Disability rights – What about Doug’s rights?
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Subjects: Personal Development/Health/Physical Education, Life Skills, Civics and Citizenship, Legal Studies
Level: Year 9 and up (14 years and up)
Time needed: 1–4 lessons

Introduction

These resources will help students to explore the concepts of disability discrimination. The resources focus around the story of a school student (Doug) who returns to school after a serious basketball accident.

A DVD ‘What about Doug’s rights?’ has been developed to complement the resource and activity sheets. A script of the DVD is supplied as an alternative to the DVD, or as an additional resource for reference in the discussions arising out of the study of this topic.

As well as the specific issue of disability discrimination, the notion of ‘difference’ between people is explored. Students will look at how people respond to difference through how they treat other people. In exploring these ideas, students are encouraged to think about them in the context of their understanding of the applications of human rights and responsibilities. An understanding of the concepts of rights and responsibilities are essential to young people so that they can effectively participate in both their school environment and in the broader community.

With the changes to policies of inclusion and integration in Australian education institutions that have occurred in the last 20 years, issues of human rights in a context of disability discrimination may arise for students and teachers in their own daily dealings. The activities provided will enable students to work through the steps of a potential real-life situation and develop their decision-making and problem-solving skills, learning that sometimes there are competing human rights issues in the one scenario.

Aim

Disability rights – What about Doug’s rights? activities are designed to:

- raise students’ awareness of the human rights issues around disability discrimination
- develop their decision making skills to enable them to find informed and practicable solutions to the issues raised.

They can be photocopied for class use and used individually or as an entire resource.

Learning outcomes

In this resource students will:

- investigate the issue of ‘difference’ and how this relates to the way people are treated
- understand the key features of the law in relation to disability discrimination
- understand that there may be multiple human rights and responsibilities to be considered in any situation
- apply the concepts of human rights to their own lives
- identify a range of human rights and responsibilities that apply in the school setting
- develop cooperative learning and decision making skills.

Activities/resources

The resources provided can be used in the order suggested as per teaching and learning activities, or selected individually according to class needs:

- Script: *What about Doug’s rights?*
- Multimedia resource: DVD (8 minutes)
- Resource sheet: The law
- Activity sheet: The school community
- Key questions: Rights and responsibilities
- Activity sheet: Position cards
- Activity sheet: Decision making
- Resource sheet: Making a complaint with the Commission.
Teaching strategies

1. The themes, task and process explored

Resources:

- DVD and script – What about Doug’s rights? (8 minutes)

This stage establishes the matters that will be examined through viewing the DVD (or reading the script) and through participating in the activities included; which are designed to assist students in developing problem solving skills. You may find it useful to introduce this topic with a class discussion about human rights issues generally. Some of the ideas presented in the introduction may be useful in guiding such a discussion and may give students an opportunity to acknowledge any prior learning and understanding in the area of human rights that they may have.

The themes raised in the DVD/script are:

- How are competing human rights and responsibilities balanced appropriately to best meet the needs of all?
- How do the issues of disability discrimination relate to notions of ‘difference’ for students in the context of the school community?
- What responsibilities do different members of the school community have toward each other?
- What rights are legally protected for students and for teachers in a school environment?

The task is to work out a solution to Doug’s situation which best meets the need to balance his rights with others’ rights, and clarifies the school’s role in achieving this. The solution also needs to fulfill the requirements of the law.

The process is to discuss the DVD/script in class, to understand the issues that are raised, and then to use decision-making skills to come to a solution. It is important that the process takes into account all points of view and all implications using the position cards provided. The solution to be sought should best fit the needs and obligations of all parties. In discussion students will be able to consider the relevance of the issues raised in their own lives.

2. Identifying the issues in Doug’s case

Resources:

- Resource sheet: The law
- Activity sheet: The school community

Students are each given a copy of the Activity sheet: The school community. The questions on the sheet are guides to the notes students should take during their viewing of the DVD, which will assist in the recall of the range of issues that arise in Doug’s school. Teachers should encourage students to use their notes to inform their discussion as they work toward a solution within small groups in later stages of the topic.

After they have finished watching the DVD, engage students in a class discussion (with reference to the notes they have made) to ensure they are clear about the facts of the situation: what has happened, who is involved, what the key issues are.

