

CASE FOR REFUGEES

Centre for advocacy, support and education for refugees

Racial Discrimination, Harassment and Hatred Fact Sheet

What is Discrimination?

Discrimination generally occurs when a person is treated less favourably than another person in the same or similar circumstances because of certain personal characteristics of that person.

The laws of Australia make it unlawful to discriminate against people on a number of grounds, including race, sex, age, marital status, disability and religious or political beliefs.

Discrimination occurs in two main ways:

Direct Discrimination: where a person is treated worse than other people because of a particular characteristic.

Indirect Discrimination: where a rule, requirement or practice which appears to apply to everyone equally has a negative effect on a significantly higher proportion of people of a particular characteristic.

What is Unlawful Racial Discrimination?

For you to have a claim for racial discrimination, the act complained of must be unlawful.

It is unlawful for a person or organisation to discriminate against you on the grounds of your race, colour, descent, national origin or ethnicity. The discrimination must take place in the public sphere, such as employment, education, access to public places and vehicles, when buying goods or services or public accommodation. For example, you cannot be refused entry into a public building because of your race.

There are exceptions to this and you should obtain legal advice to check whether the exceptions apply in your circumstances. For example, it is not unlawful for a person to discriminate against another person on the basis of race in circumstances where the person being discriminated against is being employed to work as a child carer in the other persons' home.

What is Racial Harassment?

It is unlawful to harass a person on the basis of their race, colour, descent, ethnic or national origin or nationality in certain areas of public life, such as employment, education and accommodation.

Racial harassment may take many forms including threats, insults and taunts based on a person's race, colour, descent, ethnic or national origin or nationality.

What is Racial Hatred?

Australian law prohibits racial hatred. Racial hatred occurs when a person does, says or publishes something in public which is likely to offend, humiliate or intimidate another person because of their race, colour, national origin or ethnicity.

Again, there are exceptions to this law and you should obtain legal advice to check whether the exceptions apply to your circumstances.

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Making a Complaint about Racial Discrimination, Racial Harassment or Racial Hatred

There are Commonwealth and State laws, which govern racial discrimination, racial harassment and racial hatred. The Commonwealth legislation is the *Racial Discrimination Act 1975* (Cth) and a complaint made under this legislation will ordinarily be made to the Human Rights Commission. The Western Australian legislation is the *Equal Opportunity Act 1984* (WA) and complaints made under this legislation are generally made to the Equal Opportunity Commission.

In most circumstances, you will have a choice of whether you wish to make your complaint under the Commonwealth or State laws.

Generally, a complaint to either Commission must be made within 12 months of the last act of discrimination.

Once you have applied to either the Commonwealth or State Commission, the Commission will decide whether or not to investigate the matter further. If the Commission determines that the matter needs to be investigated further, the first step will be for the parties to attend a conciliation conference. A 'conciliation' is a process by which the Commission works with both parties to talk through the issues and try to reach a solution. You should consider what solution you want, for example, a published formal apology.

Where to Go to Get Help

CASE for Refugees Inc. is a non-government, non-religious community legal centre that provides migration and general legal services to the culturally and linguistically diverse (CaLD) communities of Western Australia. CASE for Refugees Inc. can assist you with your queries regarding racial discrimination, racial harassment or racial hatred and assist you in making a claim to the Human Rights Commission or Equal Opportunity Commission.

All services are free of charge, although donations from individuals and organisations are gratefully accepted. All donations of more than AUD\$2.00 are tax deductible.

The contact details for CASE for Refugees Inc. are as follows:

245 Stirling Street, Perth

Western Australia 6000

Tel: (08) 9227 7311

Fax: (08) 9227 7188

Email: admin@caseforrefugees.org.au



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