

Discrimination complaints: the process

This factsheet outlines the discrimination complaints process under the *Disability Discrimination Act 1992* (Cth) (DDA) in the Australian Human Rights Commission (AHRC) and the *Anti-Discrimination Act 1991* (Qld) (ADA) in the Queensland Human Rights Commission (QHRC).

For more information on what discrimination is, see the **What is discrimination factsheet**.

For more information about choosing a forum, see the **Discrimination complaints: choosing a forum factsheet**.

This factsheet does not include information about the making a complaint under the *Human Rights Act 2019* (Qld). For this information, see the **Human Rights Act 2019 (Qld) factsheet**.

First steps

Making a formal complaint is not always the best option, especially where you want to maintain a relationship (such as employer/employee situations). Sometimes talking or writing to the person or organisation is the quickest and easiest way to resolve your concerns. Be clear about what the person or organisation can do to solve the complaint.

Complaints under the ADA in the QHRC

1. Lodging a complaint

You must make a written complaint to the QHRC, which can be done [online](#). You must make your complaint within 12 months from the incident. Complaints outside this timeframe are considered on a case-by-case basis and it will depend on the length of, and reason for, the delay.

The QHRC will assess your complaint to decide whether it can proceed with the process. During this process, the QHRC will inform the respondent (the person or organisation you are complaining about) about the complaint. The QHRC does not make a finding about whether there has been a breach of the ADA or whether any actions were unlawful.

2. Conciliation

A conciliation is an informal and private discussion between the complainant and respondent. It allows the parties to discuss the issues in dispute and then settle the matter on their own terms.

3. Outcome

If the parties reach an agreement and the complaint is resolved, it is written down and signed by all parties. The QHRC will file this agreement with the Queensland Civil and Administrative Tribunal (QCAT) or Queensland Industrial Relations Commission (QIRC) for work-related matters. This agreement is binding on all parties and the complaints process is closed.

If the complaint cannot be resolved by conciliation, the complainant can request that the complaint is referred for hearing to QCAT or QIRC. These hearings are public.

QCAT can only consider matters which were the subject of the original complaint to the QHRC. No new issues can be raised at the hearing. Complainants will be asked to submit a statement of contentions as well as evidence prior to the hearing.

QCAT will make a finding as to whether the respondent breached the ADA. This determination is binding.

Complaints under the DDA in the AHRC

1. *Lodging a complaint*

You must make a written complaint to the AHRC, which can be done [online](#). There is no time limit to make a complaint, but complaints may be terminated if they are lodged more than six months from the incident.

The AHRC will assess your complaint to decide whether it can proceed with the process. During this process, the AHRC will inform the respondent (the person or organisation you are complaining about) about the complaint. The AHRC does not make a finding about whether there has been a breach of the DDA or whether any actions were unlawful.

2. *Conciliation*

A conciliation is an informal and private discussion between the complainant and respondent. It allows the parties to discuss the issues in dispute and then settle the matter on their own terms.

3. *Outcome*

Any agreement reached through conciliation is not binding on the parties. If the complaint is resolved, the complaints process is closed.

If the complaint is not resolved through conciliation, the complainant has 60 days to bring the matter before the Federal Circuit Court of Australia.

The court will decide whether the conduct is unlawful under the DDA. Any findings made by the court are binding on the parties.

Further resources

- [Queensland Human Rights Commission](#)
- [Australian Human Rights Commission](#)
- [Fair Work Commission](#) (workplace discrimination)
- [QCAT – anti-discrimination matters](#)
- [QCAT – complainant’s contentions](#)
- [Federal Circuit Court – Human Rights](#)
- [Queensland Law Handbook](#) published by Caxton Legal Centre Inc.
- [Legalpedia Queensland](#) hosted by LawRight

Other organisations

- [Queensland Advocacy Incorporated](#)
- [LawRight](#)
- [Caxton Legal Centre Inc](#)
- [Legal Aid Queensland](#)
- [Queensland Collective for Inclusive Education](#)
- [Basic Rights Queensland](#)
- [Tenants Queensland](#)