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In respect of rights



Edition 41

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August 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

From the Anti-Discrimination Commissioner

There is a growing discussion in the community about unconscious bias and what we can all do about it. International research is making us more aware of how unconscious bias can result in reduced diversity within organisations, which in turn restricts effectiveness and profitability.



It is becoming more common for businesses and other organisations to want to understand how unconscious bias affects them and to challenge it.

All of us have biases, both negative and positive. These are shaped by social structures, culture, family, media and personal experiences. Some of those biases we are not even conscious of, hence the term 'unconscious bias'. Our unconscious biases can and do influence our views of others as well as our responses to others. Acting on our unconscious biases can result in individuals and groups getting unfair benefits or experiencing barriers to equal opportunity.

But just because we have such biases, it doesn't mean we should allow them to lead to unlawful discrimination, including through inadvertently privileging a person or group, or disadvantaging a person or group of people. If we better understand our biases, we can take steps to make sure our conscious actions are not influenced by them.

My office is looking at how we can support organisations to identify and challenge unconscious bias and ensure that it doesn't result in discriminatory decisions, processes or actions.

I have recently spoken at a Law Society Workplace Relations Conference on unconscious bias in the workplace. I also attended a seminar on gender equality at which the CEO of Hydro Tasmania spoke about the unconscious bias workshops that it had conducted for employees.

An interesting thing all of us do is to take one or more of the implicit association tests (IATs) available at <https://implicit.harvard.edu/implicit/australia/takeatest.html>. These IATs help each of us to identify our unconscious biases.

Robin Banks
Anti-Discrimination Commissioner

Recently Granted Exemptions

Under the *Anti-Discrimination Act 1998* (Tas), the Commissioner is empowered to grant exemptions that permit a person or organisation to engage in an action or activity that would otherwise be unlawful under the Act. Such exemptions can be granted for up to three (3) years.

Whenever the Commissioner grants an exemption, a notice of this must be published in the Tasmanian Government Gazette: <http://www.gazette.tas.gov.au/>.

Any person may apply to the Anti-Discrimination Tribunal for a review of the Commissioner's decision within 28 days from the date the notice is published in the Gazette.

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

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

Exemption granted on 17 June 2015 and gazetted on 1 July 2015

Exemption No. 15/03/004 granted to **Women's Legal Service (Tasmania) Inc** on 17 June 2015 for 3 years.

This exemption has been granted to permit Women's Legal Service (Tasmania) Inc to recruit and employ women only in the identified positions of Chief Executive Officer, Solicitor, Reception, Officer Manager, Para-Legal, Legal Students, Volunteers and Management Collective for the purposes of:

1. providing accessible and supportive state-wide legal advice, casework and referral service to Tasmanian women who face additional barriers in accessing legal services due to various social, economic and cultural factors; and
2. providing a safe and non-threatening environment for its female clients.

For more information on exemptions go to;
<http://www.antidiscrimination.tas.gov.au/exemptions>

FAQs - Community education on Tasmanian discrimination law?

The Commissioner's office offers a range of **community awareness**, education and fee-for-service training sessions across Tasmania.

What community education is available?

- Our community education includes a range of information sessions, workshops or forums focusing on promoting non-discriminatory practices in Tasmania.
- Community education sessions are an opportunity to find out what discrimination law is as well as what your rights and responsibilities are.
- Community education sessions aim to empower those individuals or groups who may experience some form of unlawful discrimination.
- Information sessions are usually one hour long and are free for not-for-profit community organisations, community groups, schools, colleges, other educational institutions, unions and interested individuals.

What information is provided in community education sessions?

- An overview of the work of the Anti-Discrimination Commissioner, her office and the *Anti-Discrimination Act 1998* (the Act) (in easy-to-understand language and presentation style)
- Discrimination law and what this means to you
- Your rights and responsibilities under discrimination law
- Examples of unlawful discrimination and related conduct that is against the law in the areas of employment (including volunteering) and delivering and accessing services
- **Community education school talks** are designed to give students a chance to interact and share ideas. School talks cover discrimination and other actions that are against the law in particular in education. We can deliver effective school talks to different class and age levels from kindergarten to college.

Sessions can be designed to focus on a broad range of human rights issues such as those affecting:

- People with disability,
- Aboriginal and Torres Strait Islander people,
- Ethnic and religious minority groups,
- Gay, lesbian, bisexual, transgender, gender diverse and intersex people,
- Young people,
- Older people,
- Women and men.

