

### Complaint from Mr David Thomason against Koala Net

The Human Rights and Equal Opportunity Commission (HREOC) has received the above complaint. The complaint alleges racial hatred under the Racial Discrimination Act 1975 (RDA).

The President is currently inquiring into this complaint under the Human Rights and Equal Opportunity Commission Act 1986 (HREOCA).

### The complaint

Mr Thomason states that he is of English origin and claims that the use of the terms "Pom", "Pommy", "Pommy bastard", "Pommy shower" and "Pommy's towel" along with their definitions in the "Australian slang dictionary" published by Koala Net amounts to an act of racial hatred against English people because they are "racial slurs".

I enclose a copy of the complaint for your information and copies of sections 18C and 18D of the RDA which appear relevant to the complaint.

### How complaints are handled

Under the HREOCA, the President is required to inquire into and attempt to conciliate complaints.

This letter is to advise you of the complaint and seek your advice on whether you would be prepared to resolve this matter informally and quickly by conciliation. I note during my telephone conversation with Mr Thomason today, he advised that he is seeking the removal of the terms and the definitions complained of to resolve this matter.

If you would like to discuss options for resolving the complaint before providing a written response, please contact me on within fourteen (14) days of receipt of this letter on (02) 9284 9658 or send me an email at [deleted@humanrights.gov.au](mailto:deleted@humanrights.gov.au).

Please note that if the matter cannot be resolved at this stage, you will still have the opportunity to provide a written response to the complaint.

More information on HREOC's complaint process is enclosed with this letter. It is important that you read these documents. Additional information is provided on the Complaints page of HREOC's website at [www.humanrights.gov.au](http://www.humanrights.gov.au).

### Response to the complaint

If you do not wish to discuss possible conciliation at this time, please provide a written response to the allegations in the complaint. In particular, please respond to the following questions and requests.

1. Provide your comments on Mr Thomason's allegation that the use of the terms "Pom", "Pommy", "Pommy bastard", "Pommy shower" and "Pommy's towel" along with their definitions in the "Australian slang dictionary" published by Koala Net amounts to an act of racial hatred against English people including him.
2. Section 18D of the RDA contains exemptions in relation to a breach of section 18C. Specifically, section 18D does not render unlawful anything said or done reasonably and in good faith:
  - (a) in the performance, exhibition or distribution of an artistic work; or
  - (b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or
  - (c) in making or publishing:
    - (i) a fair and accurate report of any event or matter of public interest; or
    - (ii) a fair comment on any event or matter of public interest if the comment is an expression of a genuine belief held by the person making the comment.

If you consider the use of the terms and definitions complained of may be covered by this exemption please provide your detailed submissions for claiming so.

Please provide two (2) complete copies of the written response within twenty-one (21) days of the date of this letter.

Please note that it is usual for HREOC to provide the person making the complaint ('the complainant') with a copy of the written response. I have also given the complainant a copy of this letter.

If a complaint cannot be conciliated, or is terminated for some other reason, the complainant may apply to the Federal Magistrates Court or Federal Court of Australia for the court to decide the allegations of unlawful discrimination. If the complainant makes an application to the court, HREOC may also include your response in a report to the court.