

## *In respect of rights*

### **From the Anti-Discrimination Commissioner**



photo of an I love census badge

We're fast approaching the 5-year milestone that is the Census of Population and Housing. This year, on Tuesday 9 August, the Australian Bureau of Statistics is asking everyone to make sure they are counted in the 2016 Census. I have agreed to be an Ambassador for the Census, because it is a very important way we can all contribute to shaping policies and services across Australia.

For more than 100 years, the Census has taken a snapshot of Australia, helping to shape our nation's infrastructure, transport, education and health. One of the earliest examples of this is the discovery of the link between rubella and disability in new-born children. This was found through the use of data gathered in the 1911 Census. For more information [click here](#).

Data collected from the Census helps community organisations, governments and businesses to plan for services and facilities, such as housing, healthcare and education. It helps my office and other organisations like mine to know who is in our community and a bit about their needs.

This is why it's so important to answer the questions on the Census form as accurately as possible. The information that you provide is crucial to finding out what Australia looks like now and what it might look like in the future. Answering every question accurately makes the data collected much more useful and usable by governments, community organisations, universities and others.

By now, you will have got a letter at your home from the Australian Bureau of Statistics about the 2016 Census. It explains how to log-in to the Census to complete the Census form. If you don't have a computer or can't log-in for some reason, you need to call the Census people on 1300 820 275 to tell them you need a form.

The ABS has invested in reaching everyone in the community to make sure everyone has the opportunity to be counted. Resources have been developed to support people who are Deaf or hard of hearing, blind or who have low vision, and those experiencing illness or injury, to complete the Census. You can find more information about the support available by going to the [Census website](http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-j/) (<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-j/>) or calling the Census Inquiry Service on 1300 214 531.

The 2016 Census also takes a new approach to gender identification, by making available the option to identify as neither 'male' or 'female'. You can find out more about the gender options on the [Census website](http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-i/) (<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-i/>) or calling the Census Inquiry Service on 1300 214 531.

In Tasmania, the Australian Bureau of Statistics (ABS) has partnered with LINC to provide information and support to help people complete their Census. You can visit a local LINC anywhere in Tasmania to get assistance. The ABS has also organised fill-in-the-form sessions across the State to help people with their Census forms. There will be bilingual support at specific sessions.

The ABS has also produced a series of videos called 'Making Sense of the Census.' These short instructional videos help to explain what the Census is, why it's important, how to complete it, and the ways in which the ABS protects your privacy. You can watch the 'Making Sense of the Census' videos on the Census Australia YouTube channel or by [clicking here](#). These are available in a range of languages and are captioned.

If you would like more information about the Census or how to complete your Census this year, you can go to [census.abs.gov.au](http://census.abs.gov.au) or call **1300 214 531**.

The Census is your moment to make a difference.

**Robin Banks**  
**Anti-Discrimination Commissioner**

**Access to buildings for people with disability - feature series**

**Picture 1 above:** a good example of the grabrails, backrest and location of the toilet roll holder

**Picture 2 above:** a toilet supposed to be a unisex accessible toilet but with the grabrail upside down, no backrest or rear grabrail and to make it even worse it is being used as a storage room

the basic layout of an ambulant accessible cubicle

**Picture 3 above:** the basic layout of an ambulant accessible cubicle

An ambulant accessible toilet

**Picture 4 above:** an ambulant accessible toilet

### Improving building access for all of us

In this fifth in our series of articles about accessible buildings we will look at what the minimum requirements are to be sure toilet facilities are suitable for use by people with disability.

For new buildings, the law says that wherever there is a bank of toilets there has to be an accessible unisex toilet (often wrongly referred to as a 'disabled' toilet).

So, for example, if a new building has a single bank of male and female toilets on the Ground Floor there must be a unisex accessible toilet at the same location. If a 10-storey building has banks of toilets on every level then there has to be an accessible unisex toilet on every level.

This rule does not apply in buildings where there are several banks of toilets on each level as can be the case, for example, in sports stadiums or theatres. In this situation only 50% of the banks of toilet have to include a unisex accessible toilet.

There are many detailed technical standards that apply to the design and construction of accessible unisex toilets. These are aimed at ensuring the greatest possible number of wheelchair users can independently use toilets. In broad terms, however, a new accessible unisex toilet must have:

- A doorway entry that is at least 850 mm wide
- Enough space inside for wheelchair

users to turn and get to the pan and sink (at least 1,900 mm wide x 2,300 mm long)

- Grabrails to the side and behind the pan
- A backrest to the pan
- No furniture, storage boxes or other things in the toilet facility
- Fixtures, such as soap and paper towel dispensers or coat hooks, at a height that can be easily reached by someone using a wheelchair and away from corners so they are easy to get to

**Photo 1** shows a good example of the grabrails, backrest and location of the toilet roll holder

**Photo 2** shows a toilet supposed to be a unisex accessible toilet but with the grabrail upside down, no backrest or rear grabrail and to make it even worse it is being used as a storage room

Accessible unisex toilets are specifically designed to allow wheelchair users to transfer from their wheelchair onto the pan from the front or the side so one side of the pan must be clear of walls or obstructions.

