

BE STRONG use your rights!

A Guide for the Koori Community

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**PART 1: dealing with
discrimination in shops,
supermarkets, hotels,
and with security officers**

Insert comic 10

Has something like this happened to you?

Have you been discriminated against in shops, supermarkets or in the shopping mall or the shopping centre?

If you have been subjected to racial discrimination or racial vilification, be strong! There are people who will help you if you want to take action or make a complaint.

Kooris have the right to be treated just like anyone else when they are buying things. You don't have to put up with being ignored, spoken down to or treated badly because you are Koori. You don't have to put up with racial discrimination or racial vilification in any shape or form.

There are laws to protect you and people who can help.

What is racial discrimination?

Racial Discrimination is treating someone less favourably because of their race, colour, descent or national or ethnic origin. Racial discrimination is an offence in Victoria. The *Racial Discrimination Act (Cth)* and *Equal Opportunity Act (Vic)* aim to protect you against racial discrimination.

What is racial vilification?

Racial vilification is behaviour that incites hatred against, serious contempt for, revulsion or severe ridicule of a person because of their race or religion. The *Racial and Religious Tolerance Act (Vic)* says that people engaging in racial vilification can be fined or gaoled or both.

Laws to protect the rights of consumers cover:

- The right not to be singled out and discriminated against, or be on the receiving end of racial prejudice because you are Koori
- The right to a high standard of service in shops, supermarkets and department stores
- The right to be served by people in the service industry who are trained, culturally aware and who treat people with respect as part of their customer service
- The right to complain and seek compensation for unfair and discriminatory practices

There are plenty of other rights of consumers covered by law, such as being able to get your money back if the goods you purchase are faulty. If you need help with a consumer problem that doesn't involve Racial Discrimination or Racial Vilification you can contact Consumer and Business Affairs Victoria 03 96276454. This guide deals only with the rights of consumers if they are discriminated against because they are Koori.

Joan and Esmail went into the chemist to see if they could find the kind of lipstick they wanted to buy. The shopkeeper asked them to move on as they didn't allow people to browse unless they were going to buy something.

Bill was followed inside the store by a plain clothes security guard who was watching his every movement. Bill felt he had no privacy to make decisions about buying anything and believed he was being unnecessarily harassed.

Jill was asked to show the shopkeeper what was inside her shopping bag. Her white friend wasn't asked to do this.

Garry and John were asked to move on by a security guard at the shopping mall. They had merely been looking in the shop windows while out for a stroll.

What else should I know about racial discrimination and racial vilification?

Shopkeepers, publicans, supermarket employees, traders and waiters often get away with acting illegally or unprofessionally because people don't take action against them. People have experienced discrimination because of their race, but other people such as people with disabilities, mothers with children, elderly and unemployed people can also be discriminated against.

It is easier to do something if the discrimination is direct - racist language used against you, or not being served in a shop because the shopkeeper says they don't serve Kooris or prevent Kooris from coming into their shop. But it is also discrimination if nothing is actually said, and you have good reasons to believe that you have been ignored because you are Koori. This is known as indirect discrimination.

Whatever form of discrimination you experience, it is important that you do something about it, or nothing will change!

Insert Comic 11

What can I do if I experience racial discrimination or racial vilification in a shop or shopping centre?

1. Stay cool

- Don't react without taking time to think about the situation.
- Don't swear or be rude to the person or people who have offended you, in case it gives them an excuse to treat you badly again.
- If you can stay cool, you might want to speak to someone in a higher position - such as the shop owner, the manager of the hotel etc. You may want to tell them that you are not happy with the treatment you have received. But stay cool.

2. Talk to someone you trust

- Talk to a family or community member, an Elder, your teacher, a community worker or a friend. Talking is important to get clear in your mind what has happened. But don't talk yourself out of taking action against the person or organisation that has wronged you!
- Write down what happened or get someone to help you write down what happened as soon as possible while the events are still fresh in your mind. (See section four below.)

3. Contact the Client Services Officer from the Victorian Aboriginal Legal Service, or a support worker at the Co-op in your area

Ask the support person you have contacted to help you write down what has happened in detail. Make sure you include this information:

- What exactly happened? Were you assaulted physically or verbally? What was said or done, and by whom? What did you say or do?
- Names of the people involved - their contact numbers and addresses?
- Dates? Times? Places?
- Witnesses - names and contact numbers?
- If you have been discriminated against more than once by the same person or organisation, when did it start and how often has it happened?
- Have the police been involved? If so, what are the names of the police officers and where are they stationed? Make sure you keep these notes!

The support person can also:

- Help you get advice from a lawyer in case you need legal support.
- Put you in contact with the Koori Support Worker/Complaints Adviser at the Equal Opportunity Commission, or Consumer and Tenancy Advisers. (See list of phone numbers at the back of this guide.) They can help you see where you stand in relation to the law and your rights, and help you work out what to do. Make this contact as soon as you can.

