



# Obligations of organisations section 104



## What are the obligations of an organisation?

Under section 104 of the *Anti-Discrimination Act 1998* (“the Act”), every organisation has an obligation to take reasonable steps to ensure its members, officers, employees and agents are aware of and do not engage in, repeat or continue discrimination and prohibited conduct.

Organisations also have an obligation to ensure that its members, officers, employees and agents are aware of any order made by the Anti-Discrimination Tribunal in relation to a proven complaint that is relevant to the conduct of its members, officers, employees and agents.

## What are the consequences of not complying with the obligations under section 104?

If an organisation does not comply with section 104 it is liable for any breach of the Act committed by any of its members, officers, employees and agents.

People may lodge a complaint with the Office of the Anti-Discrimination Commissioner (OADC) naming both an individual and an organisation as respondents, or even just the organisation.

### Example

Jacinta believes she has been sexually harassed at work by a fellow colleague, Simon. She has complained about Simon to her boss but nothing has been done. She decides to lodge a complaint to the OADC and names both Simon and the organisation, as she believes the organisation hasn't taken reasonable steps to ensure Simon didn't engage in and continue the sexual harassment.

Organisations should also be aware that irrespective of section 104, they may be liable for discrimination and prohibited conduct due to an organisation's own action or policy etc.

### Example

Rangi tries to enter a nightclub and is told by the bouncers that the nightclub's policy is that Maoris aren't allowed. Rangi makes a complaint of race discrimination only against the nightclub.

What organisations are covered by the Act?

Organisations include businesses, clubs, service providers etc. “Organisation” is also defined in the Act to include Councils, Government departments and State authorities.



## 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](mailto:antidiscrimination@justice.tas.gov.au)

[www.antidiscrimination.tas.gov.au](http://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.

## What are reasonable steps?

If an organisation can show that they have taken reasonable steps to ensure its members, officers, employees and agents are aware of and do not engage in discrimination and prohibited conduct, they will not be liable for the discrimination and prohibited conduct.

What will be considered “reasonable steps” will be different according to the circumstances of each complaint and may also depend on factors such as the size of the organisation, resources and so on.

### Reasonable steps may include:

- Developing policies and grievance procedures about discrimination and prohibited conduct and communicating it to all members, officers, employees and agents;
- Monitoring the workplace to ensure compliance with policies;
- Training members, officers, employees and agents about discrimination and prohibited conduct;
- Dealing with any internal complaints fairly, promptly and in accordance with policies and procedures.

### Example

A small organisation has developed discrimination policies and grievance procedures and trained all its members. Some time later, Paolo makes an internal complaint about gender discrimination against Stacey. The organisation engages an external agency to investigate the complaint as set out in the grievance procedure. The external agency makes some recommendations that the organisation adopts. Paolo is still unhappy and lodges a complaint with the OADC against both Stacey and the organisation. This is a situation where reasonable steps may have been taken and the organisation is not liable for Stacey’s conduct. However, Stacey will still be liable if discrimination is proven.

## Education and Training

The OADC provides training and education on discrimination and prohibited conduct covered by the Act.

Free Community Education sessions are available for not for profit organisations, schools and community groups.

Corporate Training can be tailored to suit any organisation to meet the needs of its employees, including Managers and Supervisors, to create a discrimination and harassment free workplace environment.

For more information on training see our Education and Training brochure or contact our training staff to discuss your training and education needs.

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