



Information Package and Terms of Reference

**INQUIRY INTO WHETHER PERSONS
FROM CULTURALLY AND
LINGUISTICALLY DIVERSE
BACKGROUNDS AND ABORIGINAL
PEOPLE ARE DISCRIMINATED AGAINST
ON THE BASIS OF THEIR RACE EITHER
DIRECTLY OF INDIRECTLY IN THE
PRIVATE RENTAL MARKET**

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Terms of Reference

1. CONTEXT OF THE INQUIRY

The Commissioner for Equal Opportunity is appointed to administer the *Equal Opportunity Act 1984* (WA).

The purposes of the Act are set out in Section 3 as:

“to eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status or pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment, age or, in certain cases, gender history in the areas of work, accommodation, education, the provision of goods, facilities and services and the activities of clubs”.

In the exercise of the Commissioner’s powers in Section 80 of the *Equal Opportunity Act 1984* (WA), an inquiry into whether persons from culturally and linguistically diverse backgrounds (CALD) and Aboriginal people are discriminated against on the basis of their race either directly or indirectly in the private rental market was commenced with the release for comment of the Terms of Reference in February 2008.

Context of the Investigation

The Commissioner of Equal Opportunity has determined to conduct an inquiry into whether persons from minority racial groups (in particular Aboriginal and ethnic minority people) experience discrimination (direct or indirect) on the basis of their race in the private rental housing market. It will invite Aboriginal and ethnic minority people who believe they have suffered less favourable treatment in the private rental housing market to share these experiences with the Equal Opportunity Commission (EOC). The Commissioner will also invite comment from any other interested persons or groups.

To ensure that the potential diversity of experiences encountered by Aboriginal and ethnic minority people will be appropriately considered, the EOC will extend the scope of the inquiry to examine intersectional forms of racial discrimination. Specifically this would include experiences of racial discrimination that may occur at the intersection of one, or a number of other additional grounds identified within the *Equal Opportunity Act 1984* (WA), such as ‘race’ and ‘sex’, or ‘race’ and ‘sex’ and ‘impairment’.

The inquiry will also examine the possible causes and appropriate remedies for addressing any race-based discrimination identified in the private housing rental industry, including liaison and consultation with the private rental industry where appropriate.

The inquiry is also informed by three specific recommendations of the *Finding a Place Report* (Equal Opportunity Commission, Western Australia, December 2004) that relate to the private rental market and will provide a further reference for the inquiry. These three recommendations are as follows:

- /// Recommendation 52. The Inquiry noted that many submissions referred to the existence of racist attitudes in the private rental market and the effect this has on the capacity of Aboriginal prospective tenants to gain housing. The Inquiry recommends that DHW conduct training sessions to raise awareness of this.
- /// Recommendation 53. In view of the frequency with which Aboriginal people report race based discrimination in accessing the private housing rental market, the DHW to cease the practice of requiring that Aboriginal prospective tenants make multiple attempts to access the private rental market before the DHW will list these tenants for priority housing.
- /// Recommendation 54. That all DHW officers, including regional officers, be made aware of and required to follow the new policy of not including a requirement to provide evidence of trying to obtain private rental housing before being considered for priority assistance.

2. TERMS OF REFERENCE

The Equal Opportunity Commission to conduct an Investigation pursuant to S80 of the *Equal Opportunity Act 1984* into:

- (1) Whether persons from Culturally and Linguistically Diverse Backgrounds (CaLD) and Aboriginal people are discriminated against on the basis of their race either directly or indirectly in the private housing rental market;
- (2) The experiences of people from CaLD backgrounds and Aboriginal people who believe they have suffered less favourable treatment in the private housing rental market based on their race;
- (3) The possible causes and appropriate remedies for addressing race based discrimination in the private housing rental industry.

3. CONDUCT OF THE INQUIRY

The Inquiry will receive individual and organisation submissions.

The inquiry is not about resolving individual cases (although persons can quote their own experiences as an example), nor about issues that are outside the jurisdiction of the Commissioner for Equal Opportunity and the scope of the Terms of Reference.