Insert Comic 8

4. Go to the doctor immediately if you are hurt or upset

- Ask the doctor to make a record of your physical and emotional state, and what you tell them you are concerned about.
- Make a note of the names of doctors, specialists, counsellors you speak to and hospitals you go to.
- Make a note of the dates and times when you go there.
- Keep any X-rays, photographs taken and names of medications prescribed.

5. Decide what you want to happen

What would make your situation better? Here are some ideas:

- Would you like to be able to go into this shop, supermarket or hotel and be served like anyone else?
- Would you like the person serving you to apologise to you for their behaviour?
- Would you like the business - shop, supermarket etc - to be have to be answerable for their poor practice?

What can happen depends on the situation. But you need to think about it so that you can decide what to do about it. Talk to the Client Services Officer from the Victorian Aboriginal Legal Service or your support worker. The Koori Support Worker/Complaints Adviser from the Equal Opportunity Commission or the Consumer and Tenancy Adviser may also help you to decide about your options. (See list of phone contacts at the end of this booklet.)

Turn to page 15 for “Deciding which path is best for me?”

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**Part 2: Dealing with
Discrimination by Real
Estate Agents and Property
Managers or Owners**

Insert Comic 6

Has something like this happened to you?

Have you been discriminated against by a real estate agent or property owner when you've been looking for rental accommodation - flats, houses, caravans, camping sites, boarding houses, hostels, rooming houses, hotels or motel rooms?

If you have been subjected to racial discrimination or racial vilification, be strong! There are people who can help you if you want to take action or make a complaint.

Kooris have the right to be treated just like anyone else looking for rental accommodation. You don't have to put up with being spoken down to or treated badly because you are Koori.

There are laws to protect people looking for rental accommodation and people who can help.

What is racial discrimination?

Racial Discrimination is treating someone less favourably because of their race, colour, descent or national or ethnic origin. Racial discrimination is an offence in Victoria. The *Racial Discrimination Act (Cth)* and *Equal Opportunity Act (Vic)* aim to protect you against racial discrimination.

What is racial vilification?

Racial vilification is behaviour that incites hatred against, serious contempt for, revulsion or severe ridicule of a person because of their race or religion. The *Racial and Religious Tolerance Act (Vic)* says that people engaging in racial vilification can be fined or gaoled or both.

Laws to protect the rights of Kooris and anyone else looking for rental accommodation cover:

- The right not to be discriminated against by real estate agents and property owners no matter who you are. Real estate agents and property owners should not discriminate against your race, religion, skin colour, physical features, culture, sex, age, marital status, parental status, political beliefs, nor against who you mix with, the way you speak, what you wear.
- The right not to be subjected to racist abuse or have to listen to racist comments, nor to have to see racist posters, pictures or slogans in a public place.
- The right to be treated fairly at all times by real estate agents. They should have policies and procedures to make sure racial discrimination and racial vilification does not occur.
- The right not to be asked questions about your personal characteristics protected by law, such as your race or religion.
- The right to be asked only the questions which are directly relevant to renting or selling a property. For example, you could be asked questions about your ability to pay the agreed rent and to look after the property etc.
- The right to be faced with advertisements in the newspaper about accommodation that do not intend to discriminate against you or anyone.

Insert Comic 7

Lisa was told by the real estate agent that she could rent a house she had looked at. When she arrived at the house to show her mother, the owner was there making some last minute renovations. Later she was contacted by the real estate agent and told that her application was not successful.

Daniel expressed interest to the local real estate agent in renting a property. After giving the real estate agent details of where he was currently working, at Rumbalara Co-op, the real estate agent indicated that there were no properties available.

Margaret had been seeking help from the local real estate agent to look at rental property. She noticed that all the properties she was being shown were run down and old. When she asked about this, she was told that these properties were the only ones available.

What else should you know about racial discrimination and racial vilification?

Landlords and real estate agents often get away with acting illegally or unprofessionally because tenants and people looking for accommodation don't take action against them. People have experienced discrimination because of their race, but other groups such as large families, single parents, people who are unemployed, people with disabilities can also be discriminated against.

It is easier to do something if the discrimination is direct - racist language used against you, or if you are told a certain flat or house for rent is not available to Kooris. But it is also discrimination if nothing is actually said, and you have good reasons to believe that accommodation is being withheld from you because you are Koori.

Whatever form of discrimination you experience, it is important that you do something about it, or nothing will change!

What can I do if I experience racial discrimination or racial vilification at the real estate agents?

