

Racial Harassment

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

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

The Australian population comprises Aboriginal and Torres Strait Islanders and people from a diverse range of ethnic and national backgrounds, and all are entitled to be treated fairly.

This means no one can harass someone else because of their race. It is also unlawful to harass a person because of a relative's or associate's race.

Racial harassment may take many forms including threats, abuse, insults and taunts based on a person's race or a characteristic belonging to, or generally believed to belong to, a particular race.

Where does the protection apply?

The Act makes it unlawful to racially harass a person in certain areas of public life, including:

- **Employment:** It is unlawful to racially harass an employee, a co-worker, a potential employee or a potential employer, commission agent or contract worker.
- **Education:** It is unlawful for an employee of an educational institution to racially harass a student or potential student of that institution.
- **Accommodation:** It is unlawful for a person who, as principal or agent, has control over accommodation or the letting of that accommodation, to racially harass a person.

Responsibilities

Organisations must ensure they provide an environment that is free from racial harassment and they must take all reasonable steps to prevent it from happening or they may be held responsible for their employees' actions.

For the purposes of the Act, a person who causes, instructs, induces, aids, or permits another person to engage in unlawful conduct is taken to have engaged in that conduct themselves.

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.

Complaints must be submitted in writing, but you are not required to use English. You may write your complaint in the language you feel most comfortable using. Complaints can be submitted via email, post, or through the complaint form on the Equal Opportunity Commission's website.

The incident or incidents referred to in the complaint must have occurred within the 12 months prior to the date the complaint is lodged.

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

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

Examples of racial harassment:

A manager repeatedly refers to an employee of Asian descent as “the quiet one” and mimics their accent during team briefings.

A teacher mimics a student’s accent in front of the class and tells them they’ll “never get far sounding like that.”

A worker of Middle Eastern background is regularly asked if they’re “on a watchlist” and called “terrorist” as a joke.

A university staff member tells a student of African heritage that they “must be here on a sports scholarship,” despite their academic achievements.

A tenant of Indian descent is mocked by neighbours who imitate Bollywood dancing and shout slurs from their balconies.

A housing officer repeatedly makes comments about a Somali tenant’s cooking smells being “un-Australian” and “disgusting.”

A retail worker of Chinese heritage is mocked by colleagues who bow and say “ni hao” every time they walk past.

A taxi driver of Middle Eastern background is subjected to racial slurs by customers, while the dispatcher laughs and says “it’s just banter.”


How to Contact the Commission

Call

General enquiries: 08 9216 3900

Training courses: 08 9216 3927

Country callers: 1800 198 149

 Interpreter service: 13 14 50

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