

In respect of rights

Access to buildings for people with disability - feature series



Picture 1 above: signage with raised tactile lettering and symbol and Braille

Picture 2 above: a stairway with handrails on both sides, high contrast strips across the front of each step and tgsi at the bottom of the stairway

Picture 3 above: wide corridor with plenty of room to allow a wheelchair user to turn into a room

Improving building access for all of us

In this fourth of a series of articles about accessible buildings we will look at what the minimum requirements are to ensure people with disability can move around inside buildings and access services and facilities.

The law says that for new buildings people with disability must be able to get to all parts of the building, safely move between levels of a building and locate features such as toilets or emergency exits.

This means that, for example:

- A wheelchair user must be able to get to any reception area, office, meeting room, shop or café, bank of toilets, staff room, training room, outside courtyard or wheelchair space in a cinema or sports stadium.
- Blind people must be able to identify facilities like male and female toilets by reading Braille and tactile signs located outside every toilet; must be able to safely use stairways and have audible and tactile information in lifts to assist in identifying what level they are on.

Picture 1 shows signage for a male toilet with raised tactile lettering and symbol and Braille.

- People with a hearing impairment must be able to hear what is being said in a

lecture theatre, convention centre or cinema where there is a built-in PA system through the installation of a hearing loop or technology to improve access.

- At every bank of toilets there must be a unisex accessible toilet.

Some of the technical requirements for providing good access include:

- Any stairs must have access and safety features such as:
 - handrails on both sides to assist people to safely move up and down.
 - high contrast strips across the front of each step to assist people with low vision to judge where the edge of the step is.
 - handrail extensions at the top and bottom of the stairs to allow people to steady themselves before going up or down the stairs.
 - tactile ground surface indicators at the top and bottom of stairs to alert blind people and people with low vision to the change in level ahead.

Picture 2 shows an example of a stairway with handrails on both sides, high contrast strips across the front of each step and tgsi at the bottom of the stairway.

- All doors must be at least 850mm clear opening and have enough room on the latch-side of the door to allow someone using a wheelchair to pull in sideways to reach over to grab the handle.
- Corridors must be at least 1000mm wide and wider around doorways where a wheelchair user has to turn into a room.

Picture 3 shows a good example of a wide corridor with plenty of room to allow a wheelchair user to turn into a room.

- Any frameless or fully glazed doors or office walls that might be mistaken for an opening must have a high contrast marking across them. This is to assist people with vision impairment to be able to identify the presence of the glazing and avoid injury caused by accidental contact.

The law does include some limitations to the requirement that all parts of a building must be accessible, for example, access is not required to the upper level of a two storey building where the upper level is less than 200 square meters. The law also allows for

some concessions, for example, if a building has two banks of toilets on each level only one of the banks has to have an accessible unisex toilet.

In general, however, all new buildings should be designed and built to provide full access and if it doesn't 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.

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.createsend1.com/t/j-l-kisldl-l-r/>.

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 June 2016 and gazetted on 22 June 2016

16/16/011 - Application for an exemption granted under section 57 of the Act for a period of three years. This exemption has been granted to permit **Cancer Council Tasmania to develop and deliver a culturally appropriate employment strategy in relation to Aboriginal and Torres Strait Islanders in Tasmania, including the recruitment and employment of an Aboriginal Quitline Counsellor** on the basis that it is consistent with:

- a) section 25 of the Act, which provides an exception for discrimination 'if it is 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
- b) 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 which is disadvantaged or has a special need because of a prescribed attribute'; and
c) section 41 of the Act, which provides an exception for discrimination 'on the ground of race in relation to employment if the discrimination is based on a genuine occupational qualification or requirement in relation to a particular position'.

The exemption is for the period of three (3) years subject to the fulfilment of the conditions that Cancer Council Tasmania:

- a) report on or before 15 June 2017 to the Anti-Discrimination Commissioner on actions taken in reliance on this exemption; and
- b) 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, volunteers of Cancer Council Tasmania through Equal Opportunity Tasmania's community education program to increase awareness of rights and obligations under the *Anti-Discrimination Act 1998* (Tas).

