



To: Queensland Human Rights Commission

Anti-Discrimination Act Review

adareview@qhrc.qld.gov.au

Re: Anti-Discrimination Act Review

Ethnic Communities Council of Queensland

Written by Nicki Stacey, Senior Policy Officer

28 February 2022

Introduction

Ethnic Communities Council of Queensland (ECCQ) is the peak body for culturally diverse communities across Queensland. We have a member base of over 400 individuals and organisations and over 300 staff. ECCQ developed a survey for members and staff to complete in response to the anti-discrimination review. This survey focused on reporting and prevention of discrimination, the responses have been collated and presented below.

Discrimination still exists, our members and staff feel like it will never cease to exist. They express a loss of hope in the law and systems in place to protect and support. We welcome the review into the Anti-Discrimination Act, this has given a glimmer of hope to vulnerable and marginalised Queenslanders.

We believe a positive future is possible through strengthened laws, inclusive reporting processes and co-designed lived-experience education. ECCQ, our members and staff believe that there needs to be a shift in culture and attitudes. This will be strengthened through a proactive and preventative Anti-Discrimination Act.

Experiences of Discrimination

Our members and staff reported experiencing multiple forms and intersects of discrimination. This ranged from direct and indirect discrimination to systemic discrimination. They reported experiencing discrimination in the workplace, schools, and in retail settings. They reported experiencing discrimination due to characteristics of age, race, and gender. 73% of respondents said that they were not able to differentiate which characteristics were the cause of the discrimination, or if it was discrimination based on the intersecting characteristics.

Reporting

87.5% of respondents said that they did not report the incident of discrimination. Of those who did report the instance of discrimination, none reported having an outcome in their favour. Some responses regarding the reason for not reporting an incident of discrimination are as follows:

- I didn't know if it was serious enough to report. [indirect discrimination] is something that can be a regular occurrence
- I would imagine the QHRC would be busier with far more significant cases of discrimination.



ECCQ House
253 Boundary Street
West End Q 4101

PO Box 5916
West End Q 4101

p - 07 3844 9166
f - 07 3846 4453

administration@eccq.com.au

ABN 55 010 151 256



- Too complicated
- I didn't know I could report it

The perspective of Queensland's culturally diverse communities in reporting discrimination is that the process is complicated, time consuming and re-traumatising. The process requires trust in a system which has been the location and cause of the discrimination itself. For example, while employed in a government department. The hopelessness expressed in the introduction was seen in respondents when discussing reporting; those incidents of discrimination are an occurrence of everyday life which need to be brushed off as there is no possibility of retribution or change.

Complaints

Culturally diverse communities and particularly people with a refugee experience there is a power imbalance and natural fear of bodies of authority. Making complaints is not common practice due to the fear of retribution and the impact of intergenerational oppression. Overcoming this requires a complaints process to be supportive and trust to be built with the authority. There is often shame and stigma associated with experiencing discrimination and engaging in the complaints process.

Non written complaints

The complaint system and process is not culturally responsive or supportive. The significant underreporting of discrimination is a clear indication that the process is not supportive of people from culturally and linguistically diverse backgrounds. The most significant hurdle is that all complaints must be written. In addition to this information on the complaint process is written in English and requires tech literacy to navigate the QHRC website.

English is often an alternative dialect for people from culturally diverse backgrounds and dependent on an individual's migration journey and settlement experience may not have the comprehension of English to understand that complaint information and process. In addition, spoken and written English are different skills. Dependent on the same factors stated above the ability to write a complaint, in any language may not be possible. By complaints only being accepted in written form the Act is adding a layer of complexity which inadvertently further discourages people from diverse backgrounds from acting on an experience of discrimination.

We recommend that complaints can be submitted and accepted through audio and visual means, including through face-to-face transcribing. We support that complaints should be able to be submitted in a language other than English. However, we want to add a caveat that when translating or interpreting a complaint accredited interpreters should be used, with a secondary quality check and confirmation of the translation by the person making the complaint.

Support to lodge complaints

As discussed above, people from culturally diverse backgrounds can face specific barriers to reporting instances of discrimination. The complaint system which requires the individual to independently submit a complaint is not taking adequate steps to make it accessible for all. This is another factor which has resulted



ECCQ House
253 Boundary Street
West End Q 4101

PO Box 5916
West End Q 4101

p - 07 3844 9166
f - 07 3846 4453

administration@eccq.com.au

ABN 55 010 151 256



in underreporting of discrimination by culturally diverse communities. For individuals who often have a general mistrust in systems support is required to submit a complaint process. Overwhelmingly, all respondents support the statement that the Commission should be allowed to provide reasonable help to those who require assistance to lodge a complaint.

