

Know your rights: Racial discrimination and vilification

Laws to protect you against discrimination . . .

Australia's first federal anti-discrimination law, the *Racial Discrimination Act 1975* (Cth), aims to ensure that Australians of all backgrounds are treated equally and have the same opportunities.

The law protects people across Australia from discrimination on the grounds of race, colour, descent, national or ethnic origin, and immigration status.

The Act also makes racial vilification against the law. This gives additional protection to people who are being publicly and openly offended, insulted, humiliated or intimidated because of their race, colour, or national or ethnic origin.

The Act gives effect to Australia's obligations under the *International Convention on the Elimination of All Forms of Racial Discrimination*, to which Australia is committed.

What does the Racial Discrimination Act do?

Under the Act, it is against the law for people to discriminate against you in:

- > **employment**, such as getting a job or applying for a promotion
- > **education**, whether at school, university, TAFE or other colleges
- > **access to premises** such as shops, libraries or hospitals and other buildings used by the public,
- > **buying goods and using services**, such as being served in a restaurant or using taxis, banks and legal services
- > **accommodation**, such as renting a unit or house or buying and selling land
- > **activities of clubs or associations**, such as joining a sports club or RSL
- > **Commonwealth Government laws and programs**, such as voting and information in accessible formats
- > **playing sport**, including when enrolling, competing or access to mainstream competitions.

A Maori man, working for a building company claims that his co-workers used offensive terms in his presence such as 'blacks' and 'niggers'. He made a complaint to the company director which led to his co-workers refusing to work with him. This led to him being made a casual and eventually not being offered any more work by his boss.

Through conciliation, the company agreed to pay the man financial compensation, provide him with a written reference and arrange anti-discrimination training for company staff.

When is race discrimination allowed?

In some circumstances, racial distinctions are allowed to help groups or individuals who have been unfairly treated and now need support to help them fully enjoy their human rights. These are called '**special measures**'.

For example, Indigenous people in Australia suffer from greater social and economic disadvantage than other groups in society. Because of this disadvantage, they may need special assistance to enjoy their rights to education, employment, and health to the same level that other Australians enjoy those rights.

What is racial hatred or racial vilification?

Racial hatred or vilification is behaviour using speech, images or writing in public. For example:

- offensive racist comments or drawings in a newspaper, leaflet, website or other publication
- making racist comments on e-forums, blogs, social networking sites
- writing racist graffiti in a public place
- making racist speeches at a public rally or assemblies
- placing racist posters or stickers in a public place
- making racist comments at sporting events to players, spectators, coaches or officials
- making a racially abusive comment, joke, song or gesture in a public place — including shops, workplaces, parks, public transport, and schools.

When is racial hatred not prohibited by the Act?

The law against racial hatred aims to strike a balance between the right to communicate freely ('freedom of speech') and the right to live free from racial vilification.

To strike this balance, the Act does not prohibit racial hatred or vilification that is not made 'in public', and which is 'done reasonably and in good faith' - even if it is done in public.

Examples of 'done reasonably and in good faith' include:

- **an artistic work or performance** - for example, a play in which racist attitudes are expressed by a character
- **an academic publication, discussion or debate** - for example, discussing and debating public issues and policies such as immigration, multiculturalism, or special measures for particular groups
- **a fair and accurate report on an issue which the public may be interested in** - for example, a fair report in the media about something which happened that encouraged racial discrimination and hatred or was racially offensive behaviour
- **a fair comment** - but only if the comment reflects a view that a fair-minded person could have held and the person who made it actually holds that view.

For more information on the Racial Discrimination Act see:
www.humanrights.gov.au/about/legislation/

Making a complaint

If you feel that you have been discriminated against or vilified because of your race, you can contact the Commission and talk with a Complaints Information Officer.

The phone number is **1300 656 419**. Your call will be confidential.

If you decide to make a complaint, the Commission can help you, your friend, union or a person representing you to put together your complaint.

Complaints to the Commission must be in writing, by email or by using our online form at: **www.humanrights.gov.au/complaints_information**.

A complaint can be made in any language. You can also make a statement to the Commission in Braille, or verbally on video or audio tape. We can also help you write out your complaint if you need assistance.

There is no cost involved in lodging a complaint with the Commission.

If it appears that the issues you raise are covered by the Commission's laws, the Commission will contact the other person or organisation and ask for their side of the story. We will then work with both of you to try to find a solution that everyone can agree with.

This is called conciliation. A large number of complaints are resolved this way.

If conciliation does not work, you can choose to take your complaint further to the Federal Court of Australia.

It is against the law for anyone to victimise you for making a complaint.

Resolving complaints

Depending on what the complaint is about, conciliation can result in:

- the provision of goods or services in a non-discriminatory way
- changes in an organisation's policies or practices
- reinstatement to a job or a promotion
- an apology
- payment of damages, and/or
- some other outcome.

A Kenyan man was told by the real estate agency who managed the property for a company that he was required to vacate the premises he had rented. He claims that even though he had negotiated a date on which he would vacate the premises, the company changed the locks on the unit without telling him, and when he went to the unit to collect his property he was racially abused by the company director's family member.

The company agreed that it had changed the locks on the unit but said that it only did this because the man's rent was in arrears. The company director's family member also denied racially abusing the man.

The complaint was conciliated, with the individual family member agreeing to pay the man financial compensation and attend anti-discrimination training.

Preventing discrimination

Everyone has a role to play to help ensure that people from diverse cultures and backgrounds have the same opportunities as other Australians to participate in the political, economic and social life of our communities by letting us know what is happening.

The Commission undertakes a wide range of activities to build awareness about the rights and responsibilities that individuals and organisations have under the Racial Discrimination Act.

There is also a major focus on undertaking research and education projects to tackle racism and promote greater understanding between people of different cultures and backgrounds.

Recent projects have included national consultations, conferences, community forums and online forums.

Resources have been developed to assist sporting organisations and employers respond to and benefit from cultural diversity, as well as education resources for schools and communities.

In recent years the Commission has consulted closely with Muslim communities to identify and address prejudice, intolerance and discrimination.

Our *Community Partnerships for Human Rights* program builds on this work. It aims to develop greater awareness and understanding of human rights issues, tackle stereotypes and increase Muslim Australians' sense of social inclusion.

Our projects cover a wide range of areas, including research, education, community participation and resource development.

You can find out more about what we're doing by visiting:
www.humanrights.gov.au/racial_discrimination

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