

In respect of rights



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Edition 25

February & March 2014

Contact Us

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

Office of the Anti-Discrimination Commissioner
Level 1, 54 Victoria Street, Hobart, Tasmania 7000
GPO Box 197, Hobart, Tasmania 7001

Telephone
Ph: 1300 305 062 (local call)
Ph: (03) 6165 7515
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@justice.tas.gov.au

From the Anti-Discrimination Commissioner

The response of Tasmanian employers to advice that a worker is pregnant or requests flexible work arrangements to accommodate child rearing responsibilities is unfortunately often less than positive. For many, the challenge of juggling work and family responsibilities becomes such that they permanently leave the workforce (either through dismissal or resignation) or continue with employment arrangements that are untenable. The difficulty of finding an appropriate balance between work and family responsibilities is a key driver of the disconnection of many Tasmanian women from the workforce; a disconnection that has ongoing impacts throughout their lives.



My office recently made a submission to the Federal Sex Discrimination Commissioner's national review of pregnancy and return to work arrangements. In that submission, we cited a number of examples of complaints of discrimination on the basis of pregnancy and family responsibilities. These ranged from complaints from women on the basis of being discouraged from applying for positions because they may become pregnant, through to the failure of the workplace to implement arrangements that would have accommodated the pregnancy and/or enabled the employee to fulfil their family responsibilities on return to work.

Whilst the overwhelming majority of complainants were women, the negative response to requests from men to have flexible workplace arrangements so they could fulfil their family responsibilities also featured in a number of complaints.

We know that the complaints made under the Anti-Discrimination Act 1998 (Tas) represent only the 'tip of the iceberg' and that many more individuals and families face similar challenges.

Whilst important initiatives, such as paid maternity leave, have been implemented to enable workers to fulfil their family responsibilities, it is clear that much more needs to be done to eliminate discrimination and achieve a fair balance between work and family commitments.

Click here to view the submission to the national review:
http://www.antidiscrimination.tas.gov.au/news_and_events/submissions

Update on volunteer insurance

I have recently been provided with an update by the Insurance Council of Australia (ICA) on what it has done following the release of my report into discrimination on the basis of age in relation to volunteer insurance (<http://www.antidiscrimination.tas.gov.au/publications/reports>). The ICA has been working with its members and with the Institute of Actuaries to consider the report findings. The ICA is also working with Federal Age Discrimination Commissioner, Susan Ryan, in a working group on insurance and age.

The ICA is also planning to work with Volunteering Australia on issues around volunteer insurance cover.

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 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.

Newsletter Editor

Roz Smart

E-mail rozsmart@justice.tas.gov.au

The ICA has recently launched its Understand Insurance website: www.understandinsurance.com.au; and will be including material on the website to help volunteers get the insurance they need.

The Institute of Actuaries published an article on discrimination law and insurance, particularly focusing on the kind of data necessary if an insurer is seeking to rely on an exception or defence to discrimination law: <http://actuaries.asn.au/Library/AAArticles/2013/185AntiDiscriminationpp47.pdf>

Robin Banks

Anti-Discrimination Commissioner

Update from the office

New telephone numbers for the office

Our telephones are being changed in early March, so from 4 March 2014, the main office number is 03 6165 7515. All other public telephone numbers remain unchanged.

Harmony Day / International Day for the Elimination of Racial Discrimination

The OADC will have an information table at the Hobart Harmony Day event, Friday 21 March at City Hall. Come and see us for information about the *Racism it Stops with Me* campaign and Racial discrimination.

For more information scroll down to the **Other upcoming local events** segment in this newsletter.

Submission to the Australian Law Reform Commission on Equality, Capacity and Disability in the Commonwealth Laws

In January 2014, the OADC made a submission to this current Australian Law Reform Commission inquiry. The submission draws on a range of work that has been done in the office recently, highlighting a range of areas regulated by laws in which people with disability do not experience equality of opportunity or are disadvantaged. These include, in particular, barriers or problems faced in the legal system itself. One particularly relevant issue is the problem of the heavy reliance in discrimination law on individuals having the capacity to identify and complain about discrimination. This leaves those with limited capacity to understand their right to equality and discrimination much more vulnerable to facing ongoing barriers and prejudice.

The submission is available on the OADC website at:

http://www.antidiscrimination.tas.gov.au/news_and_events/submissions

FAQs - Pregnancy, Parental Status and Family Responsibilities

I took parental leave after the birth of my son and am due to return to work next month. I would like to reduce my hours to part time, but am not sure if my boss will allow it.