Can I get you in for a longer session or a session covering specific topics/issues?

- We offer customised training programs including longer sessions with extra content for community organisations, groups, schools, etc.
- We can tailor sessions to include specific topics and/or issues that are relevant to your organisation, group or school that you want included.
- Consideration will be given to a fee reduction for longer sessions subject to the type, size and capacity of your organisation, group, school, etc, to pay for the training.

What are the benefits of having a community education session on discrimination law?

Community education sessions:

- promote discrimination-free practice within your community organisation, group or school as well as for community group members;
- promote increased understanding and acceptance of diversity in celebrating and respecting differences among people
- promote awareness that can empower groups or individuals who are more likely to experience discrimination, harassment or bullying behaviours to take appropriate action rather than letting bad situations fester potentially creating further hurt and harm;
- inform and empower participant who, as bystanders, hear of or witness discriminatory behaviour to take appropriate action through being more aware of how to do this safely and effectively.

Will organising a community education session meet our organisation's obligations under of the Act?

- Under the Act, organisation are required to do a range of things, including ensuring that members, officers, employees and agents are made aware of the discrimination and prohibited conduct to which this Act relates; and taking reasonable steps to ensure that no member, officer, employee or agent of the organisation engages in discrimination or prohibited conduct.
- Participation of staff and others involved in your organisation in community education sessions may be **part** of meeting this requirement.
- For more information on responsibilities under section 104 of the Act go to: http://www.antidiscrimination.tas.gov.au/information_for_organisations

How can I book a community education session?

- Phone our education and training team on (03)-6165-7515, or
- E-mail roz.smart@justice.tas.gov.au or louise.adams@justice.tas.gov.au.

For further information on community education sessions, school talks or customised training go to:

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

Case Summary

***Williams v 'Threewisemonkeys' and Durston [2015]* TASADT 4 (30 June 2015)**

A complaint was made the Anti-Discrimination Commissioner about a pamphlet entitled 'Homosexuality Stats', which was published and distributed in suburbia.

This pamphlet stated that 'homosexuality should not be tolerated' and that 'Scripture rejects homosexuality as utterly abominable' and set out alleged statistics on lifespan expectations and causes of death for gay men and lesbians compared to heterosexual men and women. The complainant alleged the conduct of the respondent in publishing and distributing this pamphlet contravened provisions of the *Anti-Discrimination Act 1998* (Tas) including discrimination, offensive conduct, and inciting hatred on the basis of sexual orientation.

The complaint could not be resolved between the parties and was referred to the Anti-Discrimination Tribunal for Inquiry. The onus is on the complainant to show the respondent breached the Act, including, by engaging in a public act that incited

hatred towards, serious contempt for or severe ridicule of the complainant or group of persons on the basis of the sexual orientation or lawful sexual activity of the person or any member of the group. The Tribunal found that this was proved.

Principles from cases concerning matters relevant to this case are well established.

The Tribunal was satisfied on the evidence that:

- the complainant and others were offended by this material;
- the conduct humiliated, insulted and ridiculed homosexuals on the basis of their sexual orientation; and
- in the circumstances of this case a reasonable person would have anticipated that the persons in the situation of the complainant would be offended, humiliated, insulted or ridiculed; and
- 'The content of the pamphlet is likely to incite hatred towards, serious contempt for, or severe ridicule of, a person or a group of persons on the ground of homosexuality'.

The Tribunal made the following orders:

1. That the respondent make a public apology and retraction published in the local newspaper acknowledging that his conduct in disseminating the 'Homosexuality Stats' pamphlet was discriminatory. The Tribunal noted that, in accordance with the Act, failure to give an apology and retraction as directed by the Tribunal results in the automatic imposition of a fine.
2. That the respondent must not repeat the discriminatory conduct.

<http://www.austlii.edu.au/au/cases/tas/TASADT/2015/4.html>

The respondents have lodged an appeal in the Supreme Court of Tasmania against the Tribunal's decision.

Complaint Summaries

Discrimination on the grounds of imputed disability

Discrimination can be unlawful not only when it takes place on the basis of a prescribed attribute, but on the basis of an 'imputed' prescribed attribute. This can happen if a person believes or assumes that another person has a prescribed attribute, and then treats them less favourably because of that belief or assumption.

A complainant who worked in a public sector organisation had complained to a more senior staff member about being bullied by her supervisor.

She complained that the senior staff member formed the view she had a disability in the form of a psychiatric disorder, and dealt with her complaint on that basis. She complained

that she eventually became ill as a result of the way her work situation was being handled.

