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In respect of rights



Edition 40

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July 2015

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

Website

www.antidiscrimination.tas.gov.au

From the Anti-Discrimination Commissioner

Celebrating NAIDOC Week: 5 - 12 July 2015

NAIDOC stands for National Aborigines and Islanders Day Observance Committee.

NAIDOC Week is held in the first full week of July and this year will begin on 5 July 2015.

The 2015 National NAIDOC theme is: We all Stand on Sacred Ground: Learn, Respect and Celebrate.

This theme highlights the strong spiritual and cultural connection Aboriginal and Torres Strait Islander peoples have to land and sea. In announcing this theme, the National NAIDOC Committee said:

'The National NAIDOC Committee encourages all Australians - young and old - to embrace the 2015 National NAIDOC theme and to celebrate local and national sacred places, taking the time to learn of their traditional names, history and stories.'

In Tasmania, the Government has adopted the Aboriginal and Dual Naming Policy to 'allow geographical features and places to be given both an introduced and Aboriginal language name'.

This is an important way in which our Government encourages us all to acknowledge the history and continued existence of the Tasmanian Aboriginal (pakana) community and Aboriginal connections to the Tasmanian (lutruwita) landscape, as well as European connections.

Each year, NAIDOC Week is a time for everyone to join in the celebration of Aboriginal and Torres Strait Islander history, culture and achievements and is an opportunity for us all to recognise the contributions that Aboriginal peoples and Torres Strait Islanders have made and continue to make to our country and our society.

I and staff in my office will be participating in several events to celebrate NAIDOC week. We encourage everyone in Tasmania to participate in the celebrations and activities that take place across the State during NAIDOC Week.

Robin Banks **Anti-Discrimination Commissioner**

For information about NAIDOC Week, <http://www.naidoc.org.au/>.

For information about the Tasmanian Government's Aboriginal and Dual Naming Policy, http://www.dpac.tas.gov.au/divisions/csrt/oa/aboriginal_and_dual_naming_policy

From the OADC

Making the law easier to understand

Making information about the law and how the law works understandable to all Tasmanian's is important to everyone in my office. We are committed to making sure the

way we provide information and



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 roz.smart@justice.tas.gov.au

Why the phrase information and communication is clear and uses plain English.

With this in mind, I and my staff have taken part in a 26Ten Plain English workshop and we are all keen to make sure we put what we learnt into practice.

The workshop gave us all a better understanding of why it is important to use plain English. It also gave us some really useful tools to make our written and spoken communication more accessible for everyone.

This is a very important part of our work in promoting equality of opportunity for everyone in Tasmania. Without equal access to information (particularly government information and information about the law), many people can miss out on opportunities and can be left behind.

We have the benefit in Tasmania of having a discrimination law, the *Anti-Discrimination Act 1998*, that is reasonably clear. Even with this, however, the law can be and often is complex. If it is going to benefit everyone in our community, we need to do our best to make information about the law clear and easy to understand. When we do this, everyone knows more about their rights to equality of opportunity and their responsibility to respect the rights of others.

At the moment we are working on improving our website and have almost finished work on all of our written information materials. Stay tuned for the launch of these in the near future.

For information and contact details about 26TEN and the Plain English Workshops, scroll down to our **Local News** section below.

Frequently Asked Questions (FAQs) - Can I complain to more than one place?

I believe I have been discriminated against, is the Anti-Discrimination Commissioner (ADC) the only person I can complain to about this?

- The **Anti-Discrimination Commissioner** has

responsibility for dealing with complaints about discrimination under the Tasmanian discrimination law, the *Anti-Discrimination Act 1998*. This includes complaints about discrimination in connection with employment and a number of other areas of activity, such as education, accommodation, shops and services.

- The **Australian Human Rights Commission** (AHRC) is the organisation responsible for dealing with complaints about discrimination under federal discrimination laws. This includes complaints about discrimination in connection with employment and a number of other areas of activity, such as education, accommodation, shops and services.
- The **Fair Work Commission** (FWC) can also deal with a complaint if your employer has taken adverse action against you because of a protected attribute. For example, if you were fired because of your age, race, pregnancy, sex or religion.

What should I consider when deciding where to take my discrimination complaint?

- Discrimination law can be complex. It can be difficult to know which option is the best one for you.
- Legal tests for discrimination vary, and there are pros and cons with each law. Deciding which law is the right one for you will depend on what has happened.
- The Tasmanian *Anti-Discrimination Act 1998* is one of the most comprehensive discrimination laws in Australia and covers more **attributes (personal characteristics)** than the federal discrimination laws. For example, if you want to complain about discrimination against you in Tasmania because of your lawful sexual activity or because you are associated with a person with, for example an irrelevant criminal record, you would need to use the Tasmanian Act.
- However there other **differences**. This means that sometimes you'll have less choice about where to complain.
- If your complaint is against a **federal** government department such as Centrelink, or about the administration of a Commonwealth law or program, you will have to take your complaint to the AHRC.
- There may also be differences in how much **time** you have to make your complaint. Different laws have different time limits. For example, the Fair Work Commission has a 21-day time limit for general protections applications relating to dismissal from employment.
- The situation in which the discrimination happened (the **area of activity**) may also affect where you can make your complaint. For example, the *Fair Work Act 2009* is about employment so if you believe you were discriminated against when joining a sporting club, you would need to make your complaint to the Anti-Discrimination Commissioner or the AHRC.
- What you want to achieve from your complaint may also affect which law you choose.
- The **complaint process** may also influence

where best to take your complaint.

