

COMPLAINT PROCESS

All matters which appear to be complaints under the *Equal Opportunity Act 1984* must be investigated and, if necessary, conciliated.

Conciliation Officers

Conciliation Officers assist the Commissioner to investigate and conciliate complaints. Conciliation Officers do not take sides in complaints, advocate for or represent either the complainant or respondent.

Confidentiality

The Commissioner and her staff are required by the Act to protect the confidentiality of complaints. This requirement means information about a complaint cannot be revealed to the media or any person, other than parties to the complaint or those required to provide evidence about the complaint.

Complaints are more likely to be resolved easily and satisfactorily if the complaint is kept confidential.

Investigation

The purpose of an investigation is to allow both parties to submit evidence to reveal facts. This process is both impartial and confidential.

A Conciliation Officer may request additional information to support the complaint. Such information may include the dates of specific incidents, witness statements, and letters or medical information relevant to the complaint.

Depending upon the circumstances a written statement of the allegations is provided to the respondent who is then required to provide a written response.

Conciliation

Generally the written response is relayed to the complainant. If the complaint remains unresolved a conciliation

conference may be arranged between the parties.

Under the Act the Commissioner has the power to compel complainants, respondents and any witnesses to produce evidence and attend conferences.

Complaint Outcomes

The options for finalising complaints are listed below.

*The complaint may be withdrawn at any time by the complainant.

*If a complainant fails to maintain contact with the Commissioner they may be issued with a notice requiring them, within 21 days, to confirm their wish to continue with the complaint. If the complainant does not respond within this time the complaint will be declared 'lapsed'.

*Conciliation can successfully take place and the parties reach a satisfactory agreement.

*When a complaint appears to have substance and attempts at conciliation have failed, the Commissioner must refer the complaint to the Equal Opportunity Tribunal for inquiry, unless the complainant does not wish to continue with the complaint.

*The Commissioner may dismiss the complaint at any stage if she is satisfied the complaint is misconceived, lacks substance, frivolous, vexatious or relates to an act that is not unlawful by reason of a provision of the Act.

*A complainant can require the Commissioner to refer any dismissed complaint to the Tribunal for independent inquiry.

Onus of Proof

Under the Act the onus of proof rests with the person who has made the complaint. When one of the exceptions provided in the Act is relied upon in defence of the complaint, the onus is placed upon the respondent to demonstrate that the exception is applicable in the particular circumstances of the complaint.

Victimisation

It is against the law for anyone to threaten, harass or subject a person to a detriment

because they have made a complaint or intend to make a complaint under the Act.

This protection is also afforded to anyone giving evidence about a complaint, or to someone who complains about unlawful discrimination, even if they have not made a complaint to the Commission.

The Commissioner for Equal Opportunity provides information about the Act, investigates complaints and conducts community education and training services.

How to Contact the Commission

By telephone

General enquiries 08 9216 3900

Training courses 08 9216 3927

Facsimile 08 9216 3960

Country callers 1800 198 149

TTY 08 9216 3936

An Interpreter can be arranged on request

By email

eoc@eoc.wa.gov.au

By visiting our website

www.eoc.wa.gov.au

By visiting our office

Level 2, Westralia Square

141 St Georges Terrace

Perth WA 6000

By post

PO Box 7370, Cloisters Square

Perth WA 6850

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