

Equal Opportunity Tasmania

In respect of rights

From the Anti-Discrimination Commissioner



This month we begin our work on our major project for the year: the development of a Disability Justice Strategy for Tasmania

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*.

Exemption granted on 23 December 2015 and

gazetted on 13 January 2016

The Roman Catholic Trust Corporation of the Archdiocese of Hobart (Archdiocese of Hobart) – 15/08/055 – Application for an exemption granted under section 57 of the Act for a period of three years.

This exemption has been granted to permit the **Archdiocese of Hobart** to advertise and employ women only in the positions of Crisis Worker(s) and Team Leader(s) at the **Annie Kenney Young Women's Emergency Accommodation Service** for the following purpose:

1. Operating the Archdiocese of Hobart's Annie Kenney Young Women's Emergency Accommodation Service for young women aged between 13-21 years who may be experiencing violence, homelessness or who are at risk of becoming homeless.

It has been granted for the following reasons:

1. Being a woman is a genuine occupational requirement of working with women who require crisis accommodation and other services provided by Archdiocese of Hobart's Annie Kenney Young Women's Emergency Accommodation Service because staff working in these roles all have regular personal contact with the young women accessing the crisis accommodation services and the young women may be facing homelessness due to family violence involving a male perpetrator.
2. The accommodation facilities provided by the Archdiocese of Hobart's Annie Kenney Young Women's Emergency Accommodation Service are for women and girls aged between 13 and 21 years and , as such, include residents who are girls under the age of 18 years.
3. The services provided are aimed at empowering young women by providing sufficient support to enable them to progress towards meeting their goals as identified from assessment and within their case plans.

A person may apply to the Anti-Discrimination Tribunal for a review of the Commissioner's decision **within 28 days from the date of this notice being published.**

For more information on exemptions go to;

<http://equalopportunity.tas.gov.au/exemptions>.

FAQs - Discrimination law

What is the rational behind discrimination laws?

- Australia has International human rights obligations, discrimination laws assist to meet these obligations.
- Governments recognise discrimination as a social ill and develop laws to challenge and respond to discrimination.
- Discrimination reduces opportunities for economic, social and cultural participation, causes negative health outcomes and limits economic, social and cultural participation.
- Discrimination tends to target the most disadvantaged in the community and further isolates them.

Is discrimination law state or federal?

- Over the past 30 years, the Australian Government and all state and territory governments have introduced laws to help protect people from discrimination and harassment.
- The following laws are federal laws that have effect throughout Australia. The Australian Human Rights Commission is responsible for dealing with each of these laws:
 - *Age Discrimination Act 2004*
 - *Australian Human Rights Commission Act 1986*
 - *Disability Discrimination Act 1992*
 - *Racial Discrimination Act 1975*
 - *Sex Discrimination Act 1984*

- Each state and territory parliament has created a law (or laws) to make specified discrimination and related conduct unlawful in their state or territory. In Tasmania that law is the *Anti-Discrimination Act 1998* (the Act).

Who decides what or who is covered by discrimination laws?

- Parliaments have identified groups that have historically been excluded or disadvantaged and that continue to experience disadvantage, such as;
 - racial minorities
 - women
 - people with disability (including physical and intellectual disability, mental illness and more)
 - gays and lesbians
 - older people
 - children and young people
- In the Tasmanian Act, the Tasmanian Parliament has specified 22 characteristics that are the basis of protection and these are listed the Act.
- The Act defines what types of treatment of a person or group because of their characteristics are unlawful, including defining direct or indirect discrimination, what else is prohibited under the *Act* and how the protection provided by the Act is to operate.

Who employs the Anti-Discrimination Commissioner?

- The Anti-Discrimination Commissioner (Robin Banks) is a statutory authority appointed under the Act and employed by the Tasmanian Government through the Attorney-General.

What does the Anti-Discrimination Commissioner do?

The Commissioner has functions set out in the *Act*. These functions are:

- to advise and make recommendations to the Minister on matters relating to discrimination and prohibited conduct;
- to promote the recognition and approval of acceptable attitudes, acts and practices relating to discrimination and prohibited conduct;
- to consult and inquire into discrimination and prohibited conduct and the effects of discrimination and prohibited conduct;
- to disseminate information about discrimination and prohibited conduct and the effects of discrimination and prohibited conduct;
- to undertake research and educational programs to promote attitudes, acts and practices against discrimination and prohibited conduct;
- to prepare and publish guidelines for the avoidance of attitudes, acts and practices relating to discrimination and prohibited conduct;
- to examine any legislation and report to the Minister as to whether it is discriminatory or not;
- to investigate and seek to resolve complaints;
- to collect and analyse data relating to complaints;
- any other prescribed functions.

