



MAKING A COMPLAINT

Do I have the right to make a complaint?

Yes, you have the right to make a complaint if you believe that you have been treated worse than others in a similar situation, in some parts of your life.

What does the law say?

The *Anti-Discrimination Act 1991* says it is against the law in Queensland to discriminate against, sexually harass, publicly vilify or victimise people in certain circumstances. It can also be illegal to ask unnecessary questions. However, NOT all discrimination is illegal.

How do I know if my treatment is unlawful discrimination?

Your treatment may be unlawful if it fits in BOTH categories 1 and 2.

Category 1: You must have the 'grounds' to make a complaint. In other words, the treatment must have happened because of your or your presumed:

- sex
- sexuality
- gender identity
- lawful sexual activity as a sex worker
- relationship status
- parental status
- family responsibilities
- pregnancy
- breastfeeding
- age
- race
- impairment
- religious belief, non-belief or activity
- trade union activity
- political belief or activity or
- association with a person identified by one of the above grounds

Category 2: The Act covers you while you are:

- working, applying for a job, doing work experience or volunteer work
- obtaining goods or services - at a shop, café, pub, bank, doctor, taxi or car yard
- accessing premises or facilities
- obtaining state government or local council services
- going to school, TAFE college, university or other place of education
- renting or getting other accommodation
- applying for insurance or superannuation
- buying real estate
- joining or as a member of a club (non-profit clubs like bowls clubs are not covered but night clubs are)
- being a member of a local council.

Which questions are unlawful to ask?

The Act says that asking for unnecessary information, which could be used to discriminate against you, is unlawful unless it is genuinely required for a non-discriminatory purpose.

Example: You are asked a question about your age or whether you have children when applying for a job.

What does the law say about sexual harassment?

Sexual harassment is unwelcome conduct of a sexual nature in relation to you. It happens when a reasonable person would expect that you'd feel humiliated or intimidated by the conduct. It has nothing to do with mutual attraction or friendship between people. Sexual harassment is unlawful no matter where it happens.

Example: Your boss makes rude remarks about your body or touches you in a sexual way.

What does the law say about vilification?

Vilification is a public act or statement that incites others to hate you or your group because of your race, religion, gender identity or sexuality.

Example: A leaflet is put in letterboxes in your neighbourhood about how to get rid of people of your race.

NOTE: It is also a criminal offence, if either you and/or your property are threatened with physical harm.

What does the law say about victimisation?

Victimisation is being treated badly because you refused to discriminate or you were a witness, made an official complaint or provided information about a complaint of discrimination, sexual harassment, public vilification or being asked unnecessary questions.

Example: *Your boss threatens to sack you because you've lodged a complaint with us.*

If this happens, you can lodge a complaint with us about it.

Who is responsible?

The person or people who discriminated against you, asked unnecessary questions, sexually harassed, publicly vilified, or victimised you, are responsible for their own behaviour.

If they did this while at work, their employer may also be responsible for allowing it to happen unless they took reasonable steps to prevent the offending behaviour. This is called 'vicarious liability'.

Anyone else who encouraged or requested this behaviour is also responsible.

What can I do about unlawful discrimination, sexual harassment or public vilification?

You can make a complaint to us at the Anti-Discrimination Commission Queensland. The Human Rights and Equal Opportunity Commission (HREOC) and the Queensland and Australian Industrial Relations Commission can also deal with some discrimination and harassment complaints.

Lodging your complaint at the right place is very important. Get it wrong and you may lose your right to complain to another organisation. If you want to know where to take your complaint, phone us for information or ask your solicitor or Legal Aid.

How do I complain to the Anti-Discrimination Commission Queensland?

If you want us to help resolve your complaint:

- send us your complaint in writing – in a letter or on a complaint form from our offices or downloaded from www.adcq.qld.gov.au
- include your name and phone number
- give us full details of your complaint – who treated you badly, what happened, where and when and what happened. Include what you did and how others in a similar situation were treated - better or worse
- tell us why you think you were treated badly (the grounds)
- tell us what you were doing when you were treated badly (the areas)
- keep in mind that the complaint will be sent to those you are complaining about
- sign and date the complaint
- give us an address for service where you can be easily reached – this address will be given to all the

respondents and any other complainants. If you want to keep your home address private, use a PO Box, the address of an organisation, a lawyer or other reliable person

- tell us if you would prefer contact by email or fax and include your details
- give us the name, address and phone number of everyone you are complaining about. If they were at work at the time also tell us the name of their employer.

Your complaint can be in any language as we will use translators if we need to.

What happens next?

We will check your complaint. If it comes under the Act, we will take these steps:

1. We will send your complaint to all those you are complaining about (the respondents) and give them 28 days to respond in writing.
2. We will send you (the complainant) any responses we get, so that you can see if you are satisfied.
3. We may call a compulsory meeting (conciliation conference) to talk about your complaint and help everyone reach an agreement. You must attend the conference.
4. If there is an agreement, we will write it down and have everyone sign it so it is binding.

5. If there is no agreement, we will ask if you want to have your complaint decided by the Anti-Discrimination Tribunal.

What can I expect to come out of a conference?

Outcomes from a conference vary. They can include an apology or money to cover hurt feelings and loss of wages, or training to be provided in the workplace so the behaviour doesn't happen again.

What else do I need to know?

- Complaints must be made within one year unless there are good reasons for any delay.
- There are no fees for our services.
- If you need legal or other advice about your complaint, we can suggest where to go for help. We cannot give you advice or run your complaint for you.
- We may investigate the complaint but we will not take sides.
- We will try to help everyone reach an agreement but will not decide for you.
- You should keep this complaint confidential and only tell your legal advisers and those who are helping with your complaint.
- You can withdraw your complaint at any time.