

In respect of rights



Edition 42

- [From the Anti-Discrimination Commissioner](#)
- [From the office](#)
- [Recently Granted Exemptions](#)
- [FAQs - What is work?](#)
- [Case Summary](#)
- [Complaint Summary](#)
- [September and October Training Calendar](#)
- [Training News](#)
- [Local News](#)
- [Gayby Baby coming to Hobart](#)
- [Human Rights Week](#)
- [Racism. It Stops with Me!](#)
- [National News](#)
- [Play by the Rules](#)
- [Awareness Days in September](#)

September 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

From the Anti-Discrimination Commissioner

On the evening of Friday 28 August I joined several hundred proud Tasmanians to celebrate the Tasmanian Training Awards 2015. As a member of one of the judging panels, it was delightful to take part in the event at which all the awards finalists were recognised and the winners celebrated. These awards are an opportunity to see the difference training and vocational educational opportunities can make to people across Tasmania. From the diversity of finalists, it is clear that age, gender, race and disability are no barrier to achieving qualifications, excellence or awards.



Skills Tasmania put on a great night, with Tim Cox playing the role of MC to perfection. Minister Groom welcomed us all and spoke of the importance of training and vocational education for the future of Tasmania.

It was clear, listening to and reading the stories of the finalists, that having access to the opportunities provided through private and public vocational education, apprenticeships and training has been critical in ensuring each of them will have the opportunity to flourish and contribute to the vibrant life of our community.

Ensuring non-discriminatory access to education, apprenticeships and training is part of our work and I certainly see the benefits to employers and individuals of that access being achieved.

To read about the finalists and find out who won the awards, check out the Tasmanian Training Awards webpage (the full details will be available from 3 September 2015) at <http://www.skills.tas.gov.au/trainingawards>.

Robin Banks
Anti-Discrimination Commissioner

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

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



Aboriginal Student of the Year

Brendan Murray receives his award from Tasmania's Anti-Discrimination Commissioner Robin Banks

From the office

Staff Farewell and Welcome

Hilary Harris

It was sad to say farewell to Hilary Harris recently who returned to her substantive position at Resource Management and Planning Appeals Tribunal (RMPAT). Hilary was sharing the role of Executive Officer with Katrina Warburton from June 2014 and was full-time in the role during 2013-14. Hilary was a pleasure to work with and was a great asset to our office. She was instrumental to the implementation of TRIM Records Management System and the transferring of shared folders into TRIM. She provided exceptional administrative support to the Commissioner and the office during her time with us.

Hilary will be sadly missed by all and we know she will continue her good work at RMPAT.

Amelia Davies

On 26 August 2015, we welcomed Amelia Davies to the team. Amelia is sharing the role of Executive Officer with Katrina Warburton. She works on Wednesday, Thursday and Friday (9-4 pm). Amelia has high-level administration and project-management skills. She is enthusiastic about being part of the office and working in the area of discrimination and human rights law.

Amelia will be a valuable asset to our work.

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*.

Exemption granted on 15 July 2015 and gazetted on 19 August 2015

Exemption No. 15/06/060 granted to **Colony 47 Inc** on 15 July 2015 for 351 days. This exemption was granted to permit Colony 47 Inc to recruit and employ Aborigines and/or Torres Strait Islanders only to two positions of Community Pathway Program Worker to deliver Colony 47's northern Safety and Well-being Program in accordance with the Indigenous Advancement Strategy administered by the Commonwealth Government.

Exemption granted on 28 July 2015 and gazetted on 19 August 2015

Exemption Nos. 15/03/073, 15/07/036, 15/07/077, 15/07/079, 15/07/080 granted to **Tasmania University Union Inc** on 28 July 2015 for 3 years. These exemptions were granted to permit Tasmania University Union Inc to restrict nominations and elections of five student representative positions (north and south) to people with specified attributes. The positions and attributes are as follows:

- Women's Officer: restricting the positions to people who identify as women. As such, the exemption is granted from the provisions of the Act that protect against discrimination in employment on the basis gender and gender identity (15/03/073).
- Position (however named) supporting and advocating for students who are lesbian, gay, bisexual, transgender, intersex, queer or asexual (LGBTIQA): restricting the positions to people who identify as one or more of lesbian, gay, bisexual, transgender, intersex, queer or asexual. As such, intersex, gender identity and sexual orientation (15/07/076).
- International Students Officer: restricting the positions to people who are enrolled as International students (full-fee-paying students from overseas) at the University of Tasmania. As such, the exemption is granted from the provisions of the Act that protect against discrimination in employment on the basis of race (being relevantly nationality and/or national origin) (15/07/077).
- Aboriginal and/or Torres Strait Islander Officer: restricting the positions to people who identify as Aboriginal and/or Torres Strait Islander. As such, the exemption is granted from the provisions of the Act that protect against discrimination in employment on the basis of race (15/07/079).
- Disability Officer: restricting the positions to people who identify as having disability. As such, the exemption is granted from the provisions of the Act that protect against discrimination in employment on the basis of disability (15/07/080).

For more information on exemptions go to;

<http://www.antidiscrimination.tas.gov.au/exemptions>

FAQs - What is work?

During the course of employment, employees are sometimes expected or invited to attend work-related events, functions or activities during or outside of 'normal' working hours or outside the usual office or workplace venues.

These may include:

- After-work drinks
- Conferences, seminars, training courses
- Functions including lunches, dinners and parties organised by the employer
- Client networking functions
- Team-building activities
- Staff social club events
- Travel for business purposes including both regional and interstate travel
- Corporate sporting competitions, health and wellbeing activities/competitions

It is often unclear if these functions or activities took place within the course of employment or in the employees' own private time and therefore who is responsible if something goes wrong?

Some of my work colleagues and I went out for 'after-work drinks'. While there John sexually harassed Jai. Can Jai make a complaint of workplace harassment?

- If there is no relevance or connection to John and Jai's employment, the 'get together' is therefore a 'private event' and has no bearing on employment obligations or responsibilities.
- However, if there was a link to the workplace the *Anti-Discrimination Act 1998* could apply.

As an employee my work hours are 9.00 am - 5.00 pm. Can I get into trouble from my employer for things that happen outside of these hours?

- The work 'day' usually starts when you arrive or sign on or begin your work duties.
- The work day usually finishes when you sign off or stop working for the day.
- Just as you are always responsible to your employer while driving a work vehicle (even for private use), you should always be aware of any actions that connect you to your employment such as; wearing company clothing or representing your organisation in any way.
- Your obligations to your employment and employer may 'spill over' into your private life even though you have finished your day's work. For example; disrespecting or discrediting your employer in public or threatening another colleague may have consequences for your employment. Be very aware that your social media presence is public and your postings could be linked to your employment.
- Read any workplace agreements, awards and workplace policies (such as your code of conduct), to be aware of obligations you have to your employer.

I don't think it's fair that my work dictates how I behave in my own home!

- If your behaviour in your own home has no relevance or connection to your employment or your employer then what you do in your own home is your private business.
- However, see the above question and information about work hours and responsibilities.

Some of my colleagues are staying at a motel so that we can go to a conference nearby. Does our workplace Code of Conduct apply while we are away from our normal work venue?

- Yes, your accommodation at the motel is connected to your attending the conference as part of your employment.
- Another connection to your employment is that your employer may be providing and paying for your accommodation whilst you attend the conference.

Our work Christmas BBQ is being held at a local park. As the venue is nothing to do with my workplace, why do I have to comply with the Code of Conduct?

- The BBQ is promoted as a 'work' event. As such, the responsibilities of you and others attending from your workplace are covered in your workplace policies and other relevant laws.
- Just as your employer has an obligation to provide a safe and respectful space for any work-related event, you have an obligation to behave safely and respectfully.
- Also, if alcohol is supplied the employer might remind everyone of their responsibilities when attending a 'work'-related event.

If you are not sure about your employment situation in relation to your obligations, review your workplace induction package, read your Code of Conduct and discrimination and workplace behaviour policy or talk to your human resources department or manager.

