

Treated unfairly because you are an **Aboriginal and Torres Strait Islander person?**

Aboriginal and Torres Strait Islander people face unfair treatment in many areas of life. When you are treated unfairly just because you come from a particular group, this is known as discrimination. NSW has anti-discrimination laws to help you address many types of discrimination.

What types of unfair treatment are against the law?

Race discrimination — when you are treated unfairly because of your race, colour, ethnic background, ethno-religious background, descent or nationality (this includes being an Aboriginal or Torres Strait Islander person).

Sex discrimination — when you are treated unfairly because you are a woman or because you are a man. Discrimination against a woman because she is pregnant or breastfeeding can also be sex discrimination.

Age discrimination — when you are treated unfairly because of your age, for example, because people think you are too old, too young or middle aged. Forcing people to retire at a particular age is also against the law.

Marital or domestic status discrimination — when you are treated unfairly because of your marital or domestic status — for example, because you are single, married, or living in a de facto relationship.

Homosexual or lesbian discrimination — when you are treated unfairly because you are gay, or someone thinks you are gay.

Disability discrimination — when you are treated unfairly because you have a disability, or someone thinks you have a disability. It is also against the law to treat you unfairly or harass you because you had a disability in the past, or because you will or may get one in the future. Disability includes physical, intellectual and psychiatric disabilities, learning and emotional problems, and any virus or bacteria that can cause disease, such as HIV.



Transgender discrimination — when you are treated unfairly because you are transgender or someone thinks you are transgender. You are transgender if the gender (sex) you identify with is different from your birth gender, for example you were born a man but you identify as a woman.

Carer's responsibilities discrimination — when you are treated unfairly because you are responsible for caring for or supporting certain members of your family, or other people think you are. This type of discrimination is only against the law in employment.

Discrimination because of who you are related to, or who you associate with — when you are treated unfairly because of the race, sex, pregnancy, breastfeeding, age, marital or domestic status, homosexuality/lesbianism, disability or transgender status of one of your relatives, friends or work colleagues.

Harassment — when you are subjected to behaviour that offends, humiliates or intimidates you, and the behaviour is based on your race, sex, pregnancy, breastfeeding, age, marital or domestic status, homosexuality, disability, transgender status or carer's responsibilities.

Sexual harassment — when you are subjected to sexually related behaviour that you do not want, and a reasonable person would expect you to be offended, humiliated or intimidated.

When is this unfair treatment against the law?

The types of discrimination and harassment listed above are against the law in the following situations:

- when you try to get **goods or services** — for example, from shops, banks, lawyers, government departments, the police, public transport, local councils, doctors, hospitals and other medical services, hotels, sporting venues and entertainment venues.
- in a **registered club** — for example they refuse you membership or entry, or they treat you unfairly when you're inside the club, purely because of your race. A registered club is one that sells alcohol or has gambling machines.
- in rental **accommodation** — for example a real estate agent, landlord or landlady refuses to rent you a house, unit, flat, hotel or motel room, caravan or commercial premises.
- in **employment** — when you apply for a job or a licence or registration to do a job (like a driver's licence), when you're at work, or when you leave a job.

- in a government **educational institution** — when you apply to study at, or are studying in a government school, college, TAFE or university.

Racial vilification

Racial vilification is also against the law. Vilification is any public act that could encourage hatred, serious contempt or severe ridicule towards Aboriginal and Torres Strait Islander people (or people of any other race).

Public acts could include:

- remarks in a newspaper, magazine or newsletter;
- remarks on radio or television;
- material on the internet, including social networking sites;
- graffiti;
- posters;
- verbal abuse;
- speeches or statements;
- gestures; or
- wearing badges or clothing with slogans on them.

To be covered by the vilification law, all these things must be done in public. The vilification law does not cover acts that are not public, for example abuse over a back fence that no-one else can hear.

It is also against the law to publicly vilify people because they are homosexual, because they have HIV or AIDS, or because they are transgender.

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

If you would like more information about your rights, you can phone, write, or call in to any of the Anti-Discrimination Board's offices, or look on our website at www.lawlink.nsw.gov.au/adb. There are Aboriginal and Torres Strait Islander Officers in our Sydney office so you can ask to speak to them. You can also ask for a more detailed factsheet on each of the types of discrimination listed above, or download it from the website.

If you think that what has happened to you seems to be against the law, you can try talking to the person or organisation causing the problem. Tell them their behaviour may be against the law. Use whatever help you can — for example, the local or regional Aboriginal Land Council or the Aboriginal Legal Service may be able to help you.

If you don't want to talk to the person or organisation, or you talk to them but this doesn't solve the problem, you can make a complaint to the Anti-Discrimination Board. It won't cost you any money to make a complaint, and you don't need a lawyer.

You must lodge your complaint within 12 months from when the discrimination or harassment happened. In the case of serious vilification, which may be referred to the Attorney General and prosecuted as a crime, you should lodge your complaint as soon as possible. This is because prosecution must commence within six months from the date when the vilification occurred.