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Exemption granted on 27 May 2016 and gazetted on 8 June 2016

16/05/006 – 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 **Australian Red Cross Society** to advertise and employ an Aboriginal and/or Torres Strait Islander for the position of Customer Services Officer on the basis that:

- (a) the position is **part of the Australian Red Cross Society's Indigenous Employment Programme**, a joint initiative between the Australian Red Cross Society and the Commonwealth Department of Prime Minister and Cabinet;
- (b) the position is **consistent with the Australian Red Cross Society's aims developed in the *Bright Futures – Reconciliation Action Plan 2015–2018* to guide the organisation's policies and practices in recruiting, retaining and supporting Aboriginal and/or Torres Strait Islander staff and volunteers;**
- (c) the position is **consistent with the Australian Red Cross Society's goal of increasing the current Aboriginal and**

Torres Strait Islander workforce by 2018 and to fully support and provide continuing career opportunities for Aboriginal and Torres Strait Islander people within the organisation and the broader community; and

(d) Aborigines and/or Torres Strait Islanders are a disadvantaged group in respect of employment and **the Indigenous Employment Programme is a scheme for the benefit of a disadvantaged group and a program that promotes equal opportunity.**

The exemption is for the period of three (3) years subject to the fulfilment of the conditions that the Australian Red Cross Society:

- a) report on or before 30 November 2016 to the Anti-Discrimination Commissioner on actions taken in reliance on this exemption; and
- b) 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 of Australian Red Cross Society in the Head Office in Hobart, Tasmania, 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-kisl-dl-l-y/>

FAQs - Anti-Discrimination training

Why should I provide training for my staff on diversity, discrimination, harassment and bullying?

- Training will raise awareness about; what is acceptable behaviour at work, the advantages of diversity and a diverse workplace and what is discrimination, harassment and bullying.
- Raising awareness and creating a safe space for conversations assists to establish and maintain your expected

workplace behaviours.

- Training sessions aim to create shared understanding of the impact of inappropriate behaviours and the benefits of positive work place culture and diversity.
- Training will ensure your staff know about your workplace policies and how you will support them by striving for and maintaining a fair and respectful workplace environment.
- Mandatory training sessions assist you in your compliance obligations to ensure all employees know their discrimination rights and responsibilities.

How do I decide which training is appropriate for my employees?

- You should consider what outcome you are expecting and what you know your staff are already aware of; but don't just assume what they know.
- If you are **not** 100% confident that your staff know their rights and responsibilities under the *Anti-Discrimination Act 1998 (ADA)* perhaps they require general discrimination awareness training.
- If your workplace and staff are in a period of vulnerability (mergers, downsizing, increased expectations, new management) perhaps they require training on communication, resilience and what support is available.
- Unconscious bias training is useful not only for managers but for all staff to make them aware of 'making their unconscious decisions become conscious'.
- If your staff are not 100% aware of what is appropriate behaviour in your workplace, training to help them to identify what is acceptable and create buy-in to their input to the culture of the team may be the best training.

Who should receive training?

- In an ideal situation everyone should receive training. Training on diversity, discrimination and workplace behaviours apply to everyone from the CEO to the newest staff member.
- Managers need to know how to manage diverse staff and make decisions without discriminating.
- Managers and people responsible for receiving complaints need to have the confidence, knowledge and ability to know what to do and how to support the participants involved.

Can I make this training mandatory?

- Yes you can. To assist you to meet your compliance obligations (for example, s.104 of the *ADA*) you can require ALL staff to attend awareness raising training.

Is there ever a time when training is not the answer?

- Training is not a band-aid for workplace issues.
- If there is a relationship break down between individuals, mediation or counselling may be a better option to repair the working relationship.
- If the workplace culture is quite toxic or the staff do not see a commitment from management to take seriously or improve the culture then training may be seen as tokenistic and not take it seriously.

What can I do to raise awareness without formal training?

- With or without formal training you have a responsibility to ensure all staff are aware of their rights and responsibilities.

You should:

- Have clear, easy read policies on discrimination, harassment and bullying and appropriate workplace behaviour.
- Provide information at induction but also;
- Ensure information is available and accessible to ALL staff, by having information on your intranet, in staff rooms, as information packs.
- Display posters on notice boards in common staff areas.
- Include articles about discrimination, harassment and bullying and appropriate workplace behaviour in your staff newsletter and bulletins.
- If you have workplace contact officers ensure all staff know and understand who they are and what their role is.
- Ensure all staff know and understand who and what their EAP is and how to access them.
- Ensure all managers and people responsible for receiving complaints have clear understanding of what to do and your complaint process.