Is Equal Opportunity Tasmania a private organisation, or is it part of the State or Federal Government?

- Equal Opportunity Tasmania is a part of State Government. It assists the Anti-Discrimination Commissioner to perform her functions under the *Act*.

* Next month our FAQs will continue with further information about the functions of the Anti-

Discrimination Commissioner and Equal Opportunity Tasmania.

Case Summary

Disability Discrimination

A chocolate factory has been ordered to pay \$20,000 to an employee who it discriminated against on the basis of his disability by failing to make reasonable adjustments for him to continue his employment.

The employee suffered an elbow injury while working, but made a full recovery. Before his employment was terminated he was doing light duties and was away from work for a period due to non-work related hernia surgery.

The employee had worked at the factory for 30 years and was only 2 years away from retirement when his employment was terminated. The termination was based on a medical report that stated he no longer had the capacity to perform the requirements of his role due to the risk of further injury to his elbow.

However, the employer failed to identify the reasonable requirements of the employee's job and did not make any assessment of the risk to the employee if he returned to his full position or identify any adjustments that might be made to enable him to do his job.

The Victorian Civil and Administrative Tribunal (VCAT) found the employee was subjected to direct discrimination because of his disability when his employment was terminated. The discrimination caused the employee to suffer shock, disappointment, upset and distress. The chocolate factory was ordered to pay \$20,000 for injury to feelings.

The employee also claimed more than \$200,000 for economic loss, which was consistent with the *Equal Opportunity Act 2010* (Vic). The Tribunal has not yet made its decision about compensation for economic loss.

Dziurbas v Mondelez Australia Pty Ltd (Human Rights)

Cases of interest

[2015] VCAT 1432 (9 September 2015)

<http://www.austlii.edu.au/au/cases/vic/VCAT/2015/1432.html>

Disability discrimination

A woman alleged disability discrimination against a travel insurance company that refused to pay insurance for her trip cancellation. She had cancelled because she developed depression and became too ill to travel.

QBE has been ordered to pay the woman \$4,292 to cover her lost travel costs and \$15,000 compensation for hurt and humiliation.

Ingram v QBE Insurance (Australia) Ltd (Human Rights) [2015] VCAT 1936 (18 December 2015)

<http://www.austlii.edu.au/au/cases/vic/VCAT/2015/1936.html>

Sexual harassment, bullying and rape threats

After 2 years of assault, sexual harassment and bullying during her employment at a Melbourne workplace, the Victorian Supreme Court ordered the employer to pay the complainant \$1.36 million in compensation.

She said, 'It's never been about the money, it's about being able to work wherever I wanted to and they've taken that away from me.'

Mathews v Winslow Constructors (Vic) Pty Ltd [2015] VSC 728 (17 December 2015)

<http://www.austlii.edu.au/au/cases/vic/VSC/2015/728.html>

**February
and March 2016
Training Calendar**

Workplace behaviour, where is the line?

Burnie

Monday 8 February
10.30am-12.30 pm

Launceston

Monday 22 February

9.00-11.00 am

Hobart

Tuesday 23 February

9.00-11.00 am

\$110.00 per person

**Train the Trainer
to deliver your own Anti-Discrimination training****Hobart**

Monday 29 February

and

Tuesday 1 March

\$770.00 per person

**Discrimination, harassment & bullying
management for managers****Hobart**

Monday 7 March

9.00 am-1.00 pm

Launceston

Tuesday 8 March

9.00 am-1.00 pm

Burnie

Wednesday 9 March

12.30-4.30 pm

\$220.00 per person

**LUNCHBOX LEARNING
Racism. It stops with me!****Hobart**

Monday 21 March

12.00-1.30 pm

Launceston

Tuesday 22 March

12.00-1.30 pm

Burnie

Wednesday 23 March

12.00-1.30 pm

\$80.00 per person

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

<http://equalopportunity.tas.gov.au/training>

Training News

Training overview

At the beginning of a new year it is always interesting to reflect on recent work. In the last 6-month period, we have delivered 74 hours of community awareness sessions and 130 hours of training to prevent discrimination, harassment and bullying. We have had the opportunity to travel state-wide delivering sessions from Burnie to Nubeena, as well as Flinders Island and King Island. We have held sessions with groups and individuals from senior executives to kindergarten students and as diverse as a fitness club, a band league, hairdressing students, and the usual mix of Local Government, Government departments, schools and colleges. As a special mention in a time when many organisations struggle to recognise and justify the costs versus the benefits of awareness training, well done to **Tas Ports** for its commitment to delivering awareness sessions to all staff members through the annual marathon road show.

