

In respect of rights



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Issue 20

September 2013

Contact Us

To make a complaint or get information, contact the office or visit the website. Please note, the office cannot give legal advice.

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Ph: 1300 305 062 (local call)
Ph: (03) 6233 4841
Fax (03) 6233 5333

Web SMS: 0409 401 083

National Relay Service
TTY users: 133 677 then ask for 1300 305 062
Speak and Listen users: 1300 555 727 and ask for 1300 305 062

E-mail
antidiscrimination@ustice.tas.gov.au

Website
www.antidiscrimination.tas.gov.au

Please let the office know before an appointment if you need assistance or the services of an interpreter.

Invitation to all readers
Readers who have particular topics they wish to know more about or

From the Anti-Discrimination Commissioner

Nominate now for the Tasmanian Human Rights Awards

Do you know someone or a group here in Tasmania that has been actively engaged in the promotion and/or protection of human rights for people in Tasmania or beyond? Do you think their work should be recognised? If the answer is yes, please nominate the person or group for a **Tasmanian Human Rights Award**. The Awards are presented during Tasmanian Human Rights Week, which is celebrated from 3 to 10 December each year. (International Human Rights Day is 10 December in celebration of the adoption by the United Nations of the *Universal Declaration of Human Rights* on 10 December 1948.)



Awards are presented in the following categories:

- Individual
- Community Organisation
- Youth
- School
- Sport
- Culturally and Linguistically Diverse Community (CALD)-focussed activity
- Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) focussed activity
- Mental Health-focussed activity
- Print journalism

The nomination forms are available on the Human Rights Week webpage at: http://www.afaairerworld.org/_HRWeek/award.html

Nominations close 5:00 pm on Monday 30 September 2013.

Robin Banks
Anti-Discrimination Commissioner

From the OADC

items to include in the next issue are encouraged to contact the Editor.

Any comments and feedback about the newsletter to ensure it is a useful resource and information-sharing tool for our readers is welcomed.

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Been abused or harassed? Seen abuse or harassment?

Report it!

We want to know.

Report It!

Reporting incidents of discrimination, harassment and abuse helps to develop strategies to discourage attacks and reduce risks in targeted areas.

Just over a year ago the Anti-Discrimination Commissioner launched the **Report It!** incident reporting initiative. **Report It!** is a tool that can be used by those who witness harassment, violence or abuse to make a report. The initiative originated from the experiences of public abuse and violence against international students at the University of Tasmania and has now been extended to encourage the reporting of all such incidents in the community.

Information about the **Report It!** process has been widely distributed, including to humanitarian entrants to Australia living in Tasmania and other newly arrived migrants. The **Report It!** process is also highlighted in training courses and education events.

A report can be made by anyone: those who have been harassed, attacked or abused and those who witness it; either online or on paper. The person making the report can remain anonymous if they wish and it is not necessary for the person being attacked, or those reporting it, to know the identity of the perpetrators.

Report It! has been extensively promoted on University campuses and the University administration has taken a significant role in ensuring that students are aware of their right to report harassment or other abusive behaviour.

Reports received in 2012-13

A total of 25 reports were received from across the State since the initiative was launched in August 2012, with reports of women being attacked, harassed or abused slightly outnumbering those of men. People aged 20-29 reported the highest number of incidents.

It is unsurprising, given the focused promotion of **Report It!** to University students, that a large number of reports relate to behaviour directed toward international students.

An increasing number of reports have been received from migrants and humanitarian entrants. At the same time, the number of reports received from members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) communities has increased and incidents in which people with disability and Aboriginal people were the target of attack have also been received.

Reflecting increased promotion of **Report It!** state-wide, we have also received a broader spread of complaints from across the State, with both Launceston and Hobart being the location of most incidents. Public streets, malls and other public locations remained key areas of concern. However, abusive or harassing behaviour were also reported in relation to service delivery locations, including retail services and workplaces.