1. Stay cool

- Don't react without taking some time to think about your situation.
- Don't swear or be rude to the person or people who have offended you, in case it gives them an excuse to treat you badly again.
- If you feel you can stay cool, you might want to speak to someone such as the manager in the real estate agent where you experienced the discrimination. You might want to tell them on-the-spot that you are not happy with the treatment you have received. But stay cool!

2. Talk to someone you trust

Talk to a family or community member, your teacher, a community worker or friend. Talking is important to get clear in your mind what has happened. But don't talk yourself out of taking action against the person or organisation that has wronged you! Write down what happened or get someone to help you write down what happened while the events are fresh in your mind.

3. Contact the Client Services Officer from the Victorian Aboriginal Legal Service, or a support worker at the Co-op in your area

Ask the support person you have contacted to help you write down what has happened in detail. Make sure you include this information:

- What exactly happened? Were you assaulted physically or verbally? What was said or done, and by whom? What did you say or do?
- Names of the people involved - their contact numbers and addresses?
- Dates? Times? Places?
- Witnesses - names and contact numbers?
- If you have been discriminated against more than once by the same person or organisation, when did it start and how often has it happened?

- Have the police been involved? If so, what are the names of the police officers and where are they stationed? Make sure you keep these notes!

The support person can also:

- Help you get advice from a lawyer in case you need legal support.
- Put you in contact with the Koori Support Worker/Complaints Adviser at the Equal Opportunity Commission, or Consumer and Tenancy Advisers. (See list of phone numbers at the back of this guide.) They can help you see where you stand in relation to the law and your rights, and help you work out what to do.

4. Go to the doctor immediately if you are hurt or upset...

- Ask the doctor to make a record of your physical and emotional state, and what you tell them about the discrimination you have experienced.
- Make a note of the names of doctors, specialists, counsellors, hospitals you go to or speak to.
- Make a note of the dates and times when you go there.
- Keep any X-rays, photographs taken and names of medications prescribed.

5. Deciding what you want to happen ...

What would make your situation better? Here are some ideas:

- Would you like to be able to go into this real estate agent and be treated the same as anyone else?
- Would you like the real estate agent to make an apology to you for their behaviour?
- Would you like the real estate agent to have to be answerable for their poor practice?
- What can happen depends on the situation. But you need to think about it so that you can decide what to do about it.

Talk to the Client Services Officer from the Victorian Aboriginal Legal Service or your support worker. Information from the Koori Support Worker/Complaints Adviser from the Equal Opportunity Commission or the Consumer and Tenancy Adviser may also help you to decide about your options. (See list of phone contacts at the end of this booklet.) The next section outlines different paths of action.

Insert Comic 8

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use your rights!

**Part 3: A guide to deciding
which path of action is
best for you**

Insert Comic 7

Have you been subjected to racial discrimination or racial vilification?

Which path of action is best for me?

1. Dealing directly with the person/s involved?
2. Using a complaints process, tribunal or court?
3. Telling other organisations and asking them to take action?

Whatever you do talk about the options: act as soon as you can!

1. Dealing directly with the person/s involved

You can discuss this option with the Koori Support Worker/Complaints Adviser from the Equal Opportunity Commission, the Consumer and Tenancy Adviser or the Client Services Officer from the Aboriginal Legal Service, or support worker from the local Co-op, or someone you trust to help you prepare for handling the situation yourself.

Once you are ready to go ahead, you can:

- Phone or go to the real estate agent, shop, supermarket etc. and ask to speak to the manager or someone who can do something about your concerns
- If you are going to speak to them in person, take a trusted friend or community person with you.
- Stay cool. Don't do or say anything when you are angry.
- Explain clearly how you have been discriminated against, what you know about your rights and their responsibilities, and how you feel about the discrimination you experienced.
- Tell them what you would like to happen. You may have decided you want an apology in writing or in person. You may want them to reprimand the person who offended you. Or you may want them to prove to you it will not happen again.
- Write down what they have said to you and what you have said.
- Ask them to get back to you by a certain time, to let you know what they have done.
- Keep a record of their name and contact number.
- Decide, is this what you wanted to happen?

What might happen if I handle the situation myself ...

- You may get the response you want - an apology, a guarantee that it won't happen again etc.
- You might find that you get nowhere and the discrimination persists. The person you spoke to may have been rude to you, or ignored you.
- You may decide the best thing to do is to make a formal complaint with the Equal Opportunity Commission.

2. Using a complaints process, or tribunal or court

(i) Making a complaint to the Equal Opportunity Commission

How to make a formal complaint:

First, contact the Client Service Officer at Victorian Aboriginal Legal service to put you in contact with the Koori Support Worker/Complaints Adviser at the Equal Opportunity Commission.

They will discuss with you:

- Whether the treatment you have experienced is in fact unlawful.
- Whether there is evidence to prove that it happened.
- Whether the Equal Opportunity Commission is the best place for you to be getting help with the discrimination you have experienced.

