

In respect of rights



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December 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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Speak and Listen users: 1300 555 727 and ask for 1300 305 062

E-mail
antidiscrimination@justice.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.

From the Anti-Discrimination Commissioner

Monday 2 December 2013 celebrated the formal beginning of Tasmania's Human Rights Week with the launch of the week at Parliament House. Launch attendees were entertained by the very talented **QTas choir** and heard from Tasmanian advocate, activist and campaigner for sexuality & gender rights, **Sharon Jones**.



The launch also saw the announcement of this year's Tasmanian Human Rights Award winners. The winners will be given their awards by His Excellency Peter Underwood, Governor of Tasmania, at a special morning tea event at Government House on International Human Rights Day, 10 December.

On International Human Rights Day, there will be a celebration in Launceston mall of 65 years of the *Universal Declaration of Human Rights*, with an opportunity to meet award winners from the north of the State and hear from people who are the same age as the Declaration about what human rights have meant for them.

Congratulations to the **Tasmanian Human Rights Awards winners for 2013:**

Human Rights School Award: for schools or school-based groups that have promoted human rights in schools and/or the wider community awarded to **Brooks High School**

Human Rights Individual Award: for a person living in Tasmania who has taken action to ensure the promotion, protection and fulfilment of human rights awarded to **Rodney Dillon**

Human Rights Organisation Award: For an organisation based in Tasmania that has acted to ensure the promotion, protection and fulfilment of human rights awarded to **Tasmanian Asylum Seeker Support**

Human Rights Youth Award: for a young person living in Tasmania who has taken action to ensure the promotion, protection and fulfilment of human rights awarded to **Laura Kay**.

Human Rights Award for CALD community focussed human rights activity: for a person or organisation that has undertaken activities to ensure the promotion, protection and fulfilment of human rights with a focus on culturally and linguistically diverse communities in Tasmania awarded to **TORN – Women's drama project**.

Human Rights Award for CALD community focussed human rights activity: **Highly commended: National Joblink's Kulture Konekt program**.

Human Rights LGBTI Award: for a person or organisation that has undertaken activities to ensure the promotion, protection and fulfilment of human rights with a focus on promoting LGBTI Cultural Awareness in Tasmania awarded to Sharon Jones.

Lucy Henry Human Rights Award for Mental Health focussed

Invitation to all readers
Readers who have particular topics they wish to know more about or 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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Lucy Henry Human Rights Award for Mental Health Resource activity: for a person or organisation that has undertaken activities to ensure the promotion, protection and fulfilment of human rights with a focus on mental health in Tasmania awarded to **Flourish: Mental Health Action in Our Hands**.

Human Rights Sport Award: for a sporting organisation based in Tasmania that has acted to ensure the promotion, protection and fulfilment of human rights awarded to **Basketball Tasmania's Ivor Burge Men's Basketball Team**.

Angus Downie Print Journalism Award: for print journalism that has made an outstanding contribution to the understanding, promotion or protection of human rights in Tasmania awarded to **BettyMag**

For more about all of these award recipients and those awarded in previous years, go to http://www.afaairworld.org/_HRWeek/index.html

Robin Banks
Anti-Discrimination Commissioner

Update from the office

New Staff

We welcomed three new staff members last month: Elma Nidorfer, Jason Wright and Andrew Muthy.

Elma is with the office assisting with enquiries and assessments of complaints.

Jason and Andrew have joined the office on 12-month contracts as Investigation and Conciliation Officers.

It is fantastic to have Elma, Jason and Andrew on board.

WELCOME!

Congratulations to the Commissioner

Commissioner, Robin Banks, was joint recipient of this year's Adult LGBTI Award for advocacy that supports and encourages legal change or cultural awareness of respecting, acknowledging or celebrating LGBTI communities. The award was announced at the Rainbow Dinner on Saturday 30 November 2013. Robin was honoured to share this award with **Sharon Jones**.

Congratulations also to **Ricky Meerding** for being awarded the LGBTI Youth 'Coming Out' Award for courageous action respecting inclusion or rejecting discrimination at this important time starting out in life and to the **Department of Education** for being this year's recipient of the LGBTI Award to an Organisation that has achieved systemic change to reflect best HR practice and support for LGBTI clients or staff.

FAQs - Changes to the Anti-Discrimination Act

Following on from last month's FAQs on some of the changes to the *Anti-Discrimination Act 1998* (Tas), here is the promised information on the remaining changes, being:

- Changes that will only affect people who are involved in a complaint of discrimination or related conduct, either as the person who made the complaint or the person (or organisation) against whom the complaint has been made.
- A Change change that will permit discrimination by faith-based schools in relation to school admissions in limited circumstances.