Emphasis on bystander reporting and assistance where racist incidents are identified has been a key theme in national campaigns

such as the **RACISM: IT STOPS WITH ME** campaign. Whilst many of the incidents reported occurred in situations where individuals were isolated and unable to call on the help of others, it is pleasing that of the 25 reports received, 11 indicated that other people stepped in to assist the victim in some way.

The majority of the reports were about incidents where a person was abused or harassed on the basis of their race, nationality or skin colour. Whilst this is likely to reflect the higher awareness of **Report It!** among international students and migrant communities, it reflects the pattern of formal complaints received by the OADC where discrimination and prohibited conduct on the basis of race continues to figure highly. It serves to remind us that racism remains an issue of ongoing concern in Tasmania.

In the coming year we will continue to expand **Report It!** So remember, if you witness abuse or harassment or someone tells you that it has happened to them, make sure that you let us know using the **Report It!** form available on our website or by contacting us at the OADC.

http://www.antidiscrimination.tas.gov.au/forms/Incident_form

If you would like someone from the OADC to speak to a group about **Report It!** or other initiatives, please contact Roz Smart, Senior Training, Education and Development Officer on 03 6233 4841.

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Making sure the electronic message gets through

The OADC has recently had enquiries and complaints about documents being provided online or electronically in PDF (portable document format). The complaints are about these documents being unreadable for people with vision impairments because the software they use to read documents cannot generally read PDF, whereas word or RTF (rich text format) or HTML (hypertext markup language) documents are generally readable.

The enquiries have come from organisations concerned to make sure they are providing documents in formats that are readable.

The increasing reliance on electronic communications and on providing information through websites means that all of us need to be conscious of making sure we use formats that are readable by all.

National organisation, Vision Australia, is a source of advice and information on both print and web accessibility:

<http://www.visionaustralia.org/business-and-professionals>

Of course, format is not the only way that a document might be unreadable or difficult to understand. We also need to avoid jargon and complex language. Making sure the information you are providing is in Easy English is part of ensuring non-discriminatory access to information.

Easy English is more accessible for people who have difficulty reading and understanding written information. It uses:

- clear, simple language
- one idea per sentence
- short sentences
- direct language (readers are addressed as 'you')
- pictures, logos or photographs to add meaning to the text
- minimal punctuation.

Scope Victoria has information on how to write in Easy English, or search for 'Easy English Guidelines' to find out more.

After all, the reason we write and put information out into the world is to communicate. So it is worth the effort to communicate effectively with everyone.

FAQ's - Am I being bullied?

What is bullying?

- Bullying is behaviour that is abusive, offensive, intimidating, ridiculing, humiliating, isolating, violent, unreasonably demanding, pressuring or similar ill-treatment.
- Bullying sometimes involves physical acts, but doesn't always.
- Bullying is not limited to work or school situations.
- Bullying can occur through words (spoken or written), behaviour or physical contact.
- It often involves one person inappropriately exercising power or authority over another person or people.

Is bullying unlawful under anti-discrimination law?

- The *Anti-Discrimination Act 1998* (Tas) (the Act) prohibits less favourable treatment of a person on the basis of attributes (personal characteristics) listed in the Act. If the bullying occurs because of or in relation to one or more of those attributes, it may be unlawful under the Act.
- However, if the person doing the bullying doesn't like the person or behaves the same way to everyone it is less likely to be unlawful under the Act, but may be a breach of workplace health and safety laws.
- Section 17(1) of the Act says that a person must not offend, humiliate, intimidate, insult or ridicule another person on the basis of gender, marital status, pregnancy, breastfeeding, parental status, relationship status or family responsibilities where a reasonable person would anticipate the other person would feel that way. This is unlawful and may be bullying.

I had too much to drink when I was out with some work colleagues. They then posted embarrassing photos of me on facebook and now everyone at work makes silly comments every chance they get. I have asked them to stop but they refuse, this is starting to impact on my work. Is it bullying?