In addition, the intersectionality of instances of discrimination puts further barriers to successfully making a complaint. For those that require it, individuals should be provided support to understand the characteristic/s or basis of the discrimination which is required before the Commission is able to assess and respond. By providing support at the beginning stages the subsequent stages in the process will be achieved more efficiently. There is often a shame associated with making a complaint. This shame can be lessened if person is able to build a relationship with a person assisting them to make the complaint. In turn this will improve trust in the body of authority.

Timeframe to Lodge Complaints

There is shame and stigma of experiencing discrimination and further stigma when acting upon the discrimination through formal channels of complaint. The experience of discrimination itself can affect a person's opportunities, their well-being, and their sense of agency. This impact can affect a person to make a complaint and take formal action against discrimination.

The response from our survey regarding the timeframe to lodge complaints was mixed. The responses were that:

- 75% of responders felt that 1 year to lodge a complaint is appropriate.
- 15% of respondents suggested that 18 months is their preferred timeframe
- One respondent stated that there should be no timeframe to lodge a complaint.

To represent the broad views of the culturally diverse communities ECCQ suggests there should be a standardised time frame of 12 months with allowances for complaints lodged after this time. The varying experiences and impacts of discrimination have a timeframe which fits with all individuals. ECCQ recommends the development of a matrix or framework to assess complaints lodged outside the timeframe for the impact which has caused the lapse in time of lodgement. The implementation of a matrix will provide an additional level of equity.

Prevention

ECCQ, its members and staff wholly believe that prevention is key to long term systemic and behavioural change. The current reactive system plays an important role in achieving outcomes for individuals. This system may change the behaviour of one individual or workplace, but the negative impact has been experienced by the victim. Through preventative programs and projects, we can move towards eliminating discrimination entirely.



ECCQ House
253 Boundary Street
West End Q 4101

PO Box 5916
West End Q 4101

p - 07 3844 9166
f - 07 3846 4453

administration@eccq.com.au

ABN 55 010 151 256



Previous Experiences

Disappointingly only 27% of respondents to ECCQ's survey have been engaged in programs or projects which aim to prevent or educate on discrimination. Of these respondents none felt that the project they were part of was successful. They expressed that the projects were largely tokenistic and/or in response to a discrimination event at the workplace. One respondent discussed that the project they attended as a staff member for a government department was only delivered to tick a box and quell the experiences of discrimination by staff. It was also discussed that the delivery of projects in workplaces was tied to the human resources area developed and delivered by people without lived experience of discrimination.

Awareness and education are always more effective in creating systemic change than reactive consequences. Research shows that long-term outcomes of program-induced changes are due to social, cognitive, and behavioural processes that occur in participants when learning and understanding in safe social contexts.

Recommendations

System and community wide change starts with local level initiatives. Local level can be within a workplace, school, club, or neighbourhood. Prevention must be seen as a continuum, not a problem to be fixed in a few hours. A continuum means the group learning and growing together. Education is key, but specifically learning which promotes and celebrates differences as a positive. This can be achieved through creating a dialogue. Having a dialogue in a safe space will enable bridging across communities and intersections. This will have success with community-based prevention programs, developed and delivered by local people.

We want to take a strength-based approach through promoting values and the positive part of difference of culture. Effective and respectful ways to achieve this are as follows:

- Include people with lived experience of discrimination in the development and delivery of projects
- Co-design projects with people who have characteristics which are more vulnerable to discrimination
- Using international evidence-based practice with a lens to the Australian context.

ECCQ believes that prevention is the responsibility of the employers or leaders to invest in projects of professional development to eliminate discrimination. This can be a challenge particularly with not-for-profit organisations, local community and volunteer led initiatives. To enable said leaders and employers to invest in this we recommend:

- Government funding opportunities which aim to strengthen provisions for professional development
- All levels of Government to lead by example and deliver anti-discrimination projects that are co-designed, effective, and ongoing.



ECCQ House
253 Boundary Street
West End Q 4101

PO Box 5916
West End Q 4101

p - 07 3844 9166
f - 07 3846 4453

administration@eccq.com.au

ABN 55 010 151 256