Individual complaints will continue to be received and investigated by the Commissioner in the normal manner and completed in a reasonable time frame, either through conciliation or other powers of the Commissioner, including referral to the State Administrative Tribunal for hearing.

4. MAKING A SUBMISSION

Role of Community Organisations

The Commission recognises that individuals may need assistance in lodging submissions. In order to assist individuals to have their experiences of discrimination in the private rental market heard by the Commission, we are **asking** key ethnic minority and Aboriginal organisations to hold community forums with people who have allegedly experienced racial discrimination when trying to secure housing in the private rental market or as a tenant in private housing.

The aim of the community engagement forums is to enable people from ethnic minority and Aboriginal groups to provide evidence to the EOC of alleged race discrimination in the area of accommodation (private rental).

Information gathered at the community forums can then form the basis of organisation submissions to the inquiry.

Role of the Equal Opportunity Commission (EOC)

The EOC has limited resources for inquiries of this nature. We also recognise that many community organisations also have limited resources. Given these restraints, the EOC, through funds provided by the Office of Multicultural Interests, may be able to make available very limited financial resources to community organisations to assist in holding community engagement forums on an ‘as needs basis’ up to \$300 per forum. The priority for any financial assistance will be interpreting/translations costs, and will need to be arranged with the EOC prior to the date of the forum.

Community Advocates/Representatives Information Briefings

The Commission’s Community Education Unit will be holding briefing sessions for community organisations and advocates about the Inquiry in both metro and regional areas. Community sector briefings will also include a training component and will cover the following topics:

1. How the Inquiry came about
2. Purpose and rational underpinning the Inquiry
3. Terms of Reference
4. Conduct of the Inquiry
5. How to make an organisation or individual submission
6. Confidentiality
7. Report to Parliament
8. What constitutes direct and indirect race discrimination in accommodation and will include case studies
9. Legal obligations of Owners, Real Estate agents and other accommodation providers in the private and community sector

The dates and locations for these Information Briefings are outlined below. Further details and information flyers are available on the Equal Opportunity's website located at www.equalopportunity.wa.gov.au and in other media.

If you wish to participate in an Information Briefing but have missed the announcement and have not heard about the dates by the end of July 2008, please contact the Commission.

Real Estate Agent/Representatives Information Briefings

In addition to briefings for non governmental community organisations, the Equal Opportunity Commission will also be conducting briefing sessions for real estate agents and representatives in both the rural and metro areas and will cover the topics as outlined above.

Timetable

Deadline for receiving written Submissions: **30 September 2008 (Metro)**
17 October 2008 (Regional)

Information Briefings:

Regional

1. Albany 18 July 2008
2. Kalgoorlie 22 July 2008
23 July 2008
3. Geraldton 29 July 2008

Metropolitan

1. Mirrabooka 10 July 2008
2. Gosnells 16 July 2008
3. Mandurah 25 July 2008
4. CBD 31 July 2008
15 August 2008

Draft report:

31 October 2008

Final report:

3 December 2008

Submission Forms

A '**Submission Form for Individuals**' and a '**Submission Form for Organisations**' contain questions that cover the core of the Investigation. You may choose to focus on one or more of the questions covered in the Submission Forms.

If you do not wish to use the Submission Forms, you can present your Submission in any way you choose (e.g. by writing a letter or orally by contacting the Commission or attending a Community Information Briefing). The questions in the Submission Form may help you to organise your Submission.

If you can provide an electronic copy of your Submission, it would be appreciated, but it is not essential.

How can I get a Submission Form?

You can obtain a Submission form:

- by downloading it from the Commission's website located at www.equalopportunity.wa.gov.au;
- by contacting the Commission by telephone on 9216 3900 or 1800 198 149 (free call outside the Perth metropolitan area) and asking for either Debra or Pauline; and/or
- by sending an email to eoc@equalopportunity.wa.gov.au.

How can I make an oral Submission?

