

## What happens when you make a complaint?

1. When you contact the Ombudsman Commission an officer will take down all the relevant information about your complaint.
2. This officer will check whether the Commission has the power to investigate your complaint. If we cannot investigate, we usually refer your case to an agency that can.
3. If the Commission approves your case for investigation, we may ask you for more supporting information like letters or other documents.
4. The Ombudsman Commission will contact the relevant agency or department to hear what they have to say about your complaint. Many complaints are resolved at this stage.
5. If the cause of the problem is not clear and no solution is offered, we will investigate further. We have the power to call on the head of Department to produce all files, documents and relevant papers relating to your complaint. We can summon any person to give evidence in connection with the investigation.
6. We provide opportunity for anyone against whom adverse findings are likely to be made to be heard or to defend themselves. This can take time.
7. Once we are satisfied we have found out as much as we can about the case, the Commission writes a final report containing findings, opinions and recommendations about the matter.
8. When the investigation is complete, the investigating officer will notify you of the outcome.

### Head Office

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#### Mt Hagen Regional Office

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ANTI-DISCRIMINATION & HUMAN RIGHTS UNIT  
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## Ombudsman Commission Of Papua New Guinea

# Anti-Discrimination & Human Rights

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## WHAT IS THE DISCRIMINATION

Discrimination is when someone is not treated fairly as someone else in a similar situation; treated differently because they are different in some way.

Discrimination also means “any distinction, exclusion, restriction or preference based on race, color, sex, language, religion, political and other opinion, national or social origin, property, birth or other status which has the purpose of nullifying or impairing.”

The Anti-Discrimination and Human Rights Unit (ADHRU) of the Ombudsman Commission (OC) was created on 31st, December, 2005 under a UNDP-funded project.

## WHAT IS THE ANTI-DISCRIMINATION AND HUMAN RIGHTS

The aim is to strengthen the Commission’s capacity to observe Papua New Guinea’s international human rights protection mechanism. One of the primary functions of Ombudsman Commission under the *Constitution* is the discriminatory practice function.

Section 219 (1)(c) of the *Constitution* gives OC the power:

**...to investigate, either on its own initiative or on complaint by a person affected, any case of alleged or suspected discriminatory practice within the meaning of a law prohibiting such practices**

### Objective of ADHRU

Section 218 (b) of the *Constitution* sets out the objective of the Commission:

**To help in the improvement of the work of governmental bodies and the elimination of unfairness and discrimination by them.**

There are two laws which prohibit discriminatory practices; the Discriminatory Practices Act (DPA) and the HIV/AIDS management and Prevention Act (HAMP Act).

Both of these Acts apply to discrimination within the public and private sectors and any investigation in regard to these would be conducted under the principles set out in the *Organic Law on the Ombudsman Commission (OLOC)*.

Human Beings should not be discriminated as they have

## WHAT ARE HUMAN RIGHTS?

rights which should be legally enforceable to protect them from undue interferences to their person and property.

Human Rights are commonly understood as being rights which are basic or permanent to human being.

The concept of human rights acknowledges that every single human being is entitled to enjoy their human rights without discrimination.

Division 3 of the PNG *Constitution* sets out a bill of Rights:

- Right to Life
- Right to Freedom
- Right to privacy
- Right to vote and stand for public office
- Freedom from Inhuman Treatment
- Protection of the Law
- Liberty of the Person
- Freedom from Forced Labor
- Freedom from arbitrary search and entry
- Freedom of expression
- Freedom of assembly and association
- Freedom of employment

These Rights and Freedoms are:

- **Inherent:** Every human being possesses them from being human beings.
- **Inalienable:** they are NOT privileges and no one can take those rights away from you.
- **Indivisible:** they cannot be separated from each other.
- **Interdependent:** having one right may depend on having other rights.
- **Reciprocity:** We all have rights, but must also recognize that all other people have the same rights.

## Who are Right Holders and Duty Bearers?

All human beings are Right Holders, whether citizen or non citizen and the Government is the ultimate Duty Bearer who should ensure that constitutional rights are protected and realized.

Responsible agencies of the State have the duty to respect these rights.

It is important to identify the Duty Bearer to impose accountability on them for their actions. In order for Right Holders to demand accountability they first have to be empowered with the necessary information and knowledge.

## KEY INTERNATIONAL HUMAN RIGHTS INSTRUMENTS RATIFIED BY THE PNG

- Universal Declaration of Human Rights (UDHR 1948)
- International Covenant on Civil and Political Rights. (ICCPR 1966)
- International Covenant on Economic, Social and Cultural Rights. (ICESCR)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The Convention on the Rights of the Child (CRC)
- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Prohibition of discrimination under international conventions:

Article 2 of UNHR (1948) affirms:

**“Everyone is entitled to all the rights and freedoms Set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political and other opinion, national or social origin, property, birth or other status”.**