- Parents wishing to return to work may ask for flexible work arrangements and this may include a request to reduce your work hours for a period.
- If your request for flexible work arrangements (such as part-time work or job-sharing) is refused, this could be discrimination on the basis of parental status.
- However, each request for flexible work arrangements needs to be considered separately depending on the organisation and the nature of the role. It is not always practical or possible for a job to be performed part-time, but just because a job has not previously been

part-time does not mean it shouldn't be considered and approved.

My partner is due to give birth to our child next month and I would like to take parental leave so she can return to work. Can I ask for parental leave if I am not the birth parent?

- Discrimination on the basis of gender and family responsibilities is against the law. So, if the non-birth parent is denied parental leave this could be discriminatory on the ground of gender and/or family responsibilities depending on the circumstances.
- A father (or same-sex partner) is entitled to take parental leave in accordance with the relevant award, or workplace laws. The amount of parental leave you are entitled to take may depend on whether you are the primary carer or not.
- If you are unsure what your entitlements are for parental leave, you can check with your employer, the Fair work Ombudsman <http://www.fairwork.gov.au/leave/parental-leave/pages/default.aspx> and the Federal Government <http://www.humanservices.gov.au/customer/services/centrelink/parental-leave-pay>

I recently announced to my work colleagues that I am 4 months' pregnant. My employer has asked for a meeting with me to discuss my employment, I am worried about what this might be for.

- The meeting with your employer may be perfectly reasonable; your manager may simply want to offer congratulations and to start planning for your leave.
- If not..
- If you have no medical restrictions on your ability to work and you are able to perform your normal duties, it is discriminatory to stand you down or require you to take leave from your employment while you are pregnant.
- In most cases, women can begin maternity leave 6 weeks before the birth of the baby (and you only need to give notice of leave 10 weeks before you intend to take leave).
- If you are unsure what your entitlements are for parental leave, you can check with your employer, the Fair work Ombudsman <http://www.fairwork.gov.au/leave/parental-leave/pages/default.aspx> and the Federal Government <http://www.humanservices.gov.au/customer/services/centrelink/parental-leave-pay>
- It is against the law to dismiss a woman from work because she is pregnant, taking parental leave or seeking to return to work after parental leave.
- Reducing a pregnant employees hours or shifts is also potentially unlawful discrimination.

I am 7 months pregnant and my colleagues at the organisation where I volunteer call me 'Mrs fat guts' and other nasty names. Can I do anything about this?

- Being called 'Mrs fat guts' is an offensive comment linked to your size because of pregnancy.
- The *Anti-Discrimination Act 1998* prohibits conduct that offends, humiliates, intimidates, insults or ridicules a person because of their pregnancy.
- You can make a complaint of offensive conduct or discrimination based on pregnancy to the Anti-Discrimination Commissioner.

I recently asked to reduce my work hours over the school holidays to provide care for my grandchildren, I was told that this was not possible because I hold a senior position in the organisation.

- You are entitled to seek flexible work arrangements and this may include a request to reduce your work hours to part-time for a period of time such as the school holiday period.
- If your request for flexible work arrangements (such as part-time work or job-sharing) is refused, this could be discrimination on the basis of family responsibilities
- However, each request for flexible work arrangements needs to be considered separately depending on the organisation and the nature of the role. It is not always practical or possible for a job to be

performed part-time, but just because a job has not previously been part-time does not mean it shouldn't be considered and approved. Being a senior manager does not immediately preclude you from flexible work arrangements, your organisation should be prepared to discuss and consider your request in line with the operational requirements of your organisation.

- Discrimination on the ground of family responsibilities includes being treated less favourably because of responsibilities to care for a partner, adult offspring, a parent, grandparent, grandchild, or sibling of the person or of the spouse or partner of the person.

Case Summary

What is 'the workplace'?

Ewin v Vergara (No 3) [2013] FCA 1311 (5 December 2013)

A complainant has been awarded \$476,163 for sexual harassment, the case highlights the need to be aware of the what might constitute the 'workplace' in sexual harassment cases.

The complainant alleged four incidents of sexual harassment from the respondent, these incidents occurred in the office and also in the common areas of the office building, a hotel and a taxi. In his decision Justice Bromberg of the Federal Court of AUstralia said, 'A "workplace" is not confined to the place of work of the participants but extends to a place at which the participants work or otherwise carry out functions in connection with being a workplace participant.'

<http://www.austlii.edu.au/au/cases/cth/FCA/2013/1311.html>

National News



Federal Race Discrimination Commissioner Tim Soutphommasane delivered an Australia Day address in Hobart, calling on Australians to embrace pride and patriotism.

