

Race discrimination at work: What are my responsibilities?

Employers in Victoria have obligations under the *Equal Opportunity Act 2010 (Vic)* to prevent and respond to race discrimination in the workplace.

Race discrimination is a persistent problem in Victorian workplaces.

Employers have an obligation under the Equal Opportunity Act to not discriminate against employees on the basis of race. Employers also have a 'positive duty' to take reasonable and proportionate measures to eliminate discrimination, sexual harassment and victimisation as far as possible.

To prevent and respond to race discrimination and become an anti-racist workplace, employers need to first understand and recognise the historic and ongoing impacts of race discrimination on First Peoples and other racialised employees.

Who has obligations under the Equal Opportunity Act?

The Equal Opportunity Act covers key areas of public life, including employment. Employers have an obligation to eliminate race discrimination against employees as far as possible.

'Employers' are any organisation or person that employs another person.

Where are employees protected?

Employees (including paid staff, paid interns and job applicants) and contractors are protected:

- at work
- in common spaces (car parks, lifts, reception areas and bathrooms)
- during work-related events, meetings, and settings (for example, a party or work trip)
- in online spaces.

What do race discrimination, vilification and victimisation look like in the workplace?

The Equal Opportunity Act prohibits race discrimination in the workplace perpetrated by both employers and other employees. This could include racism between people (both blatant and subtle), microaggressions, organisational bias or hostility to cultural needs.

- **Race discrimination** can be direct and indirect. 'Race' encompasses skin colour, ancestry, nationality, ethnic background or any characteristics associated with a particular race.

Direct race discrimination is when someone treats someone unfairly because of their race.

For example: an employer refuses a qualified employee with Sri Lankan heritage a promotion because of their race, stating that they'd prefer to promote a 'real Australian'.

Indirect race discrimination is when there is an unreasonable workplace requirement, condition or practice that disadvantages or unfairly impacts employees because of their race.

For example: a cleaning company posts an advertisement for a new cleaner and includes a requirement to speak and read English fluently. This disadvantages staff who might be capable cleaners but do not have proficient English. This is not a reasonable requirement given the nature of the work.

- **Vilification** is public behaviour that encourages others to hate or ridicule a person or group of people based on their race or religion. To understand the differences between vilification and race discrimination, see **Chapter 3: Understanding the law on workplace racism** in our *Guideline: Race discrimination in the workplace*.

Employers can be vicariously liable for vilification if it occurs.

For example: a manager who publicly refers to an employee as a lazy criminal, because of their race, saying everyone from the same background are lazy and untrustworthy, and encouraging other employees to hate them.

- **Victimisation** is where an employee is treated badly because they have raised an issue or made a complaint about alleged race discrimination or other unlawful conduct.

For example: a Ghanaian employee who reported an incident of race discrimination is allocated undesirable shifts and tasks in apparent retaliation from management.

How do I eliminate race discrimination in my workplace?

To eliminate race discrimination, employers must take demonstrable steps to meet their legal obligations not to discriminate and their positive duty to actively prevent and respond to race discrimination under the Equal Opportunity Act.

The Victorian Equal Opportunity and Human Rights Commission has developed 5 minimum standards that all employers should comply with to satisfy the positive duty and create an anti-racist workplace.

The standards cover:

- practical knowledge needed to be able to identify race discrimination
- how to prevent race discrimination from happening through systems and organisational culture
- how to effectively respond to race discrimination when it happens.

Minimum standards for preventing and responding to race discrimination



Standard 1:
Racial literacy



Standard 2:
Policies and procedures



Standard 3:
Organisational culture



Standard 4:
Reporting and response



Standard 5:
Continuous improvement

For more information, download the Commission's *Guideline: Race discrimination in the workplace* available at humanrights.vic.gov.au/resources or via the QR code.