- Bullying is behaviour that is abusive, offensive, intimidating, ridiculing, humiliating, isolating, violent, unreasonably demanding, pressuring or similar ill-treatment.
- If the photos and the comments have been used to ridicule and humiliate you, posting them may be bullying.
- If the actions of your work colleagues are affecting your work health and safety they are inappropriate and may be bullying.

I work with a person who refuses to say good morning to me, doesn't contribute to our staff morning teas and acts like she is superior to us. Is this bullying?

- Your colleague may be acting in a discourteous way but on its own this is unlikely to fit the definition of bullying.
- If your colleague is behaving in this way (and others) to affect you through harming your psychological health and safety or to wield power over you, it may well be inappropriate behaviour that has the potential to escalate to bullying.

My workplace is under staffed and everyone is working to capacity to meet work demands in a very stressful environment. I am doing my best, but my manager still pressures me everyday to work harder and faster. The increased pressure causes me to make silly mistakes that make my manager yell louder. Am I being bullied?

- Fair and reasonable management actions done in a fair and reasonable way are not bullying. So, the question is, 'are your manager's actions fair and reasonable?'
- Increased work pressure is common, but if your manager is unreasonably demanding or pressuring you (and yelling!) that may well be bullying.
- One way to get perspective on how you are feeling is to keep a diary for yourself of what is happening and how it makes you

feel. Another way is to imagine how what is happening would look if you were watching it played back in a DVD. Would it seem fair and reasonable? If not, it may be bullying.

In next month's In respect of rights we will run our third and last set of Bullying FAQs, 'I am being bullied, what can I do?'

Legal News

Direction to work did not constitute bullying

Chacon v Rondo Building Services [2011] NSWADT 72

The complainant was employed as a qualified mechanical engineer. She alleged that she was unlawfully discriminated on the basis of her gender and carer's responsibilities. The complainant alleged that she was threatened with dismissal, shown no respect, yelled at and punished for doing work she was directed to perform.

One of the issues raised in the discrimination proceedings in the NSW Administrative Decisions Tribunal was whether the complainant was subjected to bullying on the basis of her gender and/or carer's responsibilities.

The Administrative Decisions Tribunal dismissed her application and found that there was not enough evidence that she was yelled at or punished. To the contrary, the Tribunal found that the employer provided her with a bonus, a pay rise and a pay review and did not require her to pay for her mobile phone usage. The Tribunal also noted that some of the treatment that the complainant characterised as 'bullying' was in fact a reasonable direction in employment, such as the direction to work, rather than playing Sudoku or browsing online shopping sites.

<http://www.austlii.edu.au/au/cases/nsw/NSWADT/2011/72.html>

Bullying conduct through verbal abuse can be sex discrimination

Gabryelczyk v Hundt (2005) EOC ¶93-388; [2005] NSWADT 94

Jake Gabryelczyk was a 16-year-old apprentice electrician. His mother lodged a complaint on his behalf with the NSW Anti-Discrimination Board alleging sexual harassment, racial discrimination and age discrimination. The complaint was settled with the employer during the conciliation process, but the complainant's family continued to pursue the complaint against the individual respondent, who had been Jake's supervisor at the time and the key player in the alleged bullying.

Specifically, the complainants alleged that the respondent subjected Jake to bullying, discrimination, physical and sexual abuse, harassment, name-calling, theft and unlawful assault. Examples included striking Jake in the face with car keys, trying to touch Jake's scrotum, striking Jake on the knee with a pair of pliers, stubbing lit cigarettes out on Jake and holding a lighter to his neck resulting in third-degree burns, chasing Jake through a carpark and hog-tying Jake with the assistance of two other employees, forcing Jake to work a 19-hour day without a break and calling Jake names such as 'little f***wit', 'young c***', 'd***head', 'little f***head'.

