

Racial discrimination

Simon's story (fictional)

Simon is employed as an Adviser, and recently applied for promotion to a Senior Adviser within his office. The Office Manager, Phuong, subsequently met with Simon to advise him that his application was unsuccessful and to discuss some development opportunities so his application would be more competitive in future. Simon was disappointed, but appreciated the feedback. Later, Simon overheard his colleagues Ruvini and Pip discussing the promotion decision. He heard Ruvini telling Pip that Simon was unsuccessful because he always takes too much time off for 'sorry business', and could not be counted on as a Senior Adviser because he was likely to be 'off on walkabout' when they needed him.

Simon had experienced micro-aggressions from Ruvini a number of times before, like when she told him he dressed surprisingly well. But the conversation he overheard this time was overtly discriminatory, and made Simon worried that he may have been passed over for promotion because he is Aboriginal, rather than because he wasn't ready for the role. Simon called the Parliamentary Workplace Support Service (PWSS) for support. The PWSS helped Simon to have a facilitated conversation with Phuong to discuss what he had overheard and express his concerns about discrimination, including the micro-aggressions.

Phuong was able to provide additional feedback on Simon's application, which allayed his concerns that he had missed out on promotion because of his race. Phuong confirmed Ruvini's overt comments with Pip, then counselled Ruvini for her discriminatory behaviour, warning her that future incidents could result in disciplinary action, including possible termination. Phuong also worked with the PWSS to lead a conversation with the entire team about identifying micro-aggressions and their expectations for the team's behaviour going forward, to ensure a safe and respectful workplace for everyone.



! What is racial discrimination?

Racial discrimination is when a person is treated less favourably, or not given the same opportunities, as others in a similar situation because of their race, the country where they were born, their ethnic origin, cultural background or their skin colour.

Racial discrimination can come in many forms, and can happen anywhere – through individual behaviour, beliefs and attitudes, and through systems and institutions which operate in ways that lead to inequality.

In the workplace, racial discrimination could include:

- insisting all employees speak English at all times, even during their breaks
- not employing someone from a particular racial group because 'those people are unreliable'
- not employing or promoting someone otherwise qualified, because of assumptions they wouldn't 'fit in' with their colleagues, and
- not employing or promoting someone otherwise qualified, because 'our constituents won't understand their accent'.

Indirect racial discrimination is where a rule or policy that applies to everyone has an unfair impact on people of a particular race, ethnicity or culture. For example, a workplace policy that prohibits any head wear, such as hats or scarves, is likely to have an unfair impact on people from some backgrounds.

Racial harassment can include behaviours such as:

- Telling insulting jokes about particular racial groups.
- Displaying racially offensive posters or screen savers.
- Making derogatory comments or taunts about someone's race.

- Asking intrusive questions about someone's personal life, including their culture, beliefs, or sex life.

'Everyday' discrimination or micro-aggressions are indirect, sometimes unintentional expressions of racism which subtly reinforce that a person or group is seen as 'less than' or 'other'. These actions reinforce negative stereotypes and prejudices to create an environment where people feel uncomfortable, unwelcome, or even unsafe. This significantly impacts people's wellbeing and excludes them from workplace participation. Examples can include:

- comments like 'You don't look Aboriginal' or 'What kind of Asian are you?'
- asking 'Is your boss around?' – assuming someone of colour is junior or otherwise not in charge
- consistently mispronouncing someone's name, without making the effort to learn how to say it properly
- comments about cultural dress being unprofessional in a work setting
- joking about 'diversity hires', and
- not taking religious or cultural beliefs into account when catering for or organising events or office functions.

Intersectionality recognises the greater likelihood that people with intersecting identities will experience and be adversely impacted by discrimination and harassment. For example, a person experiencing racial discrimination is likely to encounter further barriers to workplace participation if they are also a person with a disability, or based on their gender or sexual identity.

! Employers can be held liable for all types of racial discrimination or harassment by their employees. This is called 'vicarious liability'.

What is not racial discrimination?

