator.
- The conciliator decides how the conciliation process will run and who will participate. You do not need a lawyer to participate in conciliation. If you want a lawyer or another type of advocate, you will need to discuss this with the conciliator before the day of the conference and obtain their permission. 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 in that the President will not consider information about anything that is said or done in conciliation if the complaint does not resolve and the President is required to make a decision about the complaint. You should not bring new documents or information that you want to rely on to a conciliation conference. This information should be provided to the Commission before the conciliation conference takes place.
- The Commission also asks the parties to agree in good faith not to discuss what is said and done in the conciliation conference more broadly or make it public in anyway.
- Complaints can be resolved in many different ways and the officer who is handling the complaint can provide you with information about how other complaints have been resolved.

## **What happens if the complaint is not resolved?**

- If the complaint is not resolved, the Commission may request more information from you before making a final decision about the complaint.
- The President may decide not to continue with a complaint where, for example, the President is satisfied that a complaint is lacking in substance or is satisfied that a complaint has already been adequately dealt with.
- If the complaint is not resolved and the President is satisfied that a breach of human rights or discrimination has occurred, the President may report the matter to the Federal Attorney-General. The President can make recommendations in this report to

compensate a complainant for any loss or injury the complainant has experienced.  
The report may be tabled in Parliament.

## **What if I have more questions?**

- If you have more questions about the complaint process and conciliation, please contact the officer who is handling the complaint.
- More information is available on the Complaint section of the Commission's website – [www.humanrights.gov.au](http://www.humanrights.gov.au).
- The Commission has a DVD about conciliation that we can send you. You can also see the DVD on the Commission's website – [www.humanrights.gov.au/complaints\\_information/pathways\\_to\\_resolution/index.html](http://www.humanrights.gov.au/complaints_information/pathways_to_resolution/index.html)

## **Complaint Information Service**

Telephone: 1300 656 419

Website: [www.humanrights.gov.au/complaints\\_information](http://www.humanrights.gov.au/complaints_information)

Email: [infoservice@humanrights.gov.au](mailto:infoservice@humanrights.gov.au)

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