To read an edited extract of Tim Soutphommasane's Australia Day Address: <http://www.theage.com.au/comment/patriot-games-keeping-it-real-on-australia-day-20140122-318zm.html>

Equal before the law: Towards disability justice strategies

The Australian Human Rights Commission has released a report on its inquiry into the treatment of people with disabilities in the criminal justice system. It finds that such people are not equally treated.

The report, ***Equal before the law: Towards disability justice strategies*** is the culmination of extensive consultations held last year with victims, perpetrators, witnesses, disability advocates, policy makers and criminal justice workers.

The Commission found that equality before the law is a wide-spread problem for people with disabilities, and in some cases, the injustice experienced has been severe.

The report can be found here

<https://www.humanrights.gov.au/publications/equal-law>

March and April 2014 Training Calendar

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

Burnie

Tuesday 18 March, 2:00 - 4:00 pm

Launceston

Wednesday 19 March, 9:00 - 11:00 am

Hobart

Monday 24 March, 1:00 - 3:00 pm

FREE

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

Hobart

Monday 3 March
9:00 am - 12:00 pm

Launceston

Thursday 13 March
1:00 - 4:00 pm

\$165.00 (pre GST)

Discrimination, Harassment and Bullying Management for Managers

Hobart

Monday 7 April, 9:00 am - 1:00 pm

Launceston

Wednesday 9 April, 1:00 - 5:00 pm

\$220.00 (pre GST)

Training

Our **FREE Update and awareness of the Tasmanian *Anti-Discrimination Act* and amendments** sessions are proving popular with some excellent questions and discussions in the January and February sessions. We have also had some requests to deliver these sessions within workplaces, which we are very happy to do.

If you don't yet know enough about the *Anti-Discrimination Act 1998* and/or are not up to speed on the amendments that came into effect on 1 January 2014, register to attend one of the March sessions.

The January - June 2014 training calendar is available on the OADC website where you will also find the **form to register** for training courses, detailed course information, prices and our fee policy and contact details 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

Local News





The Migrant Resource Centre (Southern Tasmania) program, **Connect** and some new community members were featured on *SBS World News* earlier this year.

<http://www.sbs.com.au/news/article/2014/02/03/tasmanian-migrants-brew-hope-better-future>.

One of the largest groups of migrants to Tasmania are former refugees and humanitarian entrants and they are mostly under 45 years of age and keen to work.

Connect assists former refugees and humanitarian entrants find employment and create a place to settle in our Tasmanian community.

The program provides a suite of employment outcomes and has assisted in excess of 300 clients since inception.

Januka was born in a refugee camp in Nepal and only arrived in Tasmania 10 months ago. She is keen to work and achieve her dream of becoming a nurse; Januka recently attended our barista training course and was placed in work experience at a local café.

If you are an employer interested in making a difference for new and emerging communities, please contact Anne Hamilton, Connect Manager (03) 6221 0999 or ahamilton@mrchobart.org.au.

Upcoming local International Women's Day events

Mary Meets Mahommed

APHEDA, Unions Tasmania and Unions Tasmania Women's Committee are hosting a special presentation showing of the locally produced *Mary Meets Mahommed*. This film follows through the eyes of local Christian woman and knitting club member, Mary, and Muslim Afghan Hazara asylum seeker, Mahommed, who is in immigration detention, as they connect through the gift of a knitted beanie.

Date: Wednesday 5 March

Venue: AEU Conference Centre, 32 Patrick Street, Hobart

Time: Movie 6:30 - 8:00 pm, followed by IWD Award Presentations, Bar opens at 6:00 pm

Cost: \$10 (proceeds to APHEDA Women's Project).

RSVP: 28 February 2014 to Janette Price at

jprice@unionstas.com.au or 6234 8553

Amazing, Bolshy & Creative: Femmes & Facts Quiz Night

Come along and watch (and cheer) as two panels attempt the impossible in a quiz inspired by Spicks and Specks.

This is a fundraiser to celebrate International Women's Day 2014 and support the Hobart Women's Health Centre, in its work of ensuring Tasmanian women are informed, supported and active decision makers in their own health and well being: <http://www.hwbc.com.au/index.htm>

Date: Thursday 6 March

Venue: Farrell Centre, The Friends' School, Argyle Street, North Hobart

Time: 7:00 - 9:00 pm

Cost: \$5

For tickets, call: 6231 3212

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Amnesty International and IWDA's International Women's Day Celebration

Amnesty International Australia's Urban Group and the International Women's Development Agency (IWDA) invite you to come along to find out more about women's rights and support Amnesty's next stage of the Afghan Women's Rights Campaign. Speakers include Mary Payenda (medical scientist, interpreter and former refugee from Afghanistan) and a representative/supporter of the International Women's Development Agency (IWDA).

