



Information for people and organisations **responding to a complaint**

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

- Federal anti-discrimination law says that people can make complaints to the Commission about discrimination.
- When the Commission receives a complaint about an issue covered by the law, the President of the Commission has authority to 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). The Commission is not a court and cannot decide if discrimination has happened. The Commission's role is to get both sides of the story and help those involved try to resolve the complaint.

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, the President of the Commission has power under the law to compel you to provide the information. The law also says that the President can compel people and organisations to attend conciliation.
- 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
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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 can ask to bring a support person or an advocate to assist you in the conciliation process. 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 Commission cannot provide information about anything that is said or done in conciliation to the court, if further legal action is taken in relation to 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.
- 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.
- If the President of the Commission is satisfied that the complaint cannot be resolved, the complaint will be terminated. Once a complaint is terminated, the complainant has the option of applying to the Federal Magistrates Court or the Federal Court of Australia for the court to hear the allegations in the complaint. The complainant must make this application within 60 days of the date of termination.
- The complainant can also make an application to the court if the President terminates the complaint for some other reason. For example, because the President is satisfied the complaint is lacking in substance or is satisfied that the complaint has already been adequately dealt with.
- If the complainant makes an application to the court, the Commission may give the court the information and documents you have provided to the Commission.

What if I have more questions?

- If you have more questions about the complaint process and conciliation, please contact the officer who is handling your complaint.
- More information is available on the Complaints section of the Commission’s website – **www.humanrights.gov.au**
- The Commission also has a DVD about conciliation that we can send you.

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