Is training enough?

- No, see the question above.
- 'Tick a box' training that is not supported by the organisation and not followed up may be seen as just a token effort by staff.

If you would like to talk to one of our trainers about what is the best approach for your team, email Roz or Louise at training@equalopportunity.tas.gov.au. You will also find information about our training programs at <http://equalopportunitytasmania.createsend1.com/t/j-l-kisldl-l-j/>

Case Summary

A recent decision of the Queensland Court of Appeal (QCA) has found that an aged care provider was vicariously liable for the demeaning and aggressive conduct of its manager and awarding the worker damages for a psychiatric injury.

Ms E worked as an administrative assistant for an aged care provider from June 2007 until March 2010 when she left the employment suffering from depression and anxiety. She was aged 55 years.

Ms E was considered to be a cheerful colleague until a new manager joined the team in 2009 and treated Ms E in a bullying manner and failed to address her excessive workload. This treatment resulted in Ms E displaying a negative change in her character including appearing withdrawn and crying in the workplace.

In March 2010, following an incident where her manager screamed at her for taking a message for a patient, Ms E tendered her resignation. Ms E attempted to return to work a few months later as an administrative assistant at a hospital but found after one day that she was unable to work due to an ongoing depression and anxiety.

Subsequently, Ms E lodged a claim in the Brisbane District Court (DC) against the aged care provider for damages of \$587,869 on the basis that the aged care provider was vicariously liable for the manager's bullying conduct, was negligent in failing to implement appropriate mechanisms to prevent the manager from bullying her, and failed to address her complaints of stress.

The Judge found that the manager was

belligerent, offensive and intimidating and consistently belittled and yelled at her in front of others. However, with respect to her claim for damages, Judge Devereaux found that the aged care provider was not vicariously liable because her injury was not reasonably foreseeable.

On appeal, the QCA overturned the decision at first instance finding that the employer breached its duty of care to the worker in failing to realise, despite evident deterioration, that there was a possibility that Ms E would suffer a psychiatric illness without the provision of reasonable care by her employer to avoid or minimise her stressful experiences in the workplace.

Accordingly, the aged care provider was ordered to pay Ms E \$435,583 in damages for future loss of earnings.

This case is a reminder to employers that they have a legal responsibility to take reasonable care to avoid a risk of a psychiatric injury to an employee who is displaying a particular vulnerability. It is crucially important that employers treat any suspected or alleged bullying seriously, to ensure they are not required to pay a heavy claim down the track.

Eaton v TriCare (Country) Pty Ltd [2016]
QCA 39

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-kisldl-l-t/>

Training News

Unconscious Bias training

We were fortunate to recently spend 2 days with Beth from Anti-Discrimination Commission Queensland (ADCQ). We learnt about ADCQ's **unconscious bias training** and used Beth's experience to assist us to develop our own **unconscious bias training courses**. Unconscious bias

is a fascinating topic and understanding why, how and where unconscious bias comes from together with the impacts of it and how to manage it could add such value to an organisation. We're excited to start delivering 2 unconscious bias courses in September this year.

- **Unconscious bias, affecting your decisions** and
- **Unconscious bias, affecting your management and discrimination decisions.**

For more information about the training we deliver go to:

<http://equalopportunitytasmania.createsend1.com/t/j--kisl-dl-l-i/> 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

Cat Café open with permission to discriminate against guide dogs

<http://www.themercury.com.au/lifestyle/norths-hobarts-newest-cafe-has-odds-of-cattitude/news-story/445738583af0061f415846c64290abd9>

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Tasmanian Law Reform Institute (TLRI) intermediaries issues paper

The Tasmanian Law Reform Institute is on the road doing community consultations on its new issues paper, *Facilitating equal access to justice: an intermediary/communication assistant scheme for Tasmania.*

The Issues Paper investigates a new way to

ensure equal access to justice for all Tasmanians. It discusses the feasibility of establishing a communication assistant/intermediary scheme in Tasmania for people with complex communication needs involