

FEDERAL COURT OF AUSTRALIA

HUMAN
RIGHTS





Unlawful discrimination - when can you complain to the Federal Court?

Complaints about unlawful discrimination must first be made to the Australian Human Rights Commission.

The telephone number for the Commission is 1300 656 419.

If you have not complained to the Australian Human Rights Commission you cannot complain to the Federal Court.

If you have complained to the Australian Human Rights Commission and your complaint has been terminated you can complain to the Federal Court.

The Australian Human Rights Commission terminates a complaint by giving a termination notice to each of the people involved in the complaint.

You need a copy of the termination notice to complain to the Federal Court.

There are time limits for making complaints to the Federal Court. The normal rule is that a complaint to the Federal Court must be made within 60 days after the issue of the notice of termination.

How do you complain to the Federal Court?

Follow these steps to make a complaint to the Federal Court:

1. Get a Form 5 from the Court and fill it out.

This is the application form.

2. Get a Form 167 from the Court and fill it out.

This is the claim form.

The complaint to the Court must be essentially the same as the complaint that you made to the Australian Human Rights Commission.

3. Make a copy of the complaint that you made to the Australian Human Rights Commission.

Make a copy of the notice of termination. Attach the copies to the claim form.



4. If you are making your complaint more than 60 days after the date on the notice of termination you need to complete Part 15 of Form 167. This part of the form is where you request an extension of time for making the complaint and explain the reasons for the delay.
5. Make enough copies of the application and claim forms as well as all attachments for each other person involved in the complaint and for the Australian Human Rights Commission. Make sure you have a copy for yourself.
6. Once the forms have been filled out you need to send the original application and claim forms with all attachments and the copies to the Court. You can do this by bringing them to the Court, or by posting or faxing them or by sending them by the internet. This is called 'filing'.
7. Pay an application fee. If you cannot afford this fee you may be able to ask the Court to reduce it.* You can get a form to ask the Court to reduce payment and information about the circumstances where a reduction can be given on the 'Exemption and reduction of fees' pages on the website or from the Registry.
8. If the correct forms have been used and are complete the Court will stamp the original application and claim forms and each of the copies. The Court will also write on the application form the time and date when the people involved in the complaint need to come to the Court for a directions hearing. You must give a copy of the stamped application and claim forms with attachments to each of the people involved in the complaint. You must do this at least five days before the directions hearing.
9. Come to the Court at the time and date on your application. This is called a directions hearing. If you or your representative does not come to the Court at that time, the Court may dismiss your complaint.

What happens if a complaint is made against you?

The person making the complaint about discrimination is called the applicant. The person or organisation that the applicant says has carried out the discrimination is called the respondent. If the applicant has made a complaint against you to the Federal Court the applicant must give you a copy of the documents which set out the complaint (these are called the application and claim).

Follow these steps if you want to come to the Federal Court to defend yourself against the complaint:

1. Get a Form 15 from the Court and fill it out.
2. Deliver the Form 15 to the Federal Court. You can do this by bringing it to the Court, or by posting or faxing it or by sending it by the internet. This is called 'filing'.
3. Come to the Court at the time and date on the application. This is called a directions hearing. If you or your representative do not come to the Court at that time, the Court may make orders against you.
4. After the directions hearing get a Form 168 from the Court and fill it out. This is called the defence.
5. Once the defence has been filled out you need to send the original and two copies to the Court. You can do this by bringing them to the Court, or by posting or faxing them or by sending them by the internet. This is called 'filing'.
6. The Court will stamp the original defence and the copies. You must give a stamped copy of the defence to the applicant.

What happens after a complaint has been made to the Court?

At the first directions hearing the Judge will make orders to prepare the complaint for hearing.

The Judge may order that the applicant provide extra information about the complaint.

The Judge may ask the parties to attend a mediation conference.

The Judge may transfer the complaint to the Federal Magistrates Court.

At the hearing the Judge will listen to the evidence of the applicant and the respondent and their witnesses, if they have any. The Judge will also listen to any submissions about the relevant law.

The Judge will then consider the complaint and give a final decision.

What orders can the Judge make?

If the Judge is satisfied that there has been unlawful discrimination the Judge may make some orders against the respondent.

For example the Judge may order:

- that the respondent stop the discrimination;
- that the respondent pay the applicant some compensation;
- that the respondent do something to address the complaint.

If the Judge is not satisfied that there has been unlawful discrimination the Judge will dismiss the complaint.