Points of discussion could include:

- Identifying issues of ‘difference’, both in terms of before and after the accident, and from one person to another:
  - in how Doug behaves
• in how Doug is treated by other students
• in how Doug is treated by teachers.

**Identifying the rights applying:**
• to Doug, in terms of disability discrimination
• to the teaching staff, in terms of a safe work environment
• to the other students, in terms of accessing education
• any others, and how these are interconnected.

**Identifying the areas of responsibility and whose they are:**
• to provide appropriate access to education for all students
• to provide a safe environment under duty of care principles for students and occupational health and safety for teachers
• to uphold the laws against discrimination on the basis of disability.

**Some questions to assist in identifying these areas may include:**
• What has happened to Doug?
• How does his behaviour affect classmates, teachers and the school?
• What are the different points of view expressed by Doug’s teachers?
• What points are being made by the counsellor and by Doug’s mother?

Students may identify other issues in discussion. Allow them to explore the various points of view so that they can see the competing nature of some of the rights and responsibilities identified.

Students should then read *The law* resource sheet. (Note that the information provided is a guide only, and should not be relied upon for legal advice.)

### 3. Investigating the implications of Doug’s case

**Resources:**
• Key questions: Rights and responsibilities
• Activity sheet: Position cards

In this stage, the focus is on the teamwork element of understanding the problems faced in a community and coming to a unified position about a possible solution. Students should be divided into small groups.

It should be acknowledged that while the aim of the exercise is to come to a resolution of the issues faced in the scenario, it may be that in some situations a unified position cannot be agreed upon. In these circumstances Doug or the teachers may need to seek resolution from an external body such as the Australian Human Rights Commission.

There are different ways that the activities in this stage may be approached, and depending on the class in question, or on the cross-curricula issues you are focusing on, you may wish to have the small groups concentrate on one of the issues raised in particular. Alternatively, you could allocate different aspects of the issues to each group, e.g. disability discrimination; duty of care; occupational health and safety etc. Or it may work more effectively in terms of goals and outcomes you wish to achieve to ask the groups to address each issue consecutively. Students should be divided into small groups. They should already have a copy of the *The law* resource sheet and *The school community* notes they have taken. They are then given:

• a set of key questions which should be covered in the discussion
• a set of position cards.
The position cards contain statements and comments from the characters in the DVD/script and from the broader school community. These may be used in a role-play of ‘what happens next?’ in response to where Doug is left at the end of the story. This could be done within the small groups or across groups (with one or two representatives from each group in the role-play).

Alternatively, the cards may be used as launch points for further discussion of the issues and demonstration of the attitudes displayed in the DVD/script.

However you decide to use them, all position cards should be heard by all members of each group for consideration in their discussions and their proposed solutions.

Presentations of the position cards should be followed by a discussion within the small group, using the key questions to highlight some of the views presented and to work towards possible solutions.

4. **Students work toward decisions about possible solutions**

**Resources available:**

- Activity sheet: Decision making

This stage is about exploring the techniques of problem solving in a group situation through reasoned debate to work toward a mutually agreed solution.

After discussing the key questions and coming up with answers to them, students should consider a variety of possible solutions to issues encountered by the range of affected parties at Doug’s school, and recommend what they think will be the best solution.

A *Decision making* activity sheet is supplied for use in this activity.

In their discussions, ensure that the students consider how the range of proposed solutions affect all the parties represented in the DVD/script – primarily Doug, the other students, the teaching staff, the school’s administration (represented by the counsellor) and Doug’s mother. They should also recognise and consider any advantages and disadvantages that their proposed solutions carry with them.

At the end of the discussion students should decide what they might do to resolve the situation at Doug’s school.

Solutions might include:

- providing special assistance to Doug at school
- providing advice to teachers about their responsibilities
- providing advice to students about strategies to integrate Doug’s needs into their learning environment
- seeking advice from the Australian Human Rights Commission
- moving Doug to another school – but only if Doug chooses this option
- a combination of all or many of the above.

5. **Students present their solutions to the class**

Depending on time available, students could create a presentation which shows how they came to their final decisions. Their presentation should also reflect the understanding they have developed about decision making in terms of negotiation, discussion and balancing the human rights and responsibilities raised in this context.

