



Race discrimination

Are race discrimination and racial harassment against the law?

Yes. It is generally against the law to treat you unfairly or harass you because of:

- your race, colour, nationality, descent, ethnic or ethno-religious background; or
- because of the race, colour, nationality, descent, ethnic or ethno-religious background of any of your relatives, friends or work colleagues.

It is against the law to do this:

- **in employment** — when you apply for a job, at work, or when you leave a job;
- **when you get, or try to get, most types of goods or services** — for example, from shops, hotels and entertainment places, banks, lawyers, government departments, doctors and hospitals;
- **when you apply to get into, or study in, any educational institution** — government school, non-government school, college or university;
- **when you rent or buy accommodation** — for example, a unit, a house, commercial premises, or a hotel or motel room; and
- **when you try to enter or join a registered club, or when you get services from one** — a registered club is any club that sells alcohol or has gambling machines.

It can also be against the law to have any rule or policy that disadvantages more people of your race, ethnic or ethno-religious background than other people — unless that rule or policy is reasonable. It is against the law to do this in any of the circumstances listed above.

For example:

- it is against the law for an employer to make you wear a uniform that does not meet your ethno-religious dress needs — unless doing so is reasonable for the particular job;
- it is against the law to stop you speaking in your own language at work or when you are studying at college, university and so on— unless speaking in your language stops the work or study being done properly; and

- it is against the law for an employer to insist that you speak English fluently and/or without an accent — unless this type of English is reasonable for the particular job.

Racial vilification is also against the law

It is also against the law to do anything publicly that could encourage racial hatred, serious racial contempt, or severe racial ridicule against you or your racial group. This type of behaviour is called 'racial vilification'.

The following types of behaviour could be racial vilification and against the law:

- racist graffiti;
- racist speeches or statements made in public;
- racist abuse that happens in public;
- racist statements or remarks in a newspaper or other publications, or on the radio or television;
- people wearing racist symbols (such as badges) or clothing with racist slogans in public;
- racist gestures made in public; and
- racist posters in a public place.

For more information on vilification please refer to our website at www.lawlink.nsw.gov.au/adb or ask for our factsheet *Vilification*.

Victimisation is also against the law

It is against the law for anyone to hassle or victimise you or treat you unfairly because:

- you have complained to your employer or another person about race discrimination;
- you have complained to the Anti-Discrimination Board; or
- you have supported someone with a race discrimination complaint, or acted as a witness in a race discrimination case.

You can lodge a separate complaint of victimisation with the Anti-Discrimination Board if you have been victimised because of a complaint relating to race discrimination.

What can I do if one of these things happens to me?

Read through this factsheet to check that what's happened seems to be against the law. If you aren't sure if it's against the law, phone us to check on your rights.

If what's happened seems to be against the law, you can try talking to the person or organisation that you think is discriminating against you or harassing you. The organisation may have a policy on these issues and/or a process in place to deal with grievances, and you may be able to address your problem through these channels. You can also get help from other sources such as trade unions.

If talking to the person or organisation doesn't work, or isn't appropriate, you may decide to make a complaint to the Anti-Discrimination Board. It won't cost you any money for the Board's staff to help you, and you don't need a lawyer.

Making a complaint

If you want to make a complaint, it must be in writing and it is best if it is signed by you. You can either send us a completed discrimination complaints form, or write a letter to the President of the Anti-Discrimination Board, explaining what happened and why you think you have been discriminated against because of your race. Our addresses and phone numbers are at the end of this factsheet.

You can write to us in any language, or in Braille. If you need assistance to make a written complaint, phone the Board and we can help you or refer you to an organisation that can help you.

We also accept complaints on your behalf from your lawyer, or organisations such as unions and other representative bodies. However the complaint must make it clear that you agree with the complaint being made and you must be named in the complaint. In some circumstances you may also be required to show that you consent to the complaint being made on your behalf. If you want to make a complaint on behalf of a child or a person with a disability, contact the Board for more information.

For us to be able to accept a complaint, the events involving unfair treatment because of your race must have occurred in the twelve months before the complaint is received by the Board. If you make a complaint about events that occurred more than twelve months before you lodge your complaint, the Board may refuse to investigate your complaint.

If your problem is urgent (for example, you think you are about to lose your job), tell us this in your letter and we will get back to you in time to do what we can to help.

What happens after you make a complaint?

We have the legal power to investigate your complaint, and if it's against the law, to try to conciliate it. This means that we will try to help you and the person or organisation you are complaining about reach a private settlement that you both agree on. The Board is impartial in this process and does not take sides.

Any settlement will depend on the circumstances of your case, and on what you and the other parties are willing to offer and accept. It could be an apology, financial compensation, transfer to another position, the person who discriminated against you being reprimanded, awareness training about racism at your workplace, access to facilities you were previously denied, and so on.

We treat all complaints confidentially, but we will need to inform the organisation or person you are complaining about of the complaint. We will not release information about your complaint to anyone else except with your permission or if we are required to by law.

Most complaints are conciliated. If yours isn't, you may go to the Equal Opportunity Division of the Administrative Decisions Tribunal, which is like a court. It provides a legal judgment that must be followed. However, very few cases need to go to the Tribunal and in some circumstances it's possible to ask the Tribunal to keep your details confidential.

The Anti-Discrimination Board of NSW

(open weekdays 9am-4.30pm)

Sydney

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Newcastle

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T: (02) 4926 4300, F: (02) 4926 1376, TTY: (02) 4929 1489

Enquiries (02) 9268 5544

Employers Advisory Service (02) 9268 5544

Toll free number 1800 670 812

(if you are calling from rural or regional NSW)

Website www.lawlink.nsw.gov.au/adb