The Koori Support Worker/Complaints Adviser can:

- Answer your questions
- Help you write up a formal statement about your complaint for the Equal Opportunity Commission.
- Discuss with you the legal advice you are given.
- Guide you through the rest of the Equal Opportunity Commission complaints process.

What happens next?

- Your concerns will be assessed by the Commission. If you have a complaint it will be investigated and you may be required to provide more information.
- If your matter goes to a conciliation conference at the Equal Opportunity Commission, you and your supports - lawyer, Elder, family/community members, support worker - may be required to attend.
- If your matter raises issues of serious racial or religious vilification, it will be referred to the police for investigation.

What you need to know about conciliation:

- If you are going to proceed with your complaint, you do not have to do it by yourself.
- The conciliation conference aims to make it possible for you and the person you are complaining about to come to an agreement that you are both happy with.
- They may try to get a settlement agreed between you and the person you are complaining about without you having to attend a conciliation conference.
- If you attend a conference, the conciliator will make opportunities for you and the person you are complaining about to discuss any concerns you might have.
- It might take a few months to complete the whole complaints process.
- You can withdraw your complaint at any time.
- You may or may not be given copies of any documents the person you are complaining about gives the Commission. The person you are complaining about will be given your statement.
- Making a complaint to the Equal Opportunity Commission is FREE.
- All complaints are treated as CONFIDENTIAL.

What might happen after the conciliation conference?

If you and the person/organisation you have complained about come to an agreement:

- You may receive an apology or an agreement that they will change their behaviour.
- You may receive financial compensation.
- If you do not come to an agreement:
 - You can withdraw your complaint.
 - You may continue with your complaint to VCAT (Victorian Civil & Administrative Appeals Tribunal) for a formal hearing. You can discuss this with the support workers and the Aboriginal Legal Service.

(ii) Report racial discrimination or racial vilification to the police.

- If you have experienced racial discrimination or racial vilification and you are afraid for your safety or if you believe your safety is threatened, you should contact the police.

You can:

- Ask the Client Service Officer at the Victorian Aboriginal Legal Service to go with you to the police to report the person who discriminated against you.
- Take the notes you have made and be clear about what has happened when you make your statement to the police.
- Take the matter seriously.
- If, after you have made your statement with the police and you haven't heard within 14 days, contact the police again or contact the Koori Support Worker/Complaints Adviser at the Equal Opportunity Commission.

What will the police do?

- The police will investigate the matter of serious racial vilification you have been subjected to.
- If the police find there has been serious racial vilification, you will be notified and may be required to attend court. A Client Services Officer or support worker can attend with you.

What might happen if you make your complaint to the police?

Depending on the seriousness of the offence, the person or organisation you have complained about may receive a fine or a prison sentence, or both.

3. Telling other organisations and asking them to take action

(i) Group Action

You may not want to do anything on your own about the discrimination you have experienced by real estate agents or shopkeepers. You might know of other Kooris who have experienced the same kind of discrimination. You might believe that making a complaint won't help you, or that the law is not strong enough to assist you.

You can:

- Call a meeting of other Kooris who have been discriminated against by real estate agents or shopkeepers. If you would like help to do this, contact Rumbalara Co-op, a counsellor, the Community Legal Education Unit at the Aboriginal Legal Service or ATSIC and ask them to help you organise a community meeting.
- Elect someone to contact the Client Services Officer, Community Legal Education or the Equal Opportunity Commission so that you can get legal information and access to a solicitor for legal advice if you need it.
- Organise speakers who can provide your group with information about legal rights and the law about racial discrimination.

What might happen if you organise group action about racial discrimination or racially vilifying behaviour?

- Your group may form a strong voice for fair treatment by the shopkeepers etc.
- Your group may get access to information about your rights and the law about discrimination to assist your community.
- Your group may be able to organise support and information for other Kooris who are experiencing the same discriminatory treatment.
- Where the law doesn't protect you and your community, your group may be able to assist VALS with information it needs to influence government policy.

(ii) Record your concerns about racial discrimination and racial vilification on the VALS complaints register

You might feel that you do not want to take any action, but still want to do something about the discrimination you have experienced. By recording your concerns on the Victorian Aboriginal Legal Service complaints register, you will assist the Service with information it requires to influence government policy. You will be contributing to change that will affect your community for the better.

All documentation lodged on the VALS complaints register will be treated as CONFIDENTIAL.

You can:

- Contact the Client Service Officer and tell him or her about the discrimination or racially vilifying behaviour you have experienced by real estate agents and property owners etc.
- Ask the Client Service Officer for the VALS complaints register form and to help you fill it out. It will be easy to do especially if you have made your notes.

The Aboriginal Legal Service will be working towards making some changes for the better about the racial discrimination and vilification Kooris experience, and helping community to make effective complaints