What will change with complaint-handling processes?

There are a number of changes to the way complaints can be dealt with. These include the following:

- The Commissioner will be able to require parties to a complaint to

participate in a dispute-resolution meeting at any time after the complaint is received. At the moment, the only time the Commissioner can require attendance is after the investigation is completed.

- The Commissioner will be able to part reject or part dismiss a complaint. This means that people or organisations that are mistakenly named in a complaint as responsible will be able to be removed from the complaint by the Commissioner.
- The Commissioner will be able to amend a complaint to ensure it accurately reflects what the complainant has alleged and how it breaches the Act and who is responsible.
- The Act will make it clear that the Commissioner can accept a complaint from a child if the child has sufficient maturity, and can appoint a litigation guardian for a child or a person with disability who is unable to make a complaint themselves. A litigation guardian is a person who is responsible for making decisions on behalf of another person in relation to a particular legal action.
- And if an agreement is reached to resolve a complaint made on behalf of a child or person with disability that affects their decision-making capacity, the agreement will only be finalised with approval of the Commissioner or the Tribunal.
- The Commissioner will be able to take a complaint to the Anti-Discrimination Tribunal when she has completed an own-motion investigation.
- The Commissioner will be able to combine complaints that are about the same situation.
- Respondents to complaints will have a right to get a copy of the complaint. At the moment, they are only allowed to be given a copy by the Commissioner if the complainant consents to that.
- The Commissioner will be able to dismiss a complaint if the complainant has failed to stay involved in the complaint process or cannot be contacted.
- Where an exemption has been granted by the Commissioner, she will be able to reject or dismiss a complaint that is about conduct that is the subject of the exemption.

What is the new exemption for schools?

The Commissioner has the power to grant exemptions. Exemptions provide protection against complaints of discrimination or prohibited conduct for up to 3 years. They are always limited to a specific situation, such as allowing a women's shelter to advertise for and employ women only in those roles that have contact with the shelter's clients.

The new exemption provisions give the Commissioner power to grant an exemption to a faith-based school (or school system) in certain circumstances and for certain purposes.

The purpose is to allow a school that is granted an exemption to give preference in admission to the school to children who are of that faith.

The circumstances are that the school must have demonstrated to the Commissioner that:

- it does not otherwise discriminate in deciding what students will be admitted to the school; and
- it faces the situation that more candidates are seeking to be admitted to the school for a particular grade and year than it has places available.

Are the changes in effect now?

No, the changes have not yet come into effect.

They will take effect from 1 January 2014.

Human Rights Week

**Launceston Human
Rights Week Organising
Group is looking**

for 65 year olds!



The organising group for Launceston Human Rights Day events (coming up on 10 December) is looking for people who were born in 1948 and are therefore are the same age as the *Universal Declaration of Human Rights*. The group intends to celebrate the 65th birthday on 10 December in the Mall between 3:00 pm and 4:30 pm.



Launceston Human Rights Week Organising Group is looking for people who can talk about how human rights generally may have effected them over their lives and be happy to do a brief interview with Kerry Finch, who also happens to have turned 65 this year.

Please contact Karin Le on karin.le@bigpond.net.au or mobile 0407 340 179 for more details.

Complaint Outcomes

***Plancke v Glyde* [2011] TASADT 06**

A complainant was found by the Anti-Discrimination Tribunal to have been treated unfavourably by the respondent during his employment at Banjo's Bakery in Launceston. The Tribunal found that the unlawful discrimination was on the basis of a disability, in particular Asperger's Disorder.

This treatment largely involved the respondent being critical of the complainant's work, assigning unfavourable tasks to the complainant and refusing to assign favourable tasks to him, and being abusive and bullying in his manner towards him. On one occasion the respondent threw a tray of sausage rolls at the complainant when he took a break from work.

The respondent would often combine his criticism and abuse of the respondent with references to his 'autism'. Eventually, as a result of this treatment, the complainant decided that he could no longer work at Banjo's and resigned from his job. He also described to the Tribunal how he became depressed and contemplated suicide.

The Tribunal stated, 'I am satisfied that the discriminatory conduct was serious and sustained and, further, that it has had a significant impact both emotionally and financially on Mr Plancke'. Compensation of \$3,000 was awarded to Mr Plancke.

http://www.magistratescourt.tas.gov.au/decisions/anti-discrimination_decisions/p/Plancke_-_v-_Glyde_2011_TASADT_06

National News



Safe Work Australia Workplace bullying

Following an extensive consultation and review process, Safe Work

Following an extensive consultation and review process, Safe Work Australia converted the draft Code of Practice: Preventing and Responding to Workplace Bullying into the **Guide for Preventing and Responding to Workplace Bullying**. It has been released together with **Dealing with Workplace Bullying – A Worker's Guide** and a set of frequently asked questions (FAQs) on workplace bullying.