Many people who use a walking frame or crutches, are unsteady on their feet, or perhaps have arthritis or difficulty walking, benefit from a toilet cubicle with grabrails on both sides rather than an accessible unisex toilet, so for new buildings there is now a requirement for what is called 'ambulant accessible toilet cubicles.

If, for example, an office or workplace has an accessible unisex toilet as well as separate male and female toilets, at least one of the cubicles in the male and female blocks of toilets must be an ambulant accessible cubicle.

An ambulant accessible cubicle must:

- Have grabrails on both sides
- Be between 900 mm and 920 mm wide so that a person can reach both grabrails
- Have a clear space in front of the pan or at least 900 mm that the door does not swing into.

**Photo 3** shows the basic layout of an ambulant accessible cubicle

**Photo 4** shows an ambulant accessible toilet

All new buildings must provide equal access for people with disability. If a new building

does not provide this, those responsible for the building could be subject to a discrimination complaint. If you see a new building that does not have good access you could also ask your local council to look into why it doesn't.

This is the final article in our series about access to buildings by people with disability. If you want to find out more about the law and the level of access buildings should provide you can download a *Guideline on the application of the Premises Standards* at <https://www.humanrights.gov.au/guidelines-application-premises-standards>

If you want to find out more about the technical requirements for the design and construction of features such as ramps, stairs or accessible unisex toilets you can purchase a copy of the technical standard (AS 1428.1) from <http://equalopportunitytasmania.createandsend1.com/t/j-l-kijkuk-l-b/>

## 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://equalopportunitytasmania.createandsend1.com/t/j-l-kijkuk-l-n/>.

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 14 July 2016 and gazetted on 20 July 2016**

16/06/020 - Exemption granted under section 57 of the Act for a period of 3 years. This exemption has been granted to permit **Support, Help and Empowerment Inc (SHE)** to recruit and employ women only in the roles of Counsellor, Project Worker, Executive Officer and Volunteer Administrator on the basis that it is consistent with:

1. section 25 of the Act, which provides an exception for discrimination 'for the purpose of carrying out a scheme for the benefit of a group which is disadvantaged or has a special need because of a prescribed attribute'; and
2. section 26 of the Act, which provides an exception for discrimination 'in any program, plan or arrangement designed to promote equal opportunity for a group of people who are disadvantaged or have a special need because of a prescribed attribute'; and
3. section 27(1)(d) of the Act, which provides an exception for gender discrimination 'in employment, if it is based on a genuine occupational qualification or requirement in relation to a particular position'.

The exemption is granted for three (3) years subject to the fulfillment of the conditions that **Support, Help and Empowerment Inc (SHE)**:

1. report on or before 30 June 2017 to the Anti-Discrimination Commissioner on actions taken in reliance on this exemption; and
2. on at least one occasion in the 12 months immediately after this order is made, organise and promote community education for its staff, members, officers, clients and volunteers of Support, Help and Empowerment Inc (SHE) through Equal Opportunity Tasmania's community education program to increase awareness of rights and obligations under the *Anti-Discrimination Act 1998* (Tas).

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://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-p/>

## **FAQs - Religious Belief, Affiliation or Activity**

**Is there any protection under discrimination law if I am treated unfairly because of my religious belief and practice?**

- Yes, the *Anti-Discrimination Act 1998* (Tas) makes discrimination based on religious belief, affiliation or activity unlawful if it happens in any one of the places or activities listed below.
  - Work – paid and voluntary. This includes during the recruitment process.
  - Training or studying. Including school, TAFE, University or workplace training.
  - Providing or accessing facilities or services
  - Buying or selling goods
  - Club membership or club-related activities
  - Hotels and pubs
  - Housing and accommodation. Includes short-term accommodation such as hotel or hostel
  - Office and other business premises
  - The design or implementation of state laws or programs
  - Making or implementing industrial awards, enterprise agreements or industrial agreement.
- Unlawful discrimination occurs when a person is treated unfairly (less favourably than another person), or is denied the same opportunities as others, because of their religious belief, affiliation or activity.

**What is meant by religious belief, affiliation or activity under the Act?**

- 'Religious belief or affiliation' includes belonging to or identifying with a particular religion or not being religious. It also includes believing or not believing in a God or deities.
- 'Religious activity' includes activities related to the practice of religion.
- Activities may include any involvement in a religious ceremony at a church, chapel, mosque, temple or synagogue. This also includes not engaging in, or refusing to engage in, any of these activities.

