

# Race

## Discrimination

It is unlawful under the *Equal Opportunity Act 1984* (the Act) to discriminate against a person because of their race.



*Equal Opportunity Commission*



Under the Act race includes skin colour, descent, ethnic or national origin or nationality and may comprise two or more distinct races.

**Direct race discrimination** occurs when a person is treated less favourably because of their race, or the race of a relative or associate compared to another person of a different race, in the same or similar circumstances.

**Indirect race discrimination** is when a requirement, condition or practice that is the same for everyone has an unfair effect on someone because of their race, and is unreasonable in the circumstances.

### Where does the protection apply?

Under the Act it is unlawful to discriminate against a person because of their race, in certain areas of public life, including:

- Work
- Education
- Accommodation
- Provision of goods, services and facilities
- Clubs
- Access to places and vehicles
- Application forms
- Advertisements
- Disposal of land or estates.

### Responsibilities

Organisations must ensure they provide a working environment and services that are free from race discrimination and they must take all reasonable steps to prevent it from happening or they may be held responsible for their employees' actions.

A person causing, instructing, inducing, helping or permitting another person to do something unlawful is the same as doing it, for the purpose of the Act.

### Making a complaint

A person who believes they have been discriminated against because of their race can lodge a complaint with the Commissioner. The onus of proof lies with the person making the complaint.

The incident or incidents in the complaint must have occurred within the 12 months previous to the date you lodge your complaint.

In some circumstances the Commissioner may decide there is good reason, or good cause, to include incidents that occurred more than 12 months before the complaint is lodged.

The Commissioner for Equal Opportunity provides information about the Act, investigates and conciliates complaints, conducts community education and training and develops programs to promote equal opportunity.

### Examples of race discrimination

A qualified engineer was refused a job for which he was the best applicant because the employer thought customers would not like dealing with an Asian person.

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An Aboriginal couple visited a real estate agent seeking a rental property in that particular area only to be told "... people like you have a reputation for not maintaining rental properties, I'm sorry, I don't want your business..."

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A couple telephoned their local kindergarten to see if there was a vacancy for their son. They were told there was plenty of room but when they turned up the kindergarten manager said "... look all the other kids are white, why don't you take him to a place where he'll fit in..."

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A job applicant was required to complete an English literacy test when literacy skills were not relevant to the position. This was investigated as indirect discrimination as English was not his first language.

#### Disclaimer

The material in this brochure is not intended to be legal advice. The Commissioner expressly disclaims any liability in respect to anything done or not done to any person in reliance upon any of the contents of this publication.

The Government of Western Australia  
[www.wa.gov.au](http://www.wa.gov.au)

March 2022

### Exceptions

There are some instances under the Act where it is not unlawful to discriminate against a person because of their race and these exceptions include:

- Domestic workers in private households
- Genuine occupational qualification
- Measures intended to achieve equality or meet special needs
- Where Australian citizenship is required (this applies to public bodies only)
- Accommodation provided by charitable or other voluntary bodies solely for the people of one race
- Accommodation in private households
- Racial or ethnic clubs, except based on colour
- Disposal of an estate or interest in land by will or gift
- The provision of charitable benefits
- Admission as a member of a voluntary organisation
- Establishments providing accommodation for aged people - admissions and benefits
- The ordination of priests or ministers of religion.

If an individual or organisation relies upon an exception under the Act when a complaint is made against them, they must justify the use of that exception to the Commissioner for Equal Opportunity.

## How to contact the Commission

### Telephone

General enquiries: 9216 3900  
Training courses: 9216 3927  
Country callers: 1800 198 149

### Email

[eoc@eoc.wa.gov.au](mailto:eoc@eoc.wa.gov.au)

### Website

[www.eoc.wa.gov.au](http://www.eoc.wa.gov.au)



Interpreter service: 13 14 50