



**Anti-Discrimination Commission
Northern Territory**

Promoting a

Fair Go for all Territorians

HOW WE HANDLE COMPLAINTS

Because of the 6 month time limit in the Anti-Discrimination Act, contact us as soon as possible for advice.

Phone, write or call our office. All services are free and enquiries are totally confidential. Interpreters are available - please give a day's notice.

Office hours are 8.00am - 4.30pm on weekdays. At other times you can leave a message on the answering machine and we'll get back to you as soon as possible.

We are happy to arrange after-hours appointments if our usual times are not suitable to you.

**For further Information or Advice Contact
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HOW WE HANDLE COMPLAINTS

These guidelines aim to help you understand what happens once a complaint of discrimination or other prohibited conduct is received by the Anti-Discrimination Commissioner's Office.

Introduction

- Once a complaint has been lodged with the Anti-Discrimination Commissioner's Office, the person who has complained is known as the COMPLAINANT and the individual and their firm or organisation against whom the complaint is made is known as the RESPONDENT.
- The role of the staff of the Anti-Discrimination Commissioner's Office is to assist you with the handling of the complaint; to be impartial; and if possible, to resolve the complaint by agreement between the parties, ie through conciliation.
- All complaints are treated confidentially.

Procedure

Complaints must be in writing.

Once the Office has received the written complaint, the first step is to decide if the complaint is covered by the Anti-Discrimination Act. A Delegate of the Commissioner has 60 days in which to decide whether to do that. A complaint may be rejected if it is frivolous, vexatious, trivial, misconceived, or fails to disclose any prohibited conduct. It must be lodged within 6 months of the alleged discriminatory conduct taking place, although where appropriate, it can be accepted out of time.

The complaint should contain details of the complaint, giving names and addresses, telephone numbers, dates and places as best known. The Complainant should make it clear who they wish the Respondent to be. The Complainant will be asked to suggest witnesses or supply certain documents (letters, payroll slips, etc.) If the Complainant is seeking a particular remedy or resolution they should make this clear when lodging the complaint. Please note that the Complainant has the burden of proof (ie they must prove their allegations).

Investigation

Once it has been decided to accept the complaint, the Respondent will be notified in writing of:

- The allegations which have been made;
- The relevant sections of the Anti-Discrimination Act the complaint falls within; and
- The name of the officer (the conciliator) who has been appointed to investigate and, if appropriate, conciliate the complaint.

The role of the conciliator at the investigation stage is that of impartial fact finder - to investigate both sides of all complaints and in doing so is not bound by the same rules of evidence that normally apply in courts.

There will usually be an early settlement conference. This is to give the parties a chance to settle the complaint as soon as possible, if that is both party's wish. If the complaint does not settle, the investigation resumes.

During an investigation, the conciliator may need to:

- Interview the Respondent or members of their organisation at the Respondent's premises or at the Anti-Discrimination Commissioner's Office;
- Interview other witnesses; and
- Request documentary support to assist the investigation.

Investigations are carried out with as little formality and with as little delay as possible. Many complaints are settled at this stage as a result of negotiations between the parties with the help of the conciliator.

Normally, the Complainant's allegations are contained in the first conciliator's letter to the Respondent. The Respondent's reply is forwarded to the Complainant for any further comment. This letter is sent to the Respondent for a final reply. This procedure is strictly confidential. The complaint can be dismissed at any stage if there does not appear to be sufficient evidence.

If the complaint is not resolved during investigation the file is referred to one of the Commissioner's Delegates who considers the evidence and makes a decision whether:

- There appears to be, on the face of it, a case of unlawful discrimination ('a *prima facie* case');
- A conciliated settlement is possible; and
- To proceed with the complaint. The Delegate may decline to act further on a complaint where there appears to be no substance or where the complaint, after investigation, is considered to be frivolous, vexatious or misconceived.

You will be notified of the Delegate's decision.

Conciliation

- If there is a *prima facie* case and the Delegate believes that the complaint can be resolved, the parties will be asked to attend a conciliation conference.
- The conciliation conference is a meeting of the parties to the complaint, chaired by the conciliator.

At the conference the role of the conciliator is to be impartial and to assist the parties to reach agreement on settlement of the complaint.

Hearing Commissioner

Where the complaint is not settled by conciliation the matter will be referred to the Hearing Commissioner to determine whether or not there has been discrimination or other prohibited conduct.

Hearings are informal and usually open to the public. If the Hearing Commissioner decides that unlawful discrimination has occurred the Complainant can be awarded compensation and/or the Respondent can be ordered to take other actions.

Appeals

All decisions of the Hearing Commissioner or the Delegate can be appealed against to the Local Court.

Victimisation

No one can be victimised for being a party or witness in a complaint.

Victimisation is regarded most seriously by the Anti-Discrimination Commission and if proven, can attract compensation.

Representation

A party is not automatically entitled to representation (such as a solicitor). In deciding whether a party should be represented, the Commissioner or Delegate takes into account such things as the complexity of the issues, whether the party has a language or intellectual difficulty and whether the other party is represented. You should still obtain advice, and we encourage parties to seek advice. Ask your conciliator who can direct you to an appropriate advisory service.