For training figures from the 2014-15 period please see our latest Annual Report:

http://equalopportunity.tas.gov.au/about_us/annual_report.

For more information about the training we deliver go to: <http://equalopportunity.tas.gov.au/training>. follow the link to **training resources**.

To talk to us about coming to your workplace, community, school or organisation, phone 6165 7515 or e-mail training@equalopportunity.tas.gov.au.

The Office of the Anti-Discrimination Commissioner website address and e-mails will only continue to work for a period of time. Remember to update any references to our office to **Equal Opportunity Tasmania** in your organisational policies and reference materials.

**see contact us below*

Local News

Multicultural Grants Program 2016

As part of Tasmania's Population Growth Strategy the Tasmanian Government created the **Multicultural Grants Program** aimed at assisting migrants to settle and feel welcome in Tasmania. This is a great opportunity for new ideas on how we can best welcome migrants and refugees to Tasmania.

The grants are awarded to:

- encourage cross cultural awareness as well as foster intercultural and interfaith relationships, community contributions, mutual respect, understanding and community unity;
- support the establishment and growth of ethnic organisations in meeting the needs of their community members; and
- establish familiar and transitional arrangements and support mechanisms for new migrants.

For more information go to:

http://www.dpac.tas.gov.au/divisions/csr/grants_and_community_engagement/grants/multicultural_grants_program_2016

The Premier's Disability Advisory Council Invites Expressions of Interest for new members

If you are a person with disability, a carer, family member or someone with a demonstrated interest in disability issues, you are invited to express interest in becoming a member of the Premier's Disability Advisory Council. Three positions are currently available. People with disability are particularly encouraged to apply.

The Premier's Disability Advisory Council assists the Tasmanian Government to implement its *Disability Framework for Action* and provides advice on whole-of-government policy and programs that have an impact on Tasmanians with disability.

The closing date for expressions of interest is **9.00 am**

National News

Monday 15 February 2016. More information and application packs are available at <http://www.dpac.tas.gov.au/divisions/csr>, by e-mailing disability@dpac.tas.gov.au, or by calling 03 6232 7151 or 1300 135 513.

Tasmanians win national human rights award

Congratulations to **Tasmanian Students Against Racism** who won the inaugural national **'Racism. It Stops with Me' Award** at the Australian Human Rights Awards in Sydney on 10 December 2015. The award recognises the contribution community groups, organisations or businesses make to reducing and preventing racism in Australia.

To read more about Students Against Racism go to: http://www.afairerworld.org/_Current_projects/lib.html

Human Rights in 2015

Professor Gillian Triggs, President of the Australian Human Rights Commission, delivered a brief summary of Human Rights in 2015 in her Christmas message.

Read it here:

<https://www.humanrights.gov.au/news/stories/message-president>

Play by the Rules



Play by the Rules has an online interactive bi-monthly magazine. To catch up with the latest news and subscribe, [visit the Play by the Rules website \(http://pbtr.com.au\)](http://pbtr.com.au).



Awareness days in February

World Interfaith Harmony Week

1 - 7 February

A week to promote harmony between all people regardless of their faith

<http://worldinterfaithharmonyweek.com/>

World day of Social Justice**20 February**

The United Nations (UN) World Day of Social Justice promotes poverty eradication, full employment and social integration

<https://www.un.org/en/events/socialjusticeday/>

<https://www.facebook.com/worlddayofsocialjustice>

International Mother Language Day**21 February**

The United Nations (UN) International Mother Language Day is annually held on 21 February to celebrate languages spoken worldwide. It also observes the human right to use these languages.

<http://www.internationalmotherlanguage.com/>

<https://www.facebook.com/motherlanguage.com>

Contact us

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

Equal Opportunity
Tasmania
Level 1, 54 Victoria
Street, Hobart,
Tasmania 7000
GPO Box 197, Hobart,
Tasmania 7001.

Website

www.equalopportunity.tas.gov.au

E-mail

office@equalopportunity.tas.gov.au

complaints@equalopportunity.tas.gov.au

training@equalopportunity.tas.gov.au

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 1300305 062

Please let the office know before an appointment if you need assistance or the services of an interpreter.



In respect of rights is published by **Equal Opportunity Tasmania** to be an information, reference and education tool for and about discrimination law and the Tasmanian community and workplaces.

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 **Equal Opportunity Tasmania** in your material as well as our website address: www.equalopportunity.tas.gov.au. We would love to receive copies of your publications.

Preferences | **Unsubscribe**