The Tribunal found that the claims of sexual harassment were proven and awarded Jake \$10,000 in general damages and \$5,286 in special damages for economic loss.

<http://www.austlii.edu.au/au/cases/nsw/NSWADT/2005/94.html>

Complaint Outcomes

Complaint of disability discrimination

The complainant has a vision impairment and requires information to be provided to him by e-mail in an accessible format. Despite requests to provide information this way, the respondent service provider continued to post information in paper form to the complainant.

At an early resolution meeting, the service provider was interested in learning how to ensure that its staff are able to create and provide accessible information. The complaint was resolved with the respondent acknowledging that the complainant did not receive good customer service, remitting a debt, and committing to working towards providing accessible documents and an accessible website within a year.

National News

BackMeUp 2013!

Ruby Rose knows a thing or two about bullying because she copped a pretty hard time at school. But these days, she's fighting back and lending her weight to the Australian Human Rights Commission's successful **BackMeUp campaign** <http://somethingincommon.gov.au/backmeup/>. And with one in 10 students experiencing cyberbullying, it's never been more important.

BackMeUp is an online video competition that encourages bystanders to consider ways they can get involved to help prevent bullying. Competition prizes include GoPro cameras and JB HiFi vouchers. More details about the competition are online, together with information about how to help someone who is being bullied.

Watch Ruby Rose at the BackMeUp launch
http://www.youtube.com/watch?v=Jz0j1_YCGFs.

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New Federal Race Commissioner

Dr Tim Soutphommasane is Australia's new Race Discrimination Commissioner.

'Racism is a challenge for all of us', Dr Soutphommasane says. 'It's a reminder that we don't always live up to our ethos of a fair go. Everyone is entitled to be treated as an equal, regardless of their skin colour or where they have come from.'

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2013 Human Rights Awards

Time is fast running out to nominate for the 2013 Australian Human Rights Awards.

'We want to reach out and ask people to think about the individuals and organisations they know who may have made significant contributions to improve human rights or highlight human rights issues in Australia', said Commission President, Gillian Triggs.

For more about the awards and how to nominate:
<http://hrawards.humanrights.gov.au/>

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Vision Australia supports web accessibility guide

Easy Checks - A First Review of Web Accessibility (Draft)
The W3C's *Easy Checks* guide (currently published as a draft) helps you assess if a web page addresses accessibility.

Developed by the Education and Outreach Working Group (EOWG), the guide provides simple steps for anyone who can use the web; no accessibility knowledge or skill is required. The checks cover just a few accessibility issues and are designed to be quick and easy, rather than definitive.

As long-standing members and contributors to the work of the W3C, Vision Australia supports and recommends *Easy Checks* as a valuable resource for preliminary assessments of web accessibility. Vision Australia's Web Accessibility Toolbar (WAT) is listed as one of the great tools that can assist with this process.

<http://www.visionaustralia.org/business-and-professionals/digital-access>

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New tools assisting organisations to embrace cultural diversity

Australia's cultural diversity represents an enormous opportunity for employers but many are not sure how to go about maximising the benefits.

The Federation of Ethnic Communities' Councils of Australia (FECCA) has released a new series of **factsheets**, <http://www.fecca.org.au/resources/harmony-in-the-workplace-factsheets> developed in conjunction with the Diversity Council Australia and other industry experts and professionals.

The ten factsheets cover a range of issues, from exploring cultural diversity in the context of Australia's broader workforce, to legal frameworks concerning workplace discrimination. The factsheets also deal with myths and commonly held misperceptions about cultural diversity in the workplace, as well as tips on maximising cultural diversity for the benefit of organisations and their employees.

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Connections - An employer's guide

Migration is integral to Australia's economy and society. *Connections* provides useful tips and resources to help employers understand the business benefits of employing migrants and refugees and how to create an inclusive workplace. It is produced by the Department of Immigration and Citizenship.