The guides on workplace bullying focus on the duty to manage risks under work health and safety laws and provide advice to businesses and workers on how to prevent workplace bullying and how to respond if it does occur.

The guides and FAQs will be reviewed to take into account developments in relation to workplace bullying, including any significant decisions of the Fair Work Commission.

<http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/guide-workplace-bullying>

December 2013 and January 2014 Training Calendar

Update and awareness of the Tasmanian Anti-Discrimination Act and amendments

Hobart

Tuesday 28 January, 10.00 am - 12.00 pm

Burnie

Wednesday 29 January, 2.00 - 4.00 pm

Launceston

Thursday 30 January, 9.00 - 11.00 am

FREE

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Workplace Support / Contact Officer (WS/CO) Training

Hobart

Monday 17 February, 1.00 - 5.00 pm

&

Tuesday 18 February, 9.00 am - 12.30 pm

Launceston

Thursday 20 February, 1.00 - 5.00 pm

&

Friday 21 February, 9.00 am - 12.30 pm

\$440.00 (pre GST)

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Update and awareness of the Tasmanian Anti-Discrimination Act and amendments

Hobart

Tuesday 18 February, 1.30 - 3.30 pm

Launceston

Friday 21 February, 1.00 - 3.00 pm

FREE

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Train the Trainer Conduct your own Discrimination, Harassment & Bullying Program in your workplace

Hobart

Monday 24 February & Tuesday 25 February
9.30 am - 4.30 pm both days

\$770.00 (pre GST)

2014 Training Calendar

The January - June 2014 training calendar for the Office of the Anti-Discrimination Commissioner is now finalised and available on our website

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

If you are interested in attending any of our other training courses or booking in-house training please contact our trainers

roz.smart@justice.tas.gov.au or louise.adams@justice.tas.gov.au

Training News

It was great to receive a copy of the Department of Economic Development, Tourism and the Arts staff newsletter with the below article about Contact Officers, thanks Katinka.



We don't need no discrimination

It's a special kind of person who volunteers to help people with problems in the work-place, lucky for us.

Our latest batch of Diversity Contact Officers (DCO) has just completed training with the state's Office of the Anti-Discrimination Commissioner (OADC).

The DCOs are there to be a confidential sounding board for staff who experience or witness discrimination at work.

'Discrimination comes in many forms. It may be direct or indirect, subtle or overt', said DCO network co-ordinator, Katinka Challen. 'Your DCOs are trustworthy and informed points of contact if you have any concerns, in addition to the formal mechanisms through HR, your manager and incident reporting via the Workplace Health and Safety page on Eddie.'

The Tasmanian *Anti-Discrimination Act (Act)* prohibits discrimination in relation to 20 attributes. Our state legislation actually covers more attributes by which one cannot be discriminated against than any other state's, in addition to the longest period within which one can lodge a complaint – 12 months.

Importantly, the rules for discrimination apply even when there is no intent to cause harm.

The "I was just having fun" line is no defence', explained OADC trainer, Louise Adams.

'Workplace behavior is a reflection of your personal integrity. Jokes that stereotype people by race, gender, disability or political affiliation, can leave the teller open to being accountable if someone lodges a complaint of discrimination or inappropriate workplace behavior', she said.

Play by the Rules



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

Awareness Days in December



World AIDS Day

1 December

<http://tascahrd.org.au/world-aids-day-2013/>

International Day for the Abolition of Slavery

2 December

<http://www.timeanddate.com/holidays/un/international-day-abolish-slavery>

International Day of People with Disability

3 December

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

International Volunteer Day

5 December

Theme: Youth. Global. Active

International Volunteer Day (IVD) offers an opportunity for volunteer organizations and individual volunteers to make visible their contributions - at local, national and international levels - to the achievement of the Millennium Development Goals (MDGs).

<http://www.un.org/en/events/volunteerdaily/>

International Migrants Day

18 December

The United Nations' (UN) International Migrants Day is annually held on 18 December to recognise the efforts, contributions and rights of migrants worldwide.

<http://www.timeanddate.com/holidays/un/international-migrants-day>

International Human Solidarity Day

20 December

International Human Solidarity Day reminds people on the importance of solidarity in

working towards eradicating poverty.

<http://www.timeanddate.com/holidays/un/international-human-solidarity-day>

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