Case Summary

Dismissal for out of hours text warranted.

Ambrose v Moolarben Coal Operations Pty Ltd (2014) EOC ¶93-731.

The Fair Work Commission upheld an employee's dismissal for sending a co-worker an obscene image via text message even though the message was sent after hours between private mobile phones.

The employee, **A**, had worked as an operator at a coal mine at for about three years.

In July 2013, he got a formal warning for harassing a co-worker, **S**, contrary to workplace harassment policy.

In August 2013, **S** complained to the employer and to the police about a text message he got from **A**. The text included the image of a man performing oral sex on himself, with the words 'This is u cock sucker'. **A** was dismissed following a disciplinary process.

A claimed the dismissal was harsh, unjust or unreasonable.

The Fair Work Commission found the employer's workplace harassment policy, together with its bullying and harassment policy clearly prohibited such conduct.

The Fair Work Commission found the employer had made sure all its employees knew about the policies and had training on them. It also found **A** had been warned about inappropriate conduct the previous month and had clearly breached the policies. The Fair Work Commission rejected the argument that the text was sent to **S** by mistake and was not sufficiently connected to the employment of **A** and **S** because it was sent out of work hours between private mobile phones. **A**'s dismissal was therefore justified.

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FWC/2014/3899.html?stem=0&synonyms=0&query=ambrose>

Complaint Summary

A person complaint about an organisation, alleging it discriminated against her on the basis of disability by refusing to make modifications to a property to make it suitable for her to continue to live there as her eyesight got worse due to her disability.

She also alleged she did not get sent letters in a format she could read, because they were in hard copy sent through the post. She wanted to get letters and other information in electronic form or e-mail.

At conciliation, the organisation agreed to:

1. Fix the problems identified with the property
2. Design and install a handrail along a path, in consultation with the person who made the complaint and her advocate
3. Provide written communication on a CD with an audio recording
4. Meet with Robin Banks (the Anti-Discrimination Commissioner) to discuss communication accessibility generally and then report back to the complainant's advocate about the meeting.

September and October Training Calendar

Workplace Support / Contact Officer Role

Hobart

Monday 7 September

1:00 - 5:00 pm

&

Tuesday 8 September

9:00 am - 1:00 pm

Devonport

Thursday 17 September

9:00 - 4.30 pm

***Please note this course was originally scheduled for Burnie on 10 & 11 September and will now be delivered as a full-day course in Devonport**

on 17 September

\$440.00 (ex GST)

.....

OCTOBER IS WORKSAFE MONTH

5 - 31 October 2015

WorkSafe are hosting free webinars during WorkSafe month this October

Roz Smart will be presenting the webinar:

Small business: Protect your reputation: Know your rights and responsibilities

Wednesday 14 October

10:00 - 11:00 am

for more information about the webinars and to register go to:

<http://worksafe.tas.gov.au/safety/events/worksafe-month>

.....

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

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

Training News

It is pleasing to see an increase in organisations either taking on and establishing or re-vigorating and re-training Workplace Support Contact Officers in their organisations. To find out more about Workplace Support Contact Officers, go to

http://www.antidiscrimination.tas.gov.au/information_for_organisations/workplace_support_contact_officer

.....

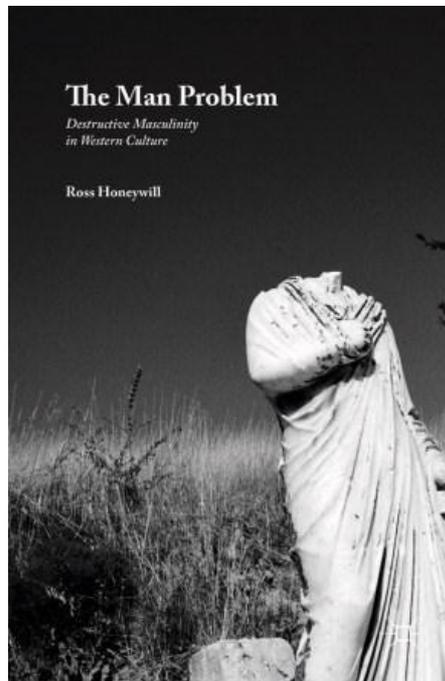
All of our courses can be delivered in-house. To talk to us about coming to your workplace, community, school or organisation, phone 6165 7515 or 1300 305 062 or e-mail roz.smart@justice.tas.gov.au or louise.adams@justice.tas.gov.au.