<http://www.immi.gov.au/employers/connections/>

September and October Training Calendar

Bullying - what it is, what it's not and what to do about it

Launceston

Tuesday 10 September
1.00 - 4.00 pm

\$165.00 (pre GST)

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Managers Supporting Workplace Support / Contact Officers

Hobart

Tuesday 17 September
12.30 - 1.30 pm

Launceston

Thursday 19 September
12.00 - 1.00 pm

FREE

for more detailed course information, price, registration forms or contact details, follow this link

http://www.antidiscrimination.tas.gov.au/education_and_training

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Worksafe Month Tasmania

The OADC will again be involved with and delivering information at events including:

- A **Workplace Bullying Conference Day** packed with information

- **Bullying - what it is, what it's not and what to do about it**
- **Get in on the Act** - Information, application and updates about the *Anti-Discrimination Act 1998* by the Anti-Discrimination Commissioner
- **Managers supporting and making the most of their Workplace Support Contact Officer networks.**

Register online at:

http://suite.peoplelogic.com.au/scripts/workcover_tasmania_booking_calendar/index.php

Local News

A public talk by 2013 Young Australian of the Year, Akram Azimi

Introduced by A Fairer World Patron, Anti-Discrimination Commissioner Robin Banks

All Tasmanians are invited to take this opportunity to be inspired by the current Young Australian of the Year and hear his unique perspectives on the journey from refugee to advocate. Akram's advocacy has encompassed remote Indigenous communities, people with a disability and the global war on polio.

University Centre, Churchill Avenue, Sandy Bay
Thursday 5th September
5.45 – 6.45 pm

Entry by note donation (concession, gold coin)
RSVP to admin@afairerworld.or or 6223 1025

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Amnesty International presents *Mary meets Mohammad*

The documentary film by Heather Kirkpatrick, *Mary meets Mohammad*, will return to Hobart on 29 September.

The film follows the establishment of Tasmania's first detention centre through the eyes of local Christian woman and knitting club member, Mary, and Muslim Afghan Hazara asylum seeker, Mohammad, who is detained inside the centre, as they connect through the gift of a knitted beanie.

You can visit the Facebook page to find out more details:

<https://www.facebook.com/pages/Mary-Meets-Mohammad/387916057968800?id=387916057968800&sk=info>

Bullying



New research to address bullying in Tasmanian workplaces

Many studies have been conducted nationally and internationally in an attempt to understand the extent of bullying across workplaces. However, the variations in definitions and people's perception of workplace bullying means there is a broad spectrum of findings across these studies.

While much research has been done into workplace bullying on a national and international level, there is little Tasmanian data. This is where a new bullying research program comes into play.

In order to gain a better understanding of the extent of the issue in

Tasmanian workplaces, the research will involve a statewide telephone survey of the community, followed by in-depth interviews with respondents who have experienced or witnessed bullying in the past six months.

This will be followed by a survey of Tasmanian organisations to better understand how they have dealt with instances of bullying, relevant policies and procedures, and the impact of bullying on their workplace.

http://www.workcover.tas.gov.au/workcover_tasmania/new_research_to_address_bullying_in_tasmanian_workplaces2

Play by the Rules



To see the latest e-bulletin from Play by the Rules please follow this link <http://www.playbytherules.net.au/news-centre/ebulletins>

Awareness Days in September



R U OK? DAY

Thursday, 13 September 2012

<http://ruokday.com/>

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Adult Learners' Week

1 – 8 September

<http://adultlearnersweek.org/events-calendar/>

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Equal Pay Day 2013

3 September

www.eowa.gov.au

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White Balloon Day

Friday, 6 September

<http://www.whiteballoonday.com.au/>

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The United Nations' International Day of Peace

21 September

www.internationaldayofpeace.org/

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In respect of rights is published by the Office of the Anti-Discrimination Commissioner to be an information, reference and education tool for and about discrimination law and the Tasmanian community and workplaces.