You can make a Submission:

- by taking part in one of the Community Consultation Forums which key Community Organisations will be hosting.
- by contacting the Commission by telephone on 9216 3900 or 1800 198 149 (free call outside the Perth metropolitan area) to seek advice on how an oral submission can be made.

Closing date for Submissions

The deadline for receiving submissions is:

Metropolitan - **close of business Tuesday 30 September 2008.**
Regional - **close of business Friday 17 October 2008.**

5. CONTACT DETAILS

For further information, you can contact staff at the Equal Opportunity Commission:

By Telephone: (08) 9216 3900
1800 198 149 (free call outside the Perth metropolitan area)

By TTY¹: (08) 9216 3936

By Email: eoc@equalopportunity.wa.gov.au

By Fax: 9216 3960

By Mail: Commissioner for Equal Opportunity
Private Rental Inquiry
PO BOX 7370
Cloisters Square
PERTH WA 6850

¹ Telephone Typewriter.

6. SECTION 3 EQUAL OPPORTUNITY ACT - OBJECTS

Objects

S.3 The objects of this Act are -

- (a) to eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status or pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment, age or, in certain cases, gender history in the areas of work, accommodation, education, the provision of goods, facilities and services and the activities of clubs;
- (b) to eliminate, so far as is possible, sexual harassment and racial harassment in the workplace and in educational institutions and sexual harassment and racial harassment related to accommodation;
- (c) to promote recognition and acceptance within the community of the equality of men and women; and
- (d) to promote recognition and acceptance within the community of the equality of persons of all races and of all persons regardless of their religious or political convictions or their impairments or ages.

7. SECTION 80 EQUAL OPPORTUNITY ACT - GENERAL FUNCTIONS OF THE COMMISSIONER

General functions of Commissioner

S.80 For the purposes of eliminating discrimination on the ground of sex, marital status, pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment or age, eliminating discrimination against gender reassigned persons on gender history grounds, as far as possible, sexual harassment and racial harassment at work, in educational institutions or related to accommodation, and promoting recognition and acceptance within the community of the principle of equality of men and women and of persons of all races and of all persons regardless of their religious or political conviction, the Commissioner may -

- (a) carry out investigations, research and inquiries relating to discrimination or sexual or racial harassment of the kinds rendered unlawful under this Act;
- (b) acquire and disseminate knowledge on all matters relating to the -

- (i) *elimination of discrimination on the ground of sex, marital status or pregnancy, family responsibility or family status, race, religious or political conviction, impairment or age and eliminating discrimination against gender reassigned persons on gender history grounds;*
 - (ii) *elimination of sexual harassment and racial harassment at work, in educational institutions or related to accommodation; and*
 - (iii) *achievement of the principle of equality of men and women and of persons of all races and all persons regardless of their religious or political convictions, their impairments or their ages;*
- (c) *arrange and coordinate consultations inquiries, discussions, seminars and conferences;*
- (d) *review, from time to time, the laws of the State;*
- (e) *consult with governmental, business, industrial and community groups in order to ascertain means of improving services and conditions affecting a person or persons who are subject to discrimination on the ground of sex, sexual orientation, marital status or pregnancy, family responsibility or family status, race, religious or political conviction, impairment or age or who being a gender reassigned person or persons are subject to discrimination on gender history grounds or who are subject to sexual or racial harassment;*
- (f) *develop programmes and policies promoting the achievement of the principle of equality between men and women, persons of all races and all persons regardless of religious or political conviction, impairment or age;*
- (fa) *subject to section 167, publish any written reports compiled in the exercise of the powers conferred on the Commissioner by this section and section 82;*
- (g) *perform -*
 - (i) *any function conferred on the Commissioner by any other written law;*
 - (ii) *any function conferred on the Commissioner under any arrangement in force under section 7;*

- (iii) any function conferred on the Commissioner under any Act of the Commonwealth, being a function that is declared by the Minister, by notice published in the Gazette, to be complementary to other functions of the Commissioner; and
- (h) do anything conducive or incidental to the performance of the functions conferred or imposed on the Commissioner under this section.