Local News

University of Tasmania,
School of Business &
Economics

From the Bedroom to the Boardroom: The Man Problem - and How to Be a Man-Problem-Solver

Bestselling author and social researcher Dr Ross Honeywill



reveals the potential for destructive masculinity as the social, political and economic problem of our age. He challenges every man to acknowledge the problem by rising to the solution – beginning with recognition that men enjoy unearned privilege while women enjoy social, political and economic disadvantage.

In this original, engaging and accessible address Dr Honeywill unveils new research on the origins and impact of destructive masculinity. He reveals Australia is remasculinising

and offers a possible way forward; a prognosis for each of us to be a man-problem-solver. With rape, domestic violence and gender inequity on the rise, this is a conversation for its time.

Dr Honeywill will be joined by Robin Banks, Tasmanian Anti-Discrimination Commissioner, and Michelle Levine, CEO of Roy Morgan Research, for a Q&A session,

Date: Thursday 3 September 2015

Time: 6.00 pm - 8.00 pm

Where: Stanley Burbury Lecture Theatre

Address: University Centre, Churchill Ave Sandy Bay

Cost: Free of charge

Dress: Business attire

Registrations will open on Tuesday 21 July 2015

To register: <https://www.utasalumni.org.au/alumni-events/the-man-problem-2015>

For further information contact:

Natalie Nimmo - Alumni Relations Office,

email alumni.office@utas.edu.au or phone (03) 6324 3052

Gayby Baby coming to Hobart



GAYBY BABY, is a feature documentary about four kids – Gus, Ebony, Matt and Graham – whose parents all happen to be gay. As they each wrestle with the challenges of oncoming adolescence, the outside world wrestles with the issue of marriage equality, and whether or not kids like them are at risk.

The documentary hits cinema screens around the country this **Thursday, 3 September with a limited season (7 days) at Village Hobart.**

A special screening and Q&A event with the Director Maya Newell and Producer Charlotte Mars will be available to attend on Monday 7 September.

To watch the Trailer <https://www.youtube.com/watch?v=spO0mKq3vhc>

To find out more about screening times go to <http://thegaybyproject.com/screenings/>

Human Rights Week



It's that time of year again, with nominations for the **2015 Human Rights Week Awards** closing in just 4 weeks.

If you or someone you know is making a difference in human rights, make sure you get those nominations in!

The Awards are a great opportunity to recognise remarkable individuals, community groups and organisations that are promoting and advancing human rights in Tasmania. This year, there are nine categories:

- 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.

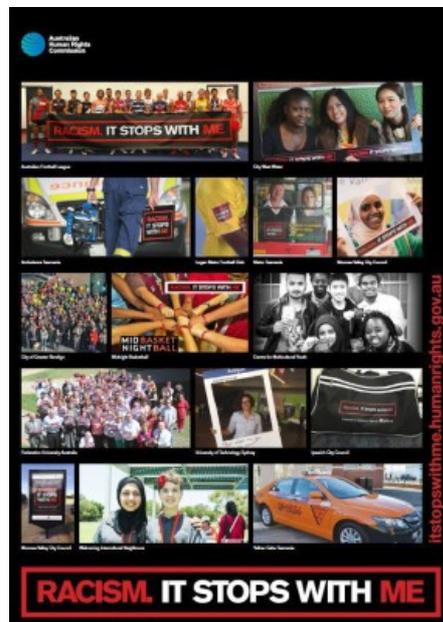
Click on this link for more information and to download a nomination form www.afairerworld.org/_HRWeek or phone 03 6165 7512.

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

Details about the event are coming soon, but in the meantime mark Thursday 3 December in your diary to attend the Human Rights Week Launch and Awards announcement in Hobart.