Date: Thursday 6 March
Venue: Fuller's Bookshop, 131 Collins Street, Hobart
Time: 5:30 - 7:30 pm
Cost: \$5, concession gold coin, plus raffle

Drinks and nibbles supplied.

RSVP: tasaia@amnesty.org.au

All welcome

International Women's Day Breakfast 2014

International Women's Day (IWD) breakfast to support the International Women's Development Agency (IWDA) and its projects in the Asia Pacific region with women, about women and for women, which means all community benefit.

Date: Sunday 9 March
Venue: 11 Union St, West Hobart (off Murray St)
Time: between 9:00 am and 12:00 noon
Cost: Donation for IWDA & there will be a raffle.
Book: Yabbo Thompson on 0419 325 190, 6234 9857 or talvin@bigpond.net.au

Event just for women

International Women's Day Address presented by Eva Cox AO

Has progress stalled so we need to restart the feminist revolution? This will be the topic of an International Women's Day Address to be presented at the University of Tasmania by Eva Cox AO, an influential Australian public commentator and political researcher.

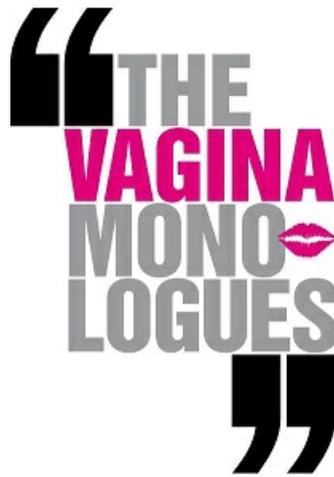
Born into a Jewish family during Hitler's annexation of Austria, Cox and her family were declared stateless and fled to England, and later Italy. In 1948, at the age of 10 she arrived in Australia. She recalls that her early experiences stimulated her political activism and made her an irrepressible advocate for making societies fairer.

She is a passionate feminist and actively promotes inclusive, diverse and equitable ways of living together. Her 1996 book *Leading Women* explained why women who made a difference were usually labelled as difficult, a label she wears. In 1995 Eva delivered the prestigious ABC Boyer Lecture on the theme *A Truly Civil Society*.

For her extensive contributions, particularly concerning the advancement of women's welfare, Cox was appointed Officer of the Order of Australia in 1995, named Humanist of the Year 1997, and featured on a postage stamp, as an Australian Legend in 2011. Cox's most recent post is as Professorial Fellow at Jumbunna Indigenous House of Learning Research Centre at the University of Technology, Sydney.

Date: Tuesday 11 March
Venue: Stanley Burbury Theatre, Churchill Avenue, Sandy Bay UTAS campus, Hobart
Time: 6:00 - 7:30 pm (refreshments served at 5:30 pm)
RSVP/information: UTAS.Events@utas.edu.au or (03) 6226 2521

Book now for The Vagina Monologues



"Heart stoppingly powerful"
The Scotsman

"Laugh-out-loud funny and
deeply poignant"
The Independent

"Spellbinding, funny and
almost unbearably moving
... It is both a work of art
and an incisive piece of
cultural history; a poem, a
polemic, a performance, a
balm and benediction"
Variety

A group of local women is performing Eve Ensler's internationally renowned show in Hobart and all funds raised will go to local organisations involved in the V-Day campaign to stop violence against women and girls:

- Hobart Women's Shelter, in its work to support women and girls escaping violence: <http://www.hobartwomensshelter.org.au/> ; and
- A Fairer World - Tasmanian Centre for Global Learning, in its work of empowering schools and the Tasmanian Community to take action for social justice, peace and a sustainable world future: <http://www.afairerworld.org/>

When: Saturday 12 April, 7:00 pm (doors open at 6:00 pm for drinks and market stalls)

Where: Stanley Burbury Theatre, University of Tasmania, Churchill Avenue, Sandy Bay, Hobart

Cost: \$40 and \$20 concession (plus special ticket packages: Gold Business Pack and Friends Night Out Pack that include lots of extras)

Tickets can be booked online at:
<http://www.trybooking.com/75835>

Note: The performance includes explicit language.

