

Guidelines for appointments to the Australian Human Rights Commission

Submission to the Commonwealth Attorney-General's
Department

22 August 2023

Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input into the Guidelines for appointments to the Australian Human Rights Commission ('the Commission') in accordance with the *Australian Human Rights Commission Legislation Amendment (Selection and Appointment) Act 2022* and recommendations by the Global Alliance of National Institutions for the Protection of Human Rights ('GANIPHR') Sub-Committee on Accreditation ('the sub-committee').
2. Where Australia's international human rights reputation has been undermined by processes that lack transparency, resulting in hand-picked appointments to critical positions within the Human Rights Commission, the ALA has long called for the Australian Government to mandate a legislated appointment process for all senior leadership roles with the Commission.
3. The ALA welcomes the formalization of a clear, transparent, and participatory selection and appointment process for the Commission through the Guidelines.
4. We also acknowledge the Guidelines are designed to be read in conjunction with provisions of the *Australian Human Rights Commission Act 1986*, *Age Discrimination Act 2004*, *Disability Discrimination Act 1992*, *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984*.
5. However, we recommend that the Guidelines be made binding administrative guidelines under the *Australian Human Rights Commission Legislation Amendment (Selection and Appointment) Act 2022*. The ALA believes that legislating such requirements around the appointment process strengthens a culture of compliance, independence, and transparency. Such a step would further strengthen Australia's international credibility and legitimacy.
6. In its 2016, the GANIPHR Sub-Committee noted the following in respect of Australia:

If the Attorney-General is not satisfied with the proposed candidates, he or she may unilaterally propose an alternate appointee; and that, in one instance in 2013, the Attorney-General proposed the appointment of a Commissioner without following the merit-based selection process outlined above. Such appointment has the potential to bring into question the legitimacy of the appointees and the independence of the NHRI. The SCA is of the view that it is critically important to ensure the formalization of a clear, transparent, and participatory selection and appointment process for an NHRI's decision-making body, and the application of the established process in all cases.²

² Global Alliance of National Human Rights Institutions, Report and Recommendations of the Session of the Sub-Committee on Accreditation Geneva, 2 - 7 November 2016), 11.

7. We welcome section 2.8 of the Guidelines outlining the Merit-based Selection Process and support the mandate that, should the Attorney-General decide to advertise the position rather than reappoint, an open and merit-based selection process must apply.
8. The ALA supports the Guidelines as a welcome development and is available to provide further assistance to the Committee on the issues raised in this submission.



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