**There seems to be a lot of hateful comments on social media about religion. Does the same law apply?**

- Yes, the Act prohibits 'public acts' that have the potential to incite hatred, serious contempt or severe ridicule based on a person's religious belief, affiliation or activity.

- 'Public acts' are actions other people can see and hear. Examples might include;
  - Posting on social media such as Face Book, twitter, etc
  - Creating websites or groups
  - Distributing fliers to the public
  - Actions in the street, in a park, or where it can be seen or heard by passers by
  - Public speeches
  - Sending material to others
  - Commenting on radio or television or posting comments online
- To be capable of being considered possible incitement it must be capable of inciting emotions in others at the extreme end of the scale. Not everything derogatory or unpleasant is sufficiently strong to meet the level of behaviour set out in the test of incitement established by the Anti-Discrimination Tribunal.

**What happens if I am treated unfairly because of my friend's religious beliefs and practices?**

- Discrimination law also protects a person from discrimination on the basis of their association with someone:
  - who holds a particular religious belief, has a particular religious affiliation or is involved in religious activities;
  - who is not religious, doesn't practice a religion and/or doesn't believe in a god;
- Association includes anyone you have a friendship or relationship with. It includes, but is not limited to a friend, family, partner and work colleague.

**If you think you have been discriminated against because of:**

- your religious belief, affiliation or activity
- your 'association' with someone because of their religious belief, affiliation or activity

**or you think:**

- someone has incited hatred, serious contempt or severe ridicule 'publicly' targeting you or people who share with you a particular religious belief, affiliation or activity

you can call our office on 03 6165 7515 or 1300 305 062 and ask to speak to or meet with an enquiries officer or you can [visit our website](http://www.antidiscrimination.tas.gov.au) for more information ([www.antidiscrimination.tas.gov.au](http://www.antidiscrimination.tas.gov.au)).

## Case Summary

### ***Power v Bouvy* [2015] TASADT 2 (11 February 2015)**

The Anti-Discrimination Tribunal of Tasmania dealt with complaint involving Mr Power and Mr Bouvy in July 2015.

In about 2007, Mr Power became a civil marriage celebrant. Around 2009, Mr Bouvy asked Mr Power to conduct his marriage ceremony. Mr Power refused as he knew things about Mr Bouvy past involvement with drugs and his behaviour more generally.

In October 2011, Mr Bouvy rang Mr Power accusing him of lying about his willingness to conduct his wedding. Mr Bouvy phoned back approximately twenty more times leaving threatening, abusive and humiliating messages. There were threats of injury with reference to 'disgusting' homosexual gestures. All the calls included Mr Bouvy making comments about 'fags' and 'faggots', death threats and stalking.

Mr Power made a complaint of discrimination against Mr Bouvy on the basis of offensive behaviour relating to sexual orientation, and sexual harassment because of the content of the phone calls.

The Tribunal preferred the evidence of Mr Power to that of Mr Bouvy.

The Tribunal ordered Mr Bouvy pay Mr Power \$25,000 as compensation for the loss and injury he suffered through the respondent's discrimination.

[\*Power v Bouvy and Bouvy v Power\* \[2015\] TASADT 2 \(11 February 2015\)](#)

## From our office

Equal Opportunity Tasmania logo

photo of Alastair McEwin and Robin Banks

Australian Disability Discrimination  
Commissioner, Alastair McEwin and  
Tasmanian Anti-Discrimination  
Commissioner Robin Banks

### Enforcement

The *Anti-Discrimination Act 1998* contains more enforcement provisions than most other areas of civil law. It provides for the Commissioner or a party to file documents in the Supreme Court at no cost to get enforceable Supreme Court orders.

Across civil law, parties experience the problem of not being able to get an order fully enforced because the other party has no financial capacity to pay: you can't get blood out of a stone.

.....

### New Australian Disability Discrimination Commissioner

On 29 July 2016, the Commissioner was delighted to host a visit from the new Australian Disability Discrimination Commissioner, Alastair McEwin. Commissioner McEwin met with staff members of Equal Opportunity Tasmania and had a chance to find out about our work and spoke a bit about his background and key issues.

Later in the day, Commissioner Banks hosted an informal get-together to give Commissioner McEwin an opportunity to meet and chat with representatives from some of Tasmania's disability advocacy and peak groups, as well as the Premier, The Hon Will Hodgman, and leader of the Greens, Cassie O'Connor.