Your complaint must be in writing. You can write it in any language, or in Braille. If you can't write your complaint, you can ask someone else to help you or contact us for assistance.

To make your complaint, you can fill in our complaint form, or you can write a letter to the President of the Board. You can email, post, fax or hand deliver your complaint – our contact details are at the end of this factsheet.

If your complaint is urgent, for example you are about to lose your job or housing, tell us this in your complaint and we will try to help you quickly.

It's against the law for anyone to hassle or "victimise" you because you've complained to the Anti-Discrimination Board, or helped someone else with a complaint. You can make a separate complaint of victimisation if this happens.

What will the Board do?

We treat all complaints of discrimination confidentially. If what has happened to you is against the law, we will try to help you and the person or organisation you're complaining about to come to an agreement about how the problem can be resolved – called a "settlement". Often we hold a meeting to do this. We are impartial in this process and do not take sides.

The settlement will depend on the circumstances of your complaint. It could be an apology, financial compensation, your job back, getting the service you were denied, and so on. Most complaints are settled in this way.

If your complaint isn't settled in this way, you may go to the NSW Civil and Administrative Tribunal (NCAT). This is a court that makes a legal judgement which must be followed. However, very few cases need to go to court.

Examples of complaints we have handled at the Board

Employment — An Aboriginal liaison worker complained to the Anti-Discrimination Board that she was being hassled by her co-workers because she was frequently away from the office. After we arranged a meeting with her and her manager, the manager agreed to explain to her co-workers why she needed to be away from the office to do her job, and to tell them not to hassle her about it.

Sexual harassment — A woman student was being sexually harassed by a male student at the college she attended, and lodged a grievance with the college. The grievance wasn't dealt with properly by the college, and she was victimised (treated badly) for lodging the grievance. She then made a complaint to the Anti-Discrimination Board, and it was agreed that the whole college should be trained about sexual harassment and grievance handling procedures.

Accommodation — A man complained that his application to rent a house wasn't treated fairly because he was Aboriginal. After we approached the real estate agency to discuss the complaint, they reviewed their policy on references, and offered the man the premises he wanted.

Hotel service — A hotel refused to serve an Aboriginal woman, saying she was barred for life because she was part of a group that had been involved in a disturbance at the hotel. She complained to the Anti-Discrimination Board that only the Aboriginal people involved in the disturbance were barred for life. As a result of her complaint, all bans were removed.

Nightclub entry and dress regulations — A nightclub in a country town would not let any Aboriginal people enter, saying that they did not meet the dress regulations. Yet non-Aboriginal people in similar dress were allowed in. A number of Aboriginal people complained to us about this, and the club agreed to pay them financial compensation.

Racial vilification — An article that racially vilified Aborigines was published in a country newspaper, and an Aboriginal person complained to us. As a result, the author and the newspaper apologised to the person who complained, and the newspaper began to work with the community in a more positive way.

The Anti-Discrimination Board of NSW

The Anti-Discrimination Board was set up in 1977 to administer the Anti-Discrimination Act. The Board does three main things:

- It investigates and tries to settle complaints of discrimination, harassment and vilification.
- It tries to prevent discrimination from happening — by educating people about what the anti-discrimination laws say and why they are important.
- It reports to the government if we think the law needs changing to help prevent discrimination.

Aboriginal and Torres Strait Islander Outreach Program

The Anti-Discrimination Board's Aboriginal and Torres Strait Islander Outreach program investigates and helps settle discrimination complaints from Aboriginal and Torres Strait Islander people, including in regional areas. We also tell Aboriginal and Torres Strait Islander people throughout NSW about the Board, the anti-discrimination laws and how and when we can help.

Contacts

Enquiries

Phone (02) 9268 5544
Toll free number 1800 670 812
(if you are calling from rural or regional NSW)
Email: adbcontact@justice.nsw.gov.au

Complaints

Phone (02) 9268 5544
Toll free number 1800 670 812
(if you are calling from rural or regional NSW)
Email: complaintsadb@justice.nsw.gov.au

Website

www.antidiscrimination.justice.nsw.gov.au

Disability access: all our offices are wheelchair accessible. Phone if parking is required as this can be arranged.

Parramatta office

Level 7, 10 Valentine Avenue
Parramatta NSW 2150
PO Box W213, Parramatta Westfield NSW 2150
Ph (02) 9268 5555; Fax (02) 9268 5500

Wollongong office

84 Crown Street, Wollongong NSW 2500
PO Box 67, Wollongong NSW 2520
Ph (02) 4267 6200; Fax (02) 4267 6261

Newcastle office

Level 5, 400 Hunter Street
Newcastle NSW 2300
PO Box 1077, Newcastle NSW 2300
Ph (02) 4903 5300; Fax (02) 4929 7952

If you are deaf or have a hearing impairment you can contact us through the National Relay Service at www.relayservice.gov.au.

