



Withdrawing a complaint



When can a complaint be withdrawn?

The *Anti-Discrimination Act 1998* (“the Act”) says that a complainant can apply to the Commissioner to withdraw his/her complaint at any stage of the complaint process. If the Commissioner is satisfied that the application was made voluntarily the withdrawal will be granted. This means that the complaint comes to an end and the file is closed.

Applying to withdraw

If a complainant wants to withdraw his or her complaint, they need to notify the Commissioner in writing and give their reasons for wanting to withdraw. It is important to put these reasons in writing to be sure that the reasons are accurately recorded.

There are various reasons why a complainant may wish to withdraw his or her complaint. These reasons may include the following:

- The matter has been resolved;
- The complainant may decide that he or she has moved on and no longer wishes to proceed with the complaint;
- The complainant may not want to pursue the complaint for personal reasons eg. health reasons;
- The complainant may agree to withdraw the complaint as part of a settlement in other jurisdictions – eg. workers compensation.

Example of voluntary withdrawal
Brandon lodges a complaint against a service provider with the Office of the Anti-Discrimination Commissioner. His complaint is also investigated internally by the service provider and amendments are made to their service policies. Brandon is satisfied with these changes and applies to withdraw his complaint. The Commissioner accepts his reasons for withdrawal and the complaint is closed.

Contact Us

To lodge a complaint or seek further information, contact the office or visit the website. Please note the office is unable to provide legal advice to parties of a complaint.

Office of the Anti-Discrimination Commissioner
Level 1, 54 Victoria Street, Hobart, Tasmania 7000
GPO Box 197, Hobart, Tasmania 7001

Telephone **1300 305 062 (local call)**
(03) 6233 4841
Facsimile **(03) 6233 5333**
TTY **(03) 6233 3122**
Email **antidiscrimination@justice.tas.gov.au**

www.antidiscrimination.tas.gov.au

Disclaimer: This information is intended to provide a general understanding of the Anti-Discrimination Act 1998. To maintain confidentiality case examples are not based on actual complaints lodged with this office.

Granting a withdrawal

If the Commissioner is satisfied that the application to withdraw has been made voluntarily, then the Commissioner grants the withdrawal and records the terms of any agreement reached between the complainant and the respondent/s. If no agreement has been reached, then the Commissioner simply grants the withdrawal and notifies the parties. If the complaint is withdrawn before it is accepted for investigation, and the respondent/s have not been notified of the complaint, a letter confirming the withdrawal goes to the complainant only. In each case the file is then closed.

Pressure to withdraw

The Commissioner can investigate what led a complainant to make an application to withdraw the complaint. This is because people should not be pressured or threatened into withdrawing their complaint.

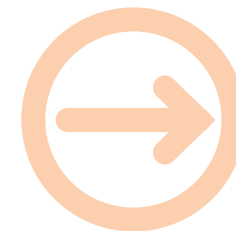
Threats could be made or pressure applied to the complainant by the respondent or by a person connected with the respondent who knows about the complaint. Threats or pressure could be made directly to the complainant, or to a person associated with the complainant.

If the Commissioner is satisfied that the complaint was not withdrawn voluntarily, the investigation of the complaint may continue. The Commissioner may also continue to investigate the complaint if it is in the public interest to do so.

Example of pressure to withdraw
Alice works at a business with her uncle, Fred. Alice makes a complaint of sexual harassment against her boss, Carlos. Alice applies to have her complaint withdrawn because Carlos has told Fred he will be sacked if Alice does not withdraw her complaint.

As well, withdrawal of a complaint does not prevent the Minister of Justice from referring the complaint to the Tribunal for inquiry.

If a complainant is pressured or threatened to withdraw a complaint, this could amount to victimisation under the Act. The complainant would have a right to make a fresh complaint of being victimised. For more information see the 'Victimisation' brochure.



Please advise the office prior to an appointment if you require special assistance or the services of an Interpreter /Auslan.