If you can't get along to the event but want to support the work, please visit <http://www.afairerworld.org/vday/>

Other upcoming local events

Harmony Day Event

Hobart Community Event

Date: Friday 21 March

Venues and Times:

- **Lord Mayor's official Welcome to International Humanitarian Entrant and Migrant Students**
Elizabeth Mall
12.30 - 1.30pm
- **Light refreshments and activities**
City Hall, 57 Macquarie Street, Hobart
1.35 - 3.00pm
- **Open Access (for young people aged 12 - 25)**
Youth Arts and Recreation Centre,
44 Collins Street, Hobart
3.00 - 6.00pm

For more information contact Sjaan Field on 6231 3212

Hear our voices women's gathering

For all women of a migrant or refugee background - towards migrant women's health and wellbeing

Come along and be entertained, share ideas, share some food, make new friends and talk about issues that are important to you.

Date: Thursday 13 March and Friday 14 March

Place: Glenorchy Civic Centre, Cooper Street, Glenorchy (next to the Village Cinema)

Time: Between 9:00 am and 4:00 pm

Booking: Jill on 6216 6371 or jsleithers@gcc.tas.gov.au. **Bookings are essential**

Young children can be cared for on site while parents attend the gathering.

Organisations involved in this event: Hobart Women's Shelter, Migrant Resource Centre Southern Tasmania Inc, Multicultural Council of Tasmania Inc, Soportomists International, Glenorchy City Council, Australian Red Cross, Hobart Women's Health Centre. The event is supported by the Tasmanian Government.

Play by the Rules



► THE PLAY BY THE RULES MAGAZINE



Issue 1 / February / 2014

► **NO PLACE FOR BULLIES:
CREATING BULLY
FREE ENVIRONMENTS**

► **BYSTANDER INTERVENTION PROTECT
TACKLING RACISM**
TACKLE RACIAL VILIFICATION BY SUPPORTING BYSTANDERS TO TAKE ACTION. AN INTERVIEW WITH LES BEE (FOOTBALL FEDERATION VICTORIA)

► **WHAT ARE MEN DOING ABOUT
SEXISM IN SPORT**

PLUS - PLAY BY THE RULES GOES MOBILE AND RESPONSIVE; NEW SUN PROTECTION KITS AND POLICY GUIDELINES; WHAT TO DO WHEN YOU ARE COMPLAINED ABOUT AND MUCH MORE IN THE FIRST EDITION OF THE PLAY BY THE RULES ONLINE MAGAZINE

//SAFE/FAIR/INCLUSIVE/SPORT//

Play by the Rules has launched an online interactive bi-monthly magazine. The magazine replaces the e-Bulletin. If you subscribe to the e-bulletin list, Play by the Rules will send you the magazine every two months with full features, news items and much more.

Here is a link to the online copy of the e-mail that contains all the links for the Magazine http://pbtr.com.au/magazine/February_2014/ - you can view the flip book version or download a PDF or Word version.

Awareness days in March

8 March
International Women's Day

The United Nations' theme for International Women's Day 2014 is *Equality for women is progress for all*
<http://www.un.org/womenwatch/feature/iwd/iwd/archives.html>

<http://www.internationalwomensday.com/default.asp>

14 March
National Day of Action against Bullying and Violence

The National Day of Action Against Bullying and Violence is an opportunity for students, teachers, parents and the whole community to take a stand together against bullying and violence. This annual day provides a focus

for schools who want to say Bullying. No way! and to strengthen their everyday messages that bullying and violence at school are not okay at any time.

<http://www.bullyingnoway.gov.au/national-day/>

21 March
International Day for the Elimination of Racial Discrimination

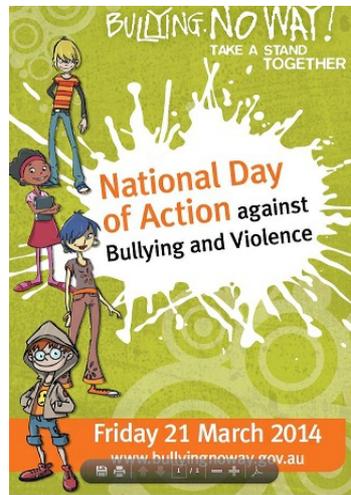
The United Nations' International Day for the Elimination of Racial Discrimination is observed with a series of events and activities worldwide on March 21 each year. The day aims to remind people of racial discrimination's negative consequences. It also encourages people to remember their obligation and determination to combat racial discrimination.

<http://www.timeanddate.com/holidays/un/world-day-eliminate-racial-discrimination>

21 March
HARMONY DAY

Harmony Day is a day of cultural respect for everyone who calls Australia home – from the traditional owners of this land to those who have come from many countries around the world. By participating in Harmony Day activities, we can learn and understand how all Australians from diverse backgrounds equally belong to this nation and enrich it.

www.harmony.gov.au



 International Women's Day 2014



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