



Complaint process and timelines

The Office of the Anti-Discrimination Commissioner has timelines during the complaint handling process.

These timelines are set by the *Anti-Discrimination Act 1998* (“the Act”) or by the Commissioner.

A complaint is to be made **within 12 months** after the alleged discrimination or prohibited conduct happens. If the conduct happened more than 12 months ago, the Commissioner may not be able to assist unless there are good reasons for the delay in making a complaint.

How long does the Commissioner have to assess a complaint?

The Commissioner has 42 days from the date the complaint is lodged to decide whether it should be **accepted** or **rejected** for investigation.



Complaint process & timeline

What does rejected for investigation mean?

When a complaint is rejected for investigation it means that the material provided by the complainant raises no possible breaches of the Act. If the complainant disagrees with the Commissioner’s decision, they have **28 days** from the date the decision is received to write to the Anti-Discrimination Tribunal (Tribunal) seeking a review. If the Tribunal does not agree with the Commissioner’s decision to reject the complaint, the Tribunal may refer the complaint back for investigation.

What does accepted for investigation mean?

When a complaint is accepted for investigation it means that ‘possible breaches’ have been disclosed on the material provided by the complainant.

The Commissioner will then notify the complainant in writing of the decision to accept the complaint and the investigation begins.

The respondent/s, the person/s or organisation/s against whom the complaint has been made, are notified **within 10 days** of the acceptance and are provided with either a summary of the complaint or, with the consent of the complainant, a complete copy.

The respondent/s are **given 14 days to respond** to the complaint. As soon as a response is received, a copy is sent to the complainant to reply to the response.

Extensions of time to respond or to reply may be granted upon request to the Commissioner or Investigation Officer if there is a good reason.

Further information may be requested from the complainant, respondent or third parties to a complaint, if required.



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.

How long does it take to investigate a complaint?

The Act requires an investigation to be **completed within six months** from the date the respondent is notified of the complaint. If the investigation is not completed within six months, the complainant has two options:

1. Extend the investigation time so that it can continue; or
2. Elect to have the complaint referred to the Tribunal for inquiry.

The OADC will notify the complainant of the six month date and their options.

It is important that the complainant responds to the Commissioner's letter to advise what they want to do. If a response is not received, the complaint is referred to the Tribunal.

What happens at the end of an investigation?

At the end of the investigation, the Commissioner will decide to either:

1. Dismiss the complaint (ie. because it is lacking substance);
2. Refer the complaint to conciliation; or
3. Refer the complaint to the Tribunal for inquiry.

Both the complainant and the respondent will be notified of the Commissioner's decision, usually **within 10 days**.

What happens if a complaint is dismissed?

A complaint is dismissed if the investigation finds the complaint does not relate to discrimination or prohibited conduct. If the complainant wishes they can seek to have the decision reviewed by the Tribunal. The complainant has **28 days to apply** in writing to the Tribunal.

What happens if a complaint is referred for conciliation?

A complaint is referred for conciliation at the end of the investigation if the material raises possible breaches of the Act, and the Commissioner believes the complaint may be resolved through conciliation.

When are complaints referred to the Tribunal?

A complaint is referred to the Tribunal for inquiry, if the Commissioner:

- Believes the complaint cannot be resolved through conciliation; or
- Has attempted to resolve the complaint through conciliation but has not been successful; or
- Believes the nature of the complaint is such that it should be referred for inquiry.

Once a complaint has been referred to the Tribunal, the Commissioner has **48 days to prepare a referral report**.

What is a referral report?

A referral report sets out the issues involved in the complaint, the witnesses who should be called and relevant documents obtained during investigation. Only the Tribunal receives a copy of the documents listed in the referral report. If the complainant and respondent/s want copies of documents they do not already have for the inquiry, they must be obtained through the Tribunal.

What happens after the complaint is referred to the Tribunal?

Once the complaint has been referred to the Tribunal and the referral report has been sent, the OADC ceases to have any involvement in the complaint.

The Tribunal has its own timelines and procedures to be followed. Parties must therefore communicate at this stage directly with the Tribunal not the OADC.

Anti-Discrimination Tribunal

Address: 23-25 Liverpool Street, Hobart

Phone: **(03) 6233 8372**

Fax: (03) 6233 5355

Email: **ADT@justice.tas.gov.au**

www.magistratescourt.tas.gov.au/divisions

Please advise the office during the complaint process if you require special assistance or the service of an Interpreter/Auslan.