



Section 51 – A Guide for Applicants

What is Section 51 of the Equal Opportunity Act 1984 (the Act)?

The Western Australian *Equal Opportunity Act 1984* (the Act) recognises that equal opportunity is not necessarily achieved by treating everyone the same. The objective of the Act is to promote equality of opportunity and eliminate discrimination for individuals, wherever possible. The Act also recognises that in certain circumstances discrimination, which would otherwise be unlawful, can be used positively to further meet the objects of the Act. Section 51 of the Act is a measure intended to achieve equality related to race. It affords a person of a particular race access to facilities, services or opportunities to meet their special needs in relation to employment.

Why is Legal Aid Western Australia using Section 51?

Legal Aid Western Australia (LAWA) is committed to increasing First Nations employment in order to better reflect the diversity of our community. We aim to become an organisation of choice for First Nations People to work in, and receive culturally secure services from. For this reason, LAWA is using Section 51 of the Act to provide employment and career opportunities to First Nations people. LAWA's commitment is underpinned by our First Nations Strategic Plan and Reconciliation Action Plan.

What is the difference between Section 50(d) and Section 51?

Section 51 provides an organisation with the ability to advertise jobs targeting a racial group; however, applicants not of the specified racial group may still apply for the opportunity where specified in the advertisement.

Section 50(d) applies when an organisation identifies that service provision to people of a particular race, is best provided by a person of the same race. Therefore, it is a genuine occupational qualification for the position and only applicants of that racial group may apply.

How will applicants know when Section 51 applies to a selection process?

Specific wording/badging will be used in the advertising of positions to alert potential applicants that Section 51 is to apply to candidates being targeted.

Are First Nations applicants assessed differently in a Section 51 selection process?

All applicants must be assessed equitably against the selection criteria and meet the minimum requirements therein. However, Section 51 provides us with the opportunity to preference First Nations candidates.

How does Legal Aid WA identify First Nations applicants?

As part of the recruitment process, applicants will need to identify themselves as being of Aboriginal or Torres Strait Islander descent.

Where can I find more information on how to apply Section 51?

To find out more about Section 51 of the Act, please see below:

- Equal Opportunity Commission www.eoc.wa.gov.au
- Public Sector Commission www.psc.wa.gov.au
- Director of Equal Opportunity in Public Employment www.psc.wa.gov.au/deope
- Equal Opportunity Act 1984 www.legislation.wa.gov.au