For example, some ideas they might emphasize in their presentations could include:

- the competition that can exist between moral and legal rights
- the power imbalance between different parties and how this could be addressed
- the understanding required by the whole community as to their responsibilities in upholding human rights
- the importance of employees knowing what their rights are within the workplace
- obligations in society to ensuring a safe environment at school and work
- the need to balance a duty of care from teachers and the school with the students’ responsibility to act appropriately
- how and why it is difficult to satisfy all parties in an issue such as this
- the advantages of discussion over confrontation in coming to a decision.

Encourage students to choose a communication strategy that gets their message across in an entertaining and effective way.

This may include:

A role-play or drama created as

- a TV drama
- a debate
- a TV panel show
- a staged vox pop session
- a current affairs show
- an interview
- a courtroom drama
- a TV/radio advertising campaign.

6. **Class discussion and debriefing**

**Resources:**

- Resource sheet: Making a complaint with the Commission

The class can now review the issues they have identified and explored in their presentations, including the difficulties they had in coming to decisions which suit all parties.

For example, you might emphasize:

- what understanding students have developed about human rights in the school community
- how individual rights work in relation to the consideration of the rights of others
- how effectively negotiation can be used to resolve conflict
- what could happen when a mutually agreed resolution is unable to be made
- what courses of action might not be appropriate in some circumstances and why
- the point at which there may be a need to consult the Australian Human Rights Commission
- the need to bring all parties together to ensure that they understand one another’s rights and the appropriate ways to show respect for those rights.

The debriefing of students could also include information on how this situation would be handled if it came before the Australian Human Rights Commission. Some basic information regarding the official complaint processes of the Commission is provided with more detail available online at: [www.humanrights.gov.au/complaints_information/](http://www.humanrights.gov.au/complaints_information/) and includes the *Pathways to Resolution Video/DVD* which provides a short introduction to the Commission’s complaint handling processes. See: [www.humanrights.gov.au/pathways_to_resolution/index.html](http://www.humanrights.gov.au/pathways_to_resolution/index.html)
What about Doug’s rights?

Scene 1 – the accident

Doug has a lot of sporting talent, particularly on the basketball court. He is practising by himself out on the court. He slips and falls and suffers a head injury.

Scene 2 – after the accident

Doug’s friends are very worried when they hear about his accident; he is a popular student, and academically and athletically talented. His friends are waiting to hear word of Doug’s injury from his girlfriend, Sarah.

When Sarah arrives she is quite despondent, as she understands that Doug has a brain injury, but doesn’t know what the full implications of the injury are yet, and she is frustrated by the questions from her friends, who want to know how badly Doug’s injury will affect him as he is “top of English and Maths”, and how long before he’ll be back at school. Sarah says she doesn’t know what will happen or when Doug will be back.

Scene 3 – back to school

Everyone seems pleased to see Doug back at school when he arrives. He is walking differently, though, and seems a bit vague and hesitant in his speech, and he is quite self conscious about the attention he gets on his first day.

He goes into class and the teacher asks that students “Don’t all sit at the back, please”. Doug does sit at the back with Sarah, where the teacher asks if he is alright and will he be able to see and hear. He says he’s fine, and she asks again, and Doug again replies that he’s fine.

After the lesson, Sarah goes to ask one of the other students about a problem she didn’t understand in class. Doug notices this and seems a little bit distracted by it. Then one of his mates says, “Hey Doug, want to play basketball this afternoon?” Doug doesn’t answer immediately because he’s watching Sarah, but when his mate asks again, Doug reacts by shoving his mate and saying “No!”

The other students are surprised by Doug’s reaction and put it down to his injury, making comments like “How can we be friends with someone like that?”, “Look at him, he can’t even walk properly”, and “See, I told you he’d be different”.

Scene 4 – two months later

The teacher is preparing the students for their final exams, and she notices that Doug hasn’t arrived for class, so she asks where he is. One class member says “Probably taking his medication, miss”, which makes the class laugh, and then someone else says “Or having his five minutes…again”.

One of the girls complains that Doug’s lateness and slowness are holding the rest of the class back, and that it’s not fair. Another girl says “He’s already wasted half the term, can we just get on with it?”