The *Racial Discrimination Act 1975* confirms that some actions are not against the law, as long as they are 'done reasonably and in good faith'. This could include:

a statement, publication, discussion or debate made for genuine academic or scientific purposes – for example, discussing and debating public policy such as immigration, multiculturalism or special measures for particular groups making a fair and accurate report on a matter of public interest – for example, a fair report in a newspaper about racially offensive conduct, and

employment decisions which are adequately supported by reasons not related to race – for example, termination of employment where underperformance has been identified and is supported by evidence, and a procedurally fair process has taken place.



What to do if you experience racial discrimination

If you feel it's safe to do so, you may wish to manage the situation yourself by raising it directly with the person or people involved, identifying the behaviour and asking for it to stop. You could also raise your concerns with a supervisor or other person in your workplace with the authority to take action.



The Parliamentary Workplace Support Service (PWSS) can support you to address your concerns with the people involved, or to raise them with your supervisor.

The PWSS can assist you by providing guidance and counselling as you navigate these conversations, and can also provide local resolution services.

If you and the other party or parties are parliamentarians or employed under the MOP(S) Act, the PWSS may commission an independent workplace review (an investigation). For Commonwealth parliamentary workplace participants that are not currently eligible for independent workplace review, the PWSS can assist you to identify other resolution options, including referral to your employer for further action.

You can make a complaint to the Australian Human Rights Commission or apply to the Fair Work Commission if your complaint also amounts to bullying. Further information is available on their websites. You could also speak to a lawyer about your options.

What to do if you are accused of racial discrimination

It can be confronting to have someone raise concerns about your behaviour. If a person approaches you and identifies behaviour which they consider discriminatory, your first instinct may be to go on the defensive. Instead, consider the following:

- Ask the person for some time to think about what they have raised, and suggest you come back together at a later time to continue the conversation.

- Take some time to reflect on what you have been told, and why the person might have felt they were being treated unfairly.
- Regardless of your intent, a person has shared with you that they have interpreted your actions in a certain way – this can be a good opportunity to develop a better understanding between you and build a more positive workplace culture.
- The PWSS can help you to work through what has happened, and how you might best respond to the concerns that have been raised.

The person accusing you of racial discrimination may not feel comfortable raising their concerns with you directly, so you might be made aware of the allegations through your supervisor or some other avenue.



If someone has accused you of racial discrimination, the PWSS can offer support, guidance and counselling as you navigate what has been said about you and how you respond.

What to do if someone you manage reports they have experienced racial discrimination

Your first priority is to listen to the person without judgement, and encourage them to express what they want to do about the situation. The person may not want you to take any action at this stage, they may just wish to make sure someone else knows what has been happening. Remind them that they can contact the PWSS for support, should they choose. Consider the following steps:

- Assess the situation and identify any immediate action which you may need to take, such as:
- Does the person making the report need some time away from the office while they process what has happened?

- Is it necessary to reallocate work to separate the parties while you make further enquiries?
- Is there a related administrative process, such as a promotion round, which you should pause while the allegations are looked into?
- Once you have taken immediate action to minimise any further harm, consider whether it is appropriate for you to conduct further enquiries to determine what has occurred and how best to address the situation, or whether you should refer the matter either to an appropriately senior person in your workplace or to an external body. External bodies might include the PWSS, the Australian Human Rights Commission, or the police.
- Continue to offer support to the person who made the report and check in with them regularly to ensure their wellbeing.
- Keep notes of all discussions you have related to the matter, and the reason you took certain action.
- You can contact the PWSS at any point for advice and support in responding to a report of racial discrimination.



Useful links

Workplace Cultural Diversity Tool –
<https://culturaldiversity.humanrights.gov.au>

Racism. It Stops with Me –
<https://itstopswithme.humanrights.gov.au>

Targeted recruitment of Aboriginal and Torres Strait Islander people: A guideline for employers –
www.humanrights.gov.au/targetedrecruitment

Support

The PWSS can assist you with your own wellbeing, or support you to help someone else. Our service provides independent and confidential support to all Commonwealth parliamentary workplace participants. We build on what's already working for you, and can help you find extra strategies to boost health and wellbeing.



www.PWSS.gov.au



24/7 Support: 1800 747 977



SMS: 0487 112 755