She made a complaint to the Anti-Discrimination Commissioner and also made a worker's compensation claim. The discrimination complaint and the worker's compensation claims were resolved together through negotiation. The employer agreed to pay compensation of \$175 000 for hurt and distress caused by the alleged conduct.

August and September Training Calendar

Workplace Support / Contact Officer Role

Launceston

Thursday 27 August

1:00 - 5:00 pm

&

Friday 28 August

9:00 am - 1:00 pm

\$440.00 (ex GST)

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LUNCHBOX LEARNING Racism. It stops with me!

Hobart

Tuesday 1 September

12:00 - 1:30 pm

Launceston

Wednesday 2 September

12:00 - 1:30 pm

Burnie

Thursday 3 September

12:00 - 1:30 pm

\$80.00 (ex GST)

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Workplace Support / Contact Officer Role

Hobart

Monday 7 September

1:00 - 5:00 pm

&

Tuesday 8 September

9:00 am - 1:00 pm

Burnie

Thursday 10 September

1:00 - 5:00 pm

&

Friday 11 September

9:00 am - 1:00 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



Gearing Up Expos and WorkSafe Month

Together with many other fantastic exhibitors, our trainers Roz and Louise are looking forward to taking part and sharing discrimination awareness at the State-wide **Gearing Up Expos** in September.

Hobart

2 September
Princess Wharf 1

Launceston

9 September
The Tailrace Centre

Burnie

16 September
The Burnie Arts and Function Centre

For more information go to
www.gearingupexpo.com.au

We hope to see you there.

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Workplace training, community education and school awareness talks

To talk to us about coming to your workplace, community, school or organisation, phone 6165-7515 or e-mail roz.smart@justice.tas.gov.au or louise.adams@justice.tas.gov.au.

Local News

Anti-Discrimination Tribunal

From 1 July 2015, the Anti-Discrimination Tribunal (ADT) moved from being located with the Magistrates Court. It is now co-located, still as a separate tribunal, with the Worker's Rehabilitation and Compensation Tribunal (WR&CT).

The new contact details for the Anti-Discrimination Tribunal are:

Phone: (03) 6166 4750
Fax: (03) 6234 3304
DX 52 HOBART
E-mail: ADT@justice.tas.gov.au

Street Address:

Level 7, NAB House
86 Collins Street
Hobart

Mailing address:

Anti-Discrimination Tribunal
GPO Box 1311
Hobart TAS 7001

Website: http://www.justice.tas.gov.au/tribunals/tribunal_sites/Anti-

Discrimination_Tribunal

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Brain Injury Awareness Week 2015 Share your story

Brain Injury Awareness Week 2015 (August 17 to 23) will turn the spotlight on a neglected minority of survivors of traumatic brain injury (TBI), women, for whom assault is a much more common cause of brain injury than for men. Of the over 300 women admitted to Australian hospitals in 2004-05 with an assault-related TBI, their spouse or domestic partner was the specified perpetrator in one-third of the cases, compared to 1 in every 50 of the men admitted for the same reason.

Brain Injury Australia invites women with a TBI resulting from family violence who might be interested in talking about their experience as part of 2015's Brain Injury Awareness Week to contact Nick Rushworth by e-mail: nick.rushworth@braininjuryaustralia.org.au, or phone 1800 BRAIN1 (1800 272 461) or 0417 373 622.

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Tasmanian Government Grants and Community Engagement

Are you aware the Tasmanian Government provide grant programs that support community development?

The Grants and Community Engagement Branch of the Department of Premier and Cabinet (DPAC) supports and enhances the relationship between the State Government and the community through:

- the development of knowledge and understanding of community development and stakeholder engagement;
- collaboration with stakeholders in government, non-government and business sectors to promote community development and engagement; and
- the strategic management of community grants programs that promote community development.

To read more about grants and community support go to http://www.dpac.tas.gov.au/divisions/csr/grants_and_community_engagement

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RUOK? Day

RUOK? Day is 10 September but you can join the RUOK? crew and their big yellow bus on Monday 31 August, from 11:30 am - 1:30 pm at Parliament Lawns, Hobart

Tasmanian Community Achievement Awards



Nominations for the 2015 Tasmanian Community Achievement Awards are open!

These awards are about recognising individuals, groups,

businesses and organisations who are making a difference in our local communities and state.