- Before you make a complaint, you can contact the Office of the Anti-Discrimination Commissioner to find out whether you can use the Tasmanian law, the federal discrimination law or go to the Fair Work Commission.

Can I make a complaint to all three at the same time: the Anti-Discrimination Commissioner, the Australian Human Rights Commission and the Fair Work Commission?

- If you complain to one, sometimes you cannot complain to another or later change your mind and complain elsewhere. So it is best to **get legal advice** before making a complaint.
- Section 64(1) of the Tasmanian *Anti-Discrimination Act 1998* gives the Anti-Discrimination Commissioner authority to reject discrimination complaints in certain situations. Some of the situations include where the person has already made a complaint in another Commission, Court or Tribunal about the same events if they can get the same sorts of outcomes from that other complaint process; and where someone else has made a complaint about the same thing and the Commissioner thinks the issues will be adequately dealt with through that other complaint.
- The laws dealt with by the Fair Work Commission and the Australian Human Rights Commission also include sections that allow the particular Commission to possibly dismiss or reject a complaint where it is already being dealt with by another body.

This is confusing, where can I get legal advice?

- In Tasmania you can get free legal advice from;
- **Hobart Community Legal Service**
Phone: 6223 2500
Launceston Community Legal Centre
Phone: 1800 066 019
North-West Community Legal Centre
Phone: 6424 8720
<http://www.hobartlegal.org.au/tasmanian-law-handbook/rights/discrimination/lodging-complaint/which-act-applies>
- **Legal Aid Commission of Tasmania**
Phone: 1300 366 611
<http://www.legalaid.tas.gov.au/index.html>

You can also get information about the relevant law and legal processes from the Office of the Anti-Discrimination Commissioner, the Australian Human Rights Commission and the Fair Work Commission. Each office deal with enquiries about discrimination including jurisdictional issues.

- **Office of the Anti-Discrimination Commissioner**
Phone: 1300 305 062
<http://www.antidiscrimination.tas.gov.au/>
- **Australian Human Rights Commission**
Phone: 1300 656 419
<https://www.humanrights.gov.au/>
- **Fair Work Commission**

Case Summary

This case is an example of a discrimination complaint that was dealt with under different laws.

In a recent case, a person made a complaint to the Tasmanian Industrial Commission about her work being changed and about being suspended from work. Shortly after she made the complaint to the Tasmanian Industrial Commission, she also made a complaint to the Anti-Discrimination Commissioner. Her complaint to the Anti-Discrimination Commissioner was also about her work duties being changed and about being suspended from work. In the complaint to the Commissioner, however, she also said her employer did these things because of her irrelevant medical record. Discrimination on the basis of irrelevant medical record is unlawful under the *Anti-Discrimination Act 1998* (Tas) (the Act).

The Act says the Anti-Discrimination Commissioner may reject a complaint, if:

- the person has already complained about the same events in another court, tribunal or commission; and
- that court, tribunal or commission can make similar orders to what the Anti-Discrimination Tribunal can order.

The complaint to the Anti-Discrimination Commissioner was initially rejected on this basis.

She applied to the Anti-Discrimination Tribunal for review of the decision to reject her complaint.

The Anti-Discrimination Tribunal decided the complaint to the Tasmanian Industrial Commission and the complaint to the Anti-Discrimination Commissioner were about different things. The Tribunal decided the complaint to the

Tasmanian Industrial Commission was not about discrimination, while the complaint to the Anti-

complaint to the Anti-Discrimination Commissioner was about discrimination. The Tribunal also considered that the remedies the Tasmanian Industrial Commission could award were not as broad as what could be awarded under the Act. As a result of this, the Tribunal said the person's complaint was valid and sent the complaint back to be investigated by the Anti-Discrimination Commissioner.

Complaint Summaries

Pregnancy and work

A woman complained she had been discriminated against on the basis of her gender, family responsibilities, pregnancy and breastfeeding. She complained there has been a breach of confidentiality about her pregnancy, she had been told she had to provide her employer with a full medical clearance to continue to do her full work duties during her pregnancy and after giving birth, and her husband was asked to come to a meeting with her and her employer to talk about her duties.

