

# Factsheet: Responding to a complaint

## What happens if a complaint is made about you

### What happens if a complaint is made about me?

A person can make a complaint to the Commission if they think they have experienced [discrimination](#), [sexual harassment](#), [racial or religious vilification](#) or [victimisation](#).

The Commission's complaint service is a free, confidential, and informal alternative to having a complaint heard and determined by the [Victorian Civil and Administrative Tribunal](#) (VCAT).

If a complaint is made against you or your organisation, a conciliator will contact you to talk about the complaint and invite you to participate in conciliation.

If you agree to participate, the conciliator will suggest the best type of conciliation for your matter.

### What is conciliation?

Conciliation is an informal voluntary process where a conciliator helps the parties to tell their stories, listen to one another, understand the impact, and work together to find an outcome.

There are two main types of conciliation used at the Commission:

1. **Conciliation conference:** This is an informal meeting of parties, chaired by a conciliator, that can be conducted in person or by phone or video.
2. **Shuttle negotiation:** This is where the conciliator shares information between the parties and helps the parties to negotiate by phone or email, without any direct contact between the parties.

The process is entirely voluntary. If a complaint is made against you, the Commission cannot compel you to participate. If you decide not to participate, the Commission will close the complaint. However, the complainant can still make an application to [VCAT](#) to hear the matter.

You do not need a lawyer or advocate to participate, but you may decide to get legal advice. Our conciliators are nationally accredited and trained to support all parties. They do not take sides or decide who is right or wrong. While the conciliator does not provide legal advice to the parties, they will help you understand how the Commission's laws work.

You can also choose to bring a support person to conciliation to provide you with emotional support.

## **What happens during conciliation?**

During conciliation, your conciliator will help the parties resolve the complaint in a fair and supportive way. This includes giving both parties an opportunity to share their views, promote frank, honest and open discussions, and encourage them to reach a mutually agreeable outcome.

### **Important things to consider**

- A complaint against you or your organisation should be treated seriously. Focus on the story and try not to take it personally. It is often not what is said but *how* it is said that can offend people.
- If the complaint is about a decision you made (such as not offering someone a job), you will need to explain the reason for the decision and provide any information that can clarify what happened.
- Think about whether you could have done things differently or what you could change in the future.
- Be careful not to [victimise](#) the person for making the complaint. This is against the law.

## **What possible outcomes are there?**

The Commission cannot make findings about a matter or decisions about the outcome. Instead, our conciliators help the parties to reach a mutually agreeable outcome such as:

- an apology, statement of regret or acknowledgement of distress
- changes to policies or practices
- a commitment to provide equal opportunity training to staff
- reinstating a person's job (or terms of their job) or a service (or how it is delivered)
- financial compensation.

**This factsheet is intended as a guide only. It should not be used as a substitute for legal advice.**

If the complaint is about your organisation, you will need to provide authority for a representative of your organisation to make decisions about the outcome of the matter.

**If you reach an agreement, the parties may wish to record it in writing. Either party may agree to draft the agreement or your conciliator can help you to draft it.**

### **What happens if you can't reach an agreement?**

If a resolution can't be reached, the Commission will close the complaint. The complainant may still make an application to [VCAT](#) to hear and decide the matter.

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