Making a nomination is easy! You can nominate someone and answer the questions on their behalf or you can simply fill in their name and contact details and save the nomination, give them a call and tell them you have nominated them! They can then fill in the details as they are going to know best about their achievements.

Go to www.awardsaustralia.com to put in a nomination, nominations close Friday 21 August 2015.

Human Rights Week Awards - call for nominations



Nominations for Tasmanian Human Rights Awards 2015 are now open. The Tasmanian Human Rights Awards celebrate notable activities in Tasmania or by Tasmanians.

The Tasmanian Human Rights Week Committee is calling for nominations for the nine Human Rights Awards:

- A Fairer World School Award
- Individual Award
- Organisation Award
- Lucy Henry Mental Health Award
- Angus Downie Print Journalism Award
- Multicultural Award
- LGBTI Award
- Youth Award
- Robin Hood AM Sport Award

Nominations close 5:00 pm Wednesday 30 September 2015.

For each award, the recipient will receive an award certificate and prize of \$500 at the award ceremony in December 2015.

For more information or to download a nomination form go to www.afairerworld.org/_HRWeek or phone 03-6165-7512.

Please circulate this call for nominations through all your personal and work networks and newsletters to encourage a broad pool of nominations for these special awards.

special awards.

Information about the awards is also available on the Human Rights Week Tasmania facebook page, so it is easy to share from there also.

National News

Australian Human Rights Awards nominations open



The Australian Human Rights Commission is proud to announce the creation of the '**Racism. It Stops With Me**' Award.

'The new Award recognises an organisation which has made an extraordinary contribution to reducing or preventing racism in Australia', said Australian Human Rights Commission President Professor Gillian Triggs.

The **Racism. It Stops With Me Award** is a new category in the annual Human Rights Awards, to be presented on 10 December.

'The '**Racism. It Stops With Me**' campaign is part of the Government's National Anti-Racism Strategy, which began in 2012.

'The campaign is a key part of the Commission's work, and aims to help Australians take practical action against racism', said Race Discrimination Commissioner Dr Tim Soutphommasane.

Nominations for all seven categories in the Human Rights Awards are now open. This year the Awards have been streamlined.

There will be one media category and one community category and the literature category has been discontinued.

Previous winners of the prestigious Human Rights Medal include Ian Thorpe, Eddie Mabo, Malcom Fraser, Sister Clare Condon and Dorothy Hodinott.

Now it's time to add to that list by nominating an inspiring individual or organisation for a 2015 Human Rights Award.

'For twenty-eight years, the Awards have celebrated the people and organisations that help make Australia a fairer place.'

'This year we have a particular focus on anti-racism as the terrorist threat continues to test our commitment to social cohesion', Professor Triggs said.

Nominations are sought for all seven award categories. They are the Human Rights Medal; Young People's Human Rights Medal; Business Award; Racism. It Stops With Me Award; Media Award; Tony Fitzgerald Community Award and the Law Award.

Nominations close on 11 September 2015. The awards will be presented on 10 December 2015. The event celebrates International Human Rights Day.

Details and nomination forms are online at

<http://hrawards.humanrights.gov.au>

<http://www.humanrights.gov.au/news/stories/racism-it-stops-me-award-human-rights-awards-nominations-open>

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Guide to Reporting Disability

The **Guide to Reporting Disability** is a useful guide for everyone who understands the power of language and cares about it. The People With Disability Australia organisation has published a document that makes things easy by laying out some clear guidelines about referring to people with disability in a modern, acceptable way.

<http://www.lifehacker.com.au/2015/07/how-to-correctly-refer-to-people-with-disability/>

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Supporting Working Parents

A new website has been launched as an on-line resource to help employers, working parents and pregnant employees understand their legal entitlements and obligations.

To see the resource go to

<http://www.supportingworkingparents.gov.au/>

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>.

Awareness Days in August



1 - 7 August

World Breastfeeding Week

<http://worldbreastfeedingweek.org/>

9 August

International Day of the World's Indigenous People

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

3 - 9 August

Homeless Persons Week

<http://www.homelessnessaustralia.org.au/index.php/events/hpw/hpw-2015>

12 August

International Youth Day

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

17 - 23 August

National Brain Injury Awareness Week

<http://biat.org.au/>

19 August

World Humanitarian Day

<http://www.timeanddate.com/holidays/un/world-humanitarian-day>

23 - 29 August

Hearing Awareness Week

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

29 August
Wear it Purple Day
<http://www.wearitpurple.org/>
<https://www.facebook.com/wearitpurple>

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