

Section 51 – Measure to achieve equality

Equal opportunity in public employment

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.

What is Section 51 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 DMPE using Section 51?

Achieving a diverse workforce remains a long-term objective of DMPE. This equality measure has been selected to achieve the diversity outcomes sought by the DMPE and in line with [Public Sector Employment Outcomes 2020 – 2025](#). DMPE is committed to increasing workforce representation of Aboriginal and Torres Strait Islander people at the department.

How do you decide if an applicant is Aboriginal?

Applicants will need to identify themselves as being of Australian Aboriginal or Torres Strait Islander descent as part of the recruitment process. Applicants will be asked to provide confirmation of this to ensure that the intention of Section 51 is upheld.

Is this lawful?

Yes, the Equal Opportunity Act 1984 (WA) is an act of legislation, and the specific section of this Act provides for organisations to implement this measure. It is lawful to discriminate in favour of a group of people in order to provide these people with the same opportunities as other people, in the areas of life covered by the Act.

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

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

Section 50(d) applies when a Department 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 qualification for the position and only applicants of that racial group may apply.

Why apply Section 51 to selection processes?

It is anticipated that a Section 51 selection process, will attract a greater number of applications from Aboriginal members of community, thereby increasing the possibility that an Aboriginal person may be appointed.

Are Aboriginal 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, in cases where more than one applicant meets the criteria, preference can be given to an applicant who has declared they are of Aboriginal descent.

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

To find out more, please see below:

- Equal Opportunity Commission www.eoc.wa.gov.au
- Public Sector Commission www.psc.wa.gov.au
- Equal Opportunity Act 1984 www.legislation.wa.gov.au