

'English language only'

policies in the workplace

The ethnic mix of Aotearoa New Zealand has changed a lot in recent years, with many people coming here from all corners of the world. This growing diversity is reflected in the many different languages we hear spoken in our communities today.

People have different responses to the use of languages other than English, particularly in the workplace.

Some employers feel that employees who use different languages can compromise their workplace safety, productivity and harmony. Other employers believe that a diverse workplace, with people who can speak different languages, is an asset for their business.

Some employees feel uncomfortable or suspicious when they can't understand what their colleagues around them are saying. Other employees say they enjoy the challenge of communicating with co-workers when they don't share a common first language.

The Human Rights Commission is often asked whether it is legal to have an 'English language only' policy in a workplace.

What does the Human Rights Act say?

Under the Human Rights Act 1993 it is against the law for an employer to treat an employee less favourably than other employees because of their race or their ethnic or national origins. Given that a person's first language is almost always related to their ethnicity or national origins, an employer's decision to stop them from using that language might amount to unlawful discrimination.

However, the Act also sets out a range of specific circumstances where discrimination is not unlawful. These are known as exceptions. An exception allows a practice to happen that would normally be discriminatory under the Act, if there is a good reason for it.

There may be a number of valid reasons why an employer would require a single language to be used in the workplace, or to be used at certain times or for certain types of communication, for instance if there are specific health and safety issues. If the employer can provide a sound reason for the policy then it is unlikely that requiring employees to use the same language would be unlawful.

It would be difficult to justify a total 'English only' policy if the sole purpose for the policy was to promote workplace harmony or because it was part of 'company culture'. Preventing employees from using languages other than English during staff work breaks would be hard to justify.



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Working through the issues

It is not easy to provide a definitive response to what amounts to unlawful discrimination in relation to the use of language in the workplace. Each workplace policy needs to be considered on a case-by-case basis, taking into account the nature of the work, the employee's role in the workplace, the diversity of the workplace, the level of necessary workplace communication, as well as issues around inclusion and workplace cohesion.

The Commission has received a number of complaints from people who have been told by employers that they are a part of an 'English only' workplace and that they are not allowed to use their chosen language.

The Commission seeks to resolve these complaints by bringing the employer and employee together to discuss the issues. Through this mediation process, we encourage the parties to discuss the reasons for the policy, whether those reasons are appropriate for the particular workplace, and if there are alternatives that could be considered.

Employers and employees also regularly contact the Commission's Infoline service to get advice about the use of English and other languages in the workplace. Our approach is to encourage employers and employees to have a conversation and develop a solution that is appropriate for their workplace.

Some issues employers and employees might consider are that:

- increasingly the first language of potential employees and customers will not be English
- asking people not to speak their language of choice can affect their sense of identity and culture
- good communication is necessary in order to work safely and productively, and a shared language is an important factor in making this happen.

By taking into account a range of perspectives it is more likely that a policy around language in the workplace will be understood and accepted by everyone.

It is also less likely that an employer will be asked to respond to a complaint of unlawful discrimination.

Research shows that workplaces that positively address issues of diversity are more likely to have increased staff morale, reduced staff turnover and improved workplace productivity.

Need more information?

The Human Rights Commission offers a range of resources that explain rights and responsibilities under the Human Rights Act, as well as what is involved in making or responding to a complaint of discrimination or harassment.