Who pays the legal costs?

The normal rule is that the unsuccessful person pays the legal costs of the others.

Do you need legal help or legal representation?

You do not need a lawyer to appear in the Federal Court. You can be represented by a person who is not a lawyer if the Court agrees. You can also represent yourself.

However, lawyers generally handle cases better than people who are not lawyers.

If you need help to complete any of the forms you should consider contacting a solicitor, the Legal Aid Commission in your State or Territory, a Community Legal Centre or an advocacy group.

You may be able to get legal representation through a Legal Aid Commission in your State or Territory or the Legal Assistance Branch of the Commonwealth Attorney-General's Department.

The Court cannot give legal advice. The Court can give you contact details for organisations that give legal help or legal representation.

Interpreters

The Court can arrange for an interpreter to come to the hearing.

If you need an interpreter you must contact the Registry of the Court at least one week before the hearing. If you do not contact the Registry they may not be able to get an interpreter and the hearing will be delayed.

You can also call 131 450 and speak to a telephone interpreter.

Practical needs

If you have any practical needs that the Court should know about, please contact the Court at least one week before the hearing so that the Court can make the proper arrangements. For example, you need to tell the Court if you:

- require a hearing loop;
- require regular breaks to attend to an infant or for a medical reason;
- have any other special needs due to a disability.

Where can you get forms?

You can get all of the forms mentioned in this brochure from any Federal Court Registry. They can also give you a copy of guides which show you how to fill out some of the forms.

You can also get the forms and guides from the Court's web site: www.fedcourt.gov.au

What other information can the Court provide?

The Court can give you information about:

- mediation;
- where to get legal help or legal representation;
- court procedures.

You can also find this information on the internet at www.fedcourt.gov.au

*Note up to October 2010, the Court could waive Court fees in some circumstances. Changes to the Federal Court of Australia Regulations 2004 introduced on 1 November 2010 means the Court can no longer waive fees; the Court can however, reduce the payment of Court fees if it will result in financial hardship.

FEDERAL COURT REGISTRIES

ACT Registry

Nigel Bowen Commonwealth Law
Courts Building
Childers Street
Canberra ACT 2600
Phone: (02) 6267 0566
Fax: (02) 6267 0625
Email: actman@fedcourt.gov.au

NSW Registry

Level 17 Law Courts Building
Queens Square
Sydney NSW 2000
Phone: (02) 9230 8567
Fax: (02) 9230 8535
Email: nswdr@fedcourt.gov.au

NT Registry

Level 3 Supreme Court Building
State Square
Darwin NT 0800
Phone: (08) 8941 2333
Fax: (08) 8941 4941
Email: ntreg@fedcourt.gov.au

QLD Registry

Level 6 Harry Gibbs Commonwealth
Law Courts Building
119 North Quay
Brisbane QLD 4000
Phone: (07) 3248 1100
Fax: (07) 3248 1260
Email: qldreg@fedcourt.gov.au

SA Registry

Level 5 Roma Mitchell Commonwealth
Law Courts Building
3 Angas Street
Adelaide SA 5000
Phone: (08) 8219 1000
Fax: (08) 8219 1001
Email: sareg@fedcourt.gov.au

TAS Registry

Edward Braddon Commonwealth Law
Courts Building
39-41 Davey St
Hobart TAS 7000
Phone: (03) 6232 1715
Fax: (03) 6232 1701
Email: tasreg@fedcourt.gov.au

VIC Registry

Level 7 Owen Dixon Commonwealth
Law Courts Building
305 William Street
Melbourne VIC 3000
Phone: (03) 8600 3333
Fax: (03) 8600 3281
Email: vicreg@fedcourt.gov.au

WA Registry

Level 6 Peter Durack Commonwealth
Law Courts Building
1 Victoria Avenue
Perth WA 6000
Phone: (08) 9268 7100
Fax: (08) 9221 3261
Email: waregistry@fedcourt.gov.au

Principal Registry

Law Courts Building
Queens Square Sydney NSW 2000
Phone: (02) 9230 8473
Fax: (02) 9223 1906
Email: query@fedcourt.gov.au

If you have a hearing or speech impairment, contact the Court through the National Relay Service:

- TTY users phone 133 677 then ask for your local registry's phone number as listed above
- Speak and Listen users phone 1300 555 727 then ask for your local registry's phone number as listed above
- Internet relay users connect to the NRS (www.relayservice.com.au) and then ask for your local registry's phone number as listed above