Go to the Human Rights Week Tasmania facebook page <https://www.facebook.com/HumanRightsWeekTasmania?fref=ts> to like and share.

Racism. It Stops with Me!



Tasmanian organisations featured in the new Racism. It Stops with Me! campaign poster

To showcase the great activities supporter organisations are involved in, Racism. It Stops with Me! has a new campaign poster featuring pictures of supporter activities.

The Tasmanian organisations featured are; Tasmanian Ambulance Service, Metro and Yellow Cabs - Yay Tassie!

You can download the new poster from the website.

https://itstopswithme.humanrights.gov.au/resources/campaign-materials?mc_cid=7a11a75fd6&mc_eid=dd004567bd

National News

'OMG I'm Trans'

Safe Schools Coalition Victoria have launched 'OMG I'm Trans', the first resource of its kind in Australia, written and produced by young trans and gender diverse people for their peers.

It is available online here;

<https://minus18.org.au/index.php/resource-packs/omg-i-m-trans>

.....

2015 Sports Inclusion Consultation

Australian Human Rights Commissioner Tim Wilson is conducting a national survey on the participation of transgender, gender diverse and intersex people in sport to ensure their rights are protected in the policies and practices of sporting codes.

'Participation in sports is part of the Australian identity and helps promote health, wellbeing, fair play and a culture of mateship', Commissioner Wilson said.

'During the Commission's recent national consultation, transgender, gender diverse and intersex people reported positive experiences in sport participation; others said they have experienced exclusion, violence and harassment on the basis of their gender identity or intersex status.

'Not enough empirical data has been collected on the experiences of trans, gender diverse and intersex people in Australian sports. We hope that this consultation will assist in filling this gap at a national level.'

The results of the national survey will inform the National Anti-Homophobia and Inclusion Framework to ensure it suitably protects people on the basis of gender identity or intersex status.

'The Australia we should all want is one where everyone feels safe and capable of performing to their best. That happens when we get rid of pointless discrimination and bring about a culture of safety and inclusion.'

The online survey will run from 20 August 2015 to 3 September 2015 and is available at:

https://www.surveymonkey.com/r/AHRC_SportSurvey

.....

Equal Pay Day this year: 4 September

Using the traditional methodology of the difference between men's and women's wages, expressed as a percentage of men's wages, the Workplace Gender Equality Agency calculates the current national gender pay gap to be 17.9%. This represents a difference of \$284.20 in earnings per week.

Based on the latest Average Weekly Earnings data, Equal Pay Day falls on Friday 4 September this year. This represents the 65 extra days women, on average, would need to work from the start of the 2014-15 financial year on 1 July 2014 to earn the same as men.

The Workplace Gender Equality Agency encourages employers to conduct their own gender pay gap analysis. You can access the fact sheet *Gender workplace statistics at a glance* and pay equity tools at <http://inyourhands.org.au/improve-pay-equity/>

Play by the Rules



Play by the Rules has an online interactive bi-monthly magazine. To access any of the five different versions and subscribe, go to <http://pbtr.com.au/r/pbtrmags>

Awareness Days in September



Adult Learners' Week

1 – 8 September 2015

<http://www.adultlearnersweek.org/>

<https://www.facebook.com/pages/Adult-Learners-Week/121322604630835>

.....

Equal Pay Day

Saturday, 5 September 2015

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

.....

R U OK? Day

Thursday, 10 September 2015

<http://ruokday.com/>

<https://ruok.org.au/inspire-conversations/ruok-at-work>

<https://www.facebook.com/ruokday?fref=nf>

.....

White Balloon Day

Friday, 11 September 2015

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

.....

United Nations' International Day of Peace

Monday, 21 September 2015

www.internationaldayofpeace.org/

Please feel free to copy any content from In respect of rights to share within your own networks, newsletters or bulletins. Please include acknowledgment of the Office of the Anti-Discrimination Commissioner in your material as well as our website address: www.antidiscrimination.tas.gov.au. We would love to receive copies of your publications.

[Edit your subscription](#) | [Unsubscribe](#)

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.