

Good practice, good business



Australian
Human Rights
Commission

everyone, everywhere, everyday

Eliminating discrimination and harassment from your workplace

MAKING A COMPLAINT TO AN EXTERNAL AGENCY

There are occasions when it will not be possible to resolve a complaint of discrimination or harassment through an internal workplace process. The complainant has the right to take their complaint directly to the Australian Human Rights Commission (the Commission) or a state/territory anti-discrimination agency.

A person may be able to lodge a formal complaint of discrimination or harassment with the Commission under the following federal anti-discrimination laws:

- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*

Upon receipt of a written complaint, the Commission assesses the complaint to make sure it can be investigated under the laws for which the Commission has responsibility. After receiving all the relevant information, the complaint is then reviewed to decide if it should be terminated or if it is suitable for conciliation.

Conciliation is a process where the Commission brings the parties together – the complainant and the respondent – to try and resolve the matter. Conciliation is a confidential process where both parties are given the opportunity to talk through the issues and reach an agreement. Many complaints are successfully conciliated and this complaint handling service is free.

If a complaint is unable to be conciliated, it will be terminated by the President of the Commission. A complainant can then take the matter to the Federal Court of Australia or the Federal Magistrates Court for determination within 28 days of the complaint being terminated.

A person may also be able to lodge a complaint under the:

- *Australian Human Rights Commission Act 1986*

This law covers discrimination in employment (public and private organisations) on a range of grounds, such as religion, sexual preference, political opinion, trade union activity and criminal record.

Complaints received under this Act can also be resolved by conciliation between the parties. However, if the matter can't be conciliated, and is not discontinued for other reasons provided for in the law, then the Commission will present a report to federal Parliament outlining the key issues and recommendations to resolve the complaint. These complaints do not have any enforceable legal remedies.

A video/DVD titled *Pathways to Resolution: The conciliation process of the Australian Human Rights Commission* provides useful information about the conciliation process for people who have made, or are thinking about making, a complaint to the Commission and people or organisations that have had complaints made against them.

For more information, contact the Complaints Infoline on 1300 656 419 or log on to the Complaints Information page at:
www.humanrights.gov.au/complaints_information/

This fact sheet is part of *good practice, good business* – information and resources for employers to address discrimination and harassment in the workplace.

Available online at www.humanrights.gov.au/employers/

© Australian Human Rights Commission.