Doug arrives, eating an apple, and the teacher gets angry with him, asking him why he is late and why he is eating. He says “Sorry, I hadn’t eaten my morning tea and I’m hungry”. The teacher says he can’t eat in her classroom, and he tries to argue that he is hungry. The teacher gets angry and raises her voice saying, “Give me the apple, Doug, I’ve told you a thousand times that you can’t eat in my class, what did you do at morning tea time?” Doug says, “I played”. And the teacher says “Well that’s when everyone else has something to eat”. She takes the apple from Doug.

Doug sits down, and the teacher returns to the revision lesson, and then shouts at Doug not to make snide comments in class.
The teacher is advising about the revision lesson and what will be the circumstances for the final exam. One student interrupts to ask how long the exam will be, and the teacher answers her. Then Doug starts to ask a question and the teacher shouts at him, saying “Doug! Don’t interrupt!” Doug tries to protest, and the teacher says, “Put your hand up if you want to ask a question”. Doug says that the others didn’t put their hands up. The teacher becomes very angry and starts shouting at Doug that he is disruptive and she takes up all her time trying to manage him when there are 16 other students in the class she should be teaching. Doug is angry and frustrated and is shouting back repeatedly, “Why can’t you answer my question, it’s not fair?” As the teacher keeps shouting, Doug stands up, still repeating “Why can’t you answer my question?” He picks up a chair and starts heading toward the front of the room toward the teacher with the chair held up over his head in a threatening manner.

**Scene 5 – the teachers**

Doug’s teacher goes to the staff room and walks in saying, “That’s it! I’ve had it! I’ve just had Doug Christiansen throwing a chair at me!”

Another teacher asks “Are you all right?” Doug’s teacher says, “No, I’m not, I’ve absolutely had it!” Another teacher says, “That’s not right”, and someone asks, “Who can we go to?” One teacher says, “Well, the unions for a start”. Doug’s teacher says “it’s not right having to deal with students like this”. She says, “There are these people who have had so many detentions they’re just a waste of time”.

Then one of the teachers asks what happened. Doug’s teacher says Doug came in late, eating in the classroom, which is what always happens, and she got angry, then he got angry then they shouted at each other and then he threatened her with a chair. One of the other teachers asks, “Did you stop him, what did you say?” She says, “No, he realised what he was doing and stopped. But I didn’t feel safe, no one in the class felt safe”.

Another teacher says, “What about teacher’s rights?” The teachers say it isn’t right to be physically threatened and to do nothing about it. One teacher says “They should send him to another school”. Another says, “Can we do that? Isn’t it our problem?” And Doug’s teacher says “There’s a special school set up for people like Doug only about 10 km away from here”. Someone else says, “We need to have our rights made clear to the students and the other staff”.

Doug’s teacher says one of her major issues is that the other students in Doug’s class aren’t getting enough of her time or enough time themselves. Another teacher then says, “The issue is that all students have the right to learn, and Doug’s needs to be dealt with but there are procedures for that. First we need to bring his parents in, talk to the counsellor and that’s the start of the process”.

**Scene 6 – the counsellor**

Doug’s mother comes in to the school to meet with the school counsellor. Doug’s mother says she blames the school for Doug’s unhappiness since his return to school after his accident. She suggests that the teachers have commented on his inability to focus and have suggested that he has forgotten to take his medication in such a way that Doug is upset.

Doug’s mother says he’s fine and that his doctor says he’s fine, but that the school needs to help him to catch up on missed work and consider the troubles he is having: his girlfriend has dropped him, he’s picked on all the time, and he’s frequently sent to the time-out room by teachers to calm down.

The counsellor tells Doug’s mother that the teachers are concerned about Doug’s behaviour and have taken up their case with the union. The school counsellor would like Doug’s mother to consider moving Doug to another school, but Doug’s mother is adamant that he stay at the school where he knows people. She says she has sought legal advice and that she has rights as a parent in the same way Doug has rights as an individual.
The law

This section provides some key points regarding the provisions of the Disability Discrimination Act 1992 (Commonwealth). It is provided as a guide only and should not be relied upon for legal advice.

**Disability Discrimination Act (1992) (Commonwealth)**

This Act aims to eliminate discrimination against people with disability, and promote community acceptance of the principle that people with disability have the same fundamental rights as all members of the community.