### 2016 Training Calendar

#### SEPTEMBER

#### Unconscious Bias, affecting your management and discrimination decisions

##### Hobart

Monday 12 September  
9.00 am - 1.00 pm

**Launceston**  
Friday 16 September  
9.00 am - 1.00 pm

**\$440.00 per person**

**Unconscious Bias, affecting your  
decisions (for staff)**

**Hobart**  
Tuesday 13 September  
9.00 - 1.00 pm

**Launceston**  
Friday 16 September  
1.30 - 4.30 pm

**\$330.00 per person**

**OCTOBER**

**Workplace Support / Contact  
Officer**

**Hobart**  
Monday 10 October  
1.00 - 5.00 pm  
&

Tuesday 11 October  
9.00 am - 1.00 pm

**\$440.00 per person**

**NOVEMBER**

**Community Road Show**

31 October - 4 November

**State-wide**

90 minute sessions around Tasmania

FREE to community groups

**Workplace Support/Contact Officer  
Networking Meetings**

**Hobart**  
Tuesday 15 November  
9.00 am - 12.00 pm

**Launceston**  
Thursday 17 November  
9.00 am - 12.00 pm

**Burnie**  
Friday 18 November  
10.00 am - 1.00 pm

**FREE to existing WSCOs**

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

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-f/>

## Training News

### Where is the Line?

**Where is the line?** is currently our most requested training course. This seems to indicate an appreciation and understanding from organisations that training staff is more than just about a compliance tick. Spending the time and resources on staff discussions about appropriate workplace behaviour is a win-win for everyone.

For more information about the training we deliver visit the [training page of our website](http://equalopportunitytasmania.createsend1.com/tj-l-kijkukk-l-v/) (<http://equalopportunitytasmania.createsend1.com/tj-l-kijkukk-l-v/>) and 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](mailto: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*

## Human Rights Week

Human Rights Week Tasmania logo

### Nominations for Tasmanian Human Rights Awards 2016 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
- Lesbian Gay Bisexual Trans and Intersex (LGBTI) Award
- Youth Award

- Robin Hood AM Sport Award

**Nominations close 5:00 pm Friday 30 September 2016.**

For each award, the recipient will receive an award certificate and prize of \$500 at the award ceremony in December 2016.

For more information or to download a nomination form go to the [Human Rights week page on the a Fairer World website](#) 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.

Information about the awards is also available on the [Human Rights Week Tasmania Face-Book](#) page.

## Local News

The Migrant Resource Centre (Southern Tasmania) is moving.

From Monday 1 August MRC will be located at KGV Sport and Community Centre in Anfield St, Glenorchy. There are a number of transport options to the new site, including walking from the Northgate Shopping Centre via pedestrian access.

For any assistance on how to find MRC, please call MRC reception on (03) 6221 0999.

## Play by the Rules

[PlaybytheRules logo](#)

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://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-yh/>).

## Awareness days in August

[World Breastfeeding Week logo](#)

[Homelessness Week logo](#)

Brain Injury Australia logo

National Brain awareness week logo

Wear it Purple logo

### **1 - 7 August**

#### **World Breastfeeding Week**

The World Breastfeeding Week 2016 theme is about how breastfeeding is a key element in getting us to think about how to value our wellbeing from the start of life, how to respect each other and care for the world we share.

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-jj/>

### **1 - 7 August**

#### **Homelessness Week**

'Homelessness Counts' is the theme for Homelessness Week 2016. Through this Homelessness Australia is encouraging all to recognise that those experiencing homelessness are a valuable part of our society and must be supported!

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-jt/>

### **9 August**

#### **International Day of the World's Indigenous People**

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-ji/>

### **12 August**

#### **International Youth Day**

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-jd/>

### **15 - 21 August**

#### **National Brain Injury Awareness Week**

The theme for 2016's national Brain Injury Awareness Week is young stroke. A stroke occurs when blood supply to the brain is stopped by a clot or bleeding. Around

50,000 new strokes occur in Australia every year. While strokes often affect older people, 1 in 3 strokes happens to a person aged less than 65.

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-jh/>

### **19 August**

#### **World Humanitarian Day**

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-jk/>

### **21 - 27 August**

#### **Hearing Awareness Week**

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-ju/>

### **26 August**

#### **Wear it Purple Day**

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-tl/>

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

#### **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**

<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkukk-l-ty/>

#### **E-mail**

[office@equalopportunity.tas.gov.au](mailto:office@equalopportunity.tas.gov.au)  
[complaints@equalopportunity.tas.gov.au](mailto:complaints@equalopportunity.tas.gov.au)  
[training@equalopportunity.tas.gov.au](mailto: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:  
<http://equalopportunitytasmania.createsend1.com/t/j-l-kijkuk-k-l-ti/>. We would love to receive copies of your publications.

 Like

 Tweet

 Forward

[Preferences](#) | [Unsubscribe](#)