The complaint was resolved at conciliation with the employer agreeing to;

1. Apologise to the woman.
2. Explore anti-discrimination training for the workplace.
3. Develop a procedure on pregnancy and the inherent requirements of the job (within 12 months).
4. Included the procedure in the workplace induction manual.

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Discrimination at work

Another woman complained that her former employer and some of the other staff discriminated against her because of her age, her involvement in industrial activity, her status as a single person (marital status) and her first language and lack of familiarity with Australian workplace rights (related to her race). She also complained she had been subjected to offensive conduct on the basis of age, marital status and race and had faced retaliation (been

victimised) for complaining about discrimination and related conduct on the following grounds. She complained about the following things:

1. She was told not to speak her first language in the workplace.
2. She felt that the workplace took advantage of her being new to Australia as she was not aware of her industrial rights and pay entitlements.
3. She was made to feel like her marital status (being single) was a reason she was treated harshly and unreasonably and expected to be more flexible than her co-workers who had partners and family responsibilities.
4. She felt her age was a reason staff made negative comments to and about her and was bullied into working more hours than her older colleagues who had partners and family responsibilities.
5. She was forced to accept a redundancy because she questioned her entitlements (engaged in industrial activity).

The complaint was resolved at conciliation with the employer agreeing to;

1. Providing discrimination training to all its staff
2. Apologising to her
3. Giving her a statement of service
4. Paying her compensation of \$4484

July and August Training Calendar

LUNCHBOX LEARNING Disability Discrimination

Hobart

Tuesday 28 July
12.00 - 1.30 pm

Launceston

Thursday 30 July
12.00 - 1.30 pm

Burnie

Friday 31 July
12.00 - 1.30 pm

\$80.00 (ex GST)

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Launceston

Monday 3 August
9.00 - 11.00 am

Hobart

Monday 10 August
9.00 - 11.00 am

Burnie

Monday 17 August
1.00 - 3.00 pm

\$110.00 (ex GST)

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Workplace Support / Contact Officer Role

Launceston

Thursday 27 August
1.00 - 5.00 pm

&

Friday 28 August
9.00 am - 12.30 pm

\$440.00 (ex GST)

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

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

Training News

With the new financial year just starting, it's a great time to have a look at the training courses we deliver

http://www.antidiscrimination.tas.gov.au/education_and_training/training_calendar_and_courses and talk to us about coming to your workplace, community, school or organisation.

Ph: 6165 7515 or e-mail roz.smart@justice.tas.gov.au or louise.adams@justice.tas.gov.au.

Local News



26TEN

26TEN is about improving adult literacy and numeracy in

Tasmania. They are a movement that is changing attitudes toward literacy and helping everyone get the skills they need for work and life. 26TEN brings together business, community, and Government to raise awareness and work together to improve adult literacy and numeracy rates in Tasmania.

26TEN represents the 26 letters in the alphabet and 10 numbers.

26TEN services include:

- a **members program** to help build the 26TEN network and make programs available more widely
- **literacy** workshops to raise awareness and understanding

- **plain English** workshops to help people improve the quality of information they offer to the public, and to customers, users and staff of organisations
- **a free telephone service** to provide advice and information
- the **26TEN website** to share information
- **a grants program** to fund projects that improve literacy skills in workplaces and communities

For more information contact

26TEN:

Freecall: 1300 00 2610

Email: email@26ten.tas.gov.au

Website: www.26ten.tas.gov.au

National News

I'm not racist but ...



Australian Race

Discrimination Commissioner,

Dr Tim Soutphommasane, has launched his latest book, *I'm Not Racist but ...* to coincide with the 40th anniversary of the *Racial Discrimination Act*.

At the launch of *I'm Not Racist but ...* Commissioner Soutphommasane said, 'It is an opportunity to reflect on all that has been achieved in combating racism since 1975, and all that remains to be done in fighting prejudice today and in the future.'

'This book reflects upon the history of racism in Australia, the impact of the *Racial Discrimination Act* and the ongoing challenge of building racial tolerance and cultural harmony. I hope it will challenge some of our attitudes and inform our national discussion about race.'

For more information about the book, visit

<https://www.humanrights.gov.au/our-work/race-discrimination/projects/im-not-racist-40-years-race-discrimination-act>

Play by the Rules



Play by the Rules has an online interactive bi-monthly magazine. To catch up with the latest news and subscribe, go to <http://pbtr.com.au/r/pbtrmags>.

Awareness Days in July



**We all Stand on
Sacred Ground:**
Learn, Respect & Celebrate



5 - 12 JULY 2015

NAIDOC Week 2015

5 - 12 July

The theme for NAIDOC Week 2015 is
**We all Stand on Sacred Ground: Learn, Respect and
Celebrate.**

<http://www.naidoc.org.au/>

Lifeline's Stress Down Day

24 July 2015

<http://stressdown2015.gofundraise.com.au/cms/home>

<http://www.nationalcalendar.com.au/event/stress-down-day-56004>

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