**Definition of ‘disability’ for the purposes of the DDA is:**

- total or partial loss of a person’s bodily or mental functions
- total or partial loss of a part of the body
- the presence in the body of organisms causing disease or illness
- the presence in the body or organisms capable of causing disease or illness
- the malfunction, malformation or disfigurement of a part of the person’s body
- a disorder or malfunction that results in the person learning differently from a person without disorder or malfunction, or
- a disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour.

**What areas of life does the DDA cover?**

The DDA makes it unlawful to discriminate against someone if they have a disability in the following areas of life:

- Employment – e.g. when someone is trying to get a job, equal pay or promotion.
- Education – e.g. when enrolling in a school, TAFE, university or other college.
- Access to premises used by the public – e.g. using libraries, places of worship, government offices, hospitals, restaurants, shops, or other premises used by the public.
- Provision of goods, services and facilities – e.g. when a person wants goods or services from shops, pubs, and places of entertainment, cafes, video shops, banks, lawyers, government departments, doctors, hospitals and so on.
- Accommodation – e.g. when renting or trying to rent a room in a boarding house, a flat, unit or house.
- Buying land – e.g. buying a house, a place for a group of people, or a drop-in centre.
- Activities of clubs and associations – e.g. wanting to enter or join a registered club (such as a sports club, RSL or fitness centre), or when a person is already a member.
- Sport – e.g. when wanting to play, or when playing a sport.
- Administration of Commonwealth Government laws and programs – e.g. when seeking information on government entitlements, trying to access government programs, wanting to use voting facilities.

**DDA and educational institutions**

A person with a disability has a right to study at any educational institution in the same way as any other student.
The DDA makes it against the law for an educational authority to discriminate against someone because that person has a disability.

This includes all public and private educational institutions, primary and secondary schools, and tertiary institutions such as TAFE, private colleges and universities.

Whether the actions of an educational institution would be considered unlawful discrimination would be dependent on the individual circumstances of each case.

Requirements of the DDA for educators to consider

Educators should not make assumptions about what a person can or cannot do because of a disability or a perceived disability. They should base their decisions on a person’s ability to meet the essential requirements of the course of study.

If a person with a disability meets the essential entry requirements, then educators must make changes or ‘reasonable adjustments’ if that person needs them to perform essential course work, provided that making reasonable adjustments will not cause major difficulty or unreasonable costs to the institution.

Adjustments could include:

- modifying educational premises, e.g. making ramps, modifying toilets and ensuring classrooms are accessible to the person with a disability
- modifying or providing equipment, e.g. lowering lab benches, enlarging computer screens, providing specific computer software or an audio loop system
- changing assessment procedures, e.g. allowing for alternative examination methods such as oral exams, or allowing additional time for someone else to write an exam for a person with a disability
- changing course delivery, e.g. providing study notes or research materials in different formats or providing a sign language interpreter for a deaf person.

What if changes are too difficult for educators?

The DDA does not require changes to be made if this will cause major difficulties or unreasonable costs to a person or organisation. This is called ‘unjustifiable hardship’. Before considering claiming adjustments are unjustified, educators need to:

- thoroughly consider how an adjustment might be made
- discuss this directly with the person involved, and
- consult relevant sources of advice.

For further discussion of how the courts have interpreted the requirements see the Commissions web links:


Other relevant legislation includes:

- State and territory anti-discrimination legislation
- State and territory industrial relations legislation
- Occupational Health and Safety legislation
The school community

As you watch the DVD or read the script, use this activity sheet to make some notes about what Doug's rights and responsibilities are.

This sheet will help you to identify some of the questions that are raised in the DVD/script.

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<th>Questions</th>
<th>Yes</th>
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<th>Comments</th>
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<td>1. Do others see Doug as different from how he used to be?</td>
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<td>2. Does Doug think he is different from how he used to be?</td>
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<td>3. Do others see Doug as different from themselves?</td>
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<td>4. Do the teachers treat Doug differently from the other students?</td>
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<td>5. Do the other students treat Doug differently?</td>
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<td>6. Do you think some of the treatment of Doug by the teachers is unreasonable?</td>
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<td>7. Is Doug’s behaviour to his teachers and classmates reasonable under the circumstances?</td>
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<td>8. Should Doug go to the school that has a special support program?</td>
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<td>9. Is it appropriate for the teachers to seek advice from the education department or the union about dealing with Doug’s behaviour?</td>
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<td>10. Is Doug’s mother’s attitude to Doug and to the school reasonable under the circumstances?</td>
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Rights and responsibilities

Key questions

1. Who has rights and responsibilities in the scenario provided?

2. Whose rights do you see as being in competition?

3. What are the main rights issues that provide a point of conflict requiring resolution?

4. Who has to make the decision?

5. What are the elements of a decision that will best fit all of the parties (particularly Doug’s) requirements?

6. What makes you think your proposed solution will be accepted?

7. What steps will you take if your proposed solution is not accepted?
## Doug
I want to stay at this school – all my friends are here.
I have so much to catch up on; learning about a new school and new people would be very tiring and add to the catch up time.
I feel like I am improving all the time; I think some of the teachers are reacting because of the past, not the present.

## School accountant
The school budget cannot cover employing special teachers to provide more support.

## Doug’s Classmate 1
The problem is some of the teachers – they just do not know how to handle the situation properly. Their reactions to Doug make the situation worse.

## Doug’s teacher 1
We can make adjustments for individual students in our teaching approaches. We do it all the time for different students. The school is supposed to be for all people, and to give all students a chance to be educated.

## Doug’s teacher 2
It is not fair on other students when one student is disruptive of the whole learning process, and takes up so much of the teacher’s attention. We are all falling behind because of Doug.

## Doug’s mother
Doug’s best chance of learning is to be with his friends. We will not remove Doug from the school.

## Doug’s teacher 3
We cannot adjust the curriculum or teaching methods to suit one person. If the person has special needs, he needs to go to a school whose job it is to provide them.

## Doug’s counsellor
Everyone in the school community – teachers, students, parents and others – has a responsibility to ensure that all students have equal treatment and opportunities.

## Education department representative
Government schools have a legal responsibility to provide a full and appropriate educational program to every student, wherever possible.
## Decision making

Use this table to identify some possible solutions to Doug’s situation.

**Discuss your ideas with the group before deciding which possible solution you will present to the class.**

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<th>Possible solution</th>
<th>Advantages</th>
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The solution our group will present:

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Making a complaint with the Commission

The Australian Human Rights Commission is an independent statutory organisation that works to protect and promote the human rights of all people in Australia. We were established by the Australian Government in 1986.

Our vision is to work towards an Australian society where human rights are enjoyed by everyone, everywhere, every day.

Our work covers four key areas:

- providing education and raising public awareness about human rights
- handling complaints of discrimination and breaches of human rights
- researching human rights issues and contributing to policy developments
- legal advocacy on human rights issues.

We have statutory responsibilities under the following federal laws:

- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Australian Human Rights Commission Act 1986
- Sex Discrimination Act 1984
- Racial Discrimination Act 1975

Complaints service

No one has to put up with discrimination, harassment or bullying.

There are laws to protect you from discrimination in areas of public life such as: employment, education, sport and the provision of goods services and facilities.

These laws apply to everyone in Australia regardless of where they live.

If you think you have been discriminated against, you can lodge a complaint with us. It doesn’t cost anything to make a complaint and we aim to deal with it quickly and with a minimum of fuss.

If you are unsure if what you have experienced could be discrimination, you can call us to talk about it or email us and we will let you know if we can help you, or refer you to someone who can.

We will handle your complaint by talking to the people involved and try to resolve the complaint through a process called ‘conciliation’.

Outcomes of conciliation will vary depending on the complaint, but they may include an apology, compensation, the introduction of anti-discrimination training or practical changes to facilities and services.

To find out more read our complaints information online at: www.humanrights.gov.au/complaints_information

This information has also been translated into a range of different languages available at: www.humanrights.gov.au/about/languages/

For more information or to discuss a complaint contact our Complaints Infoline at:

- Phone: 1300 656 419 (local call) or 02 9284 9888
- SMS: 0488 744 487 (0488 RIGHTS)
- Complaints email: complaintsinfo@humanrights.gov.au
- TTY: 1800 620 241 (toll free)
- Fax: 02 9284 9611
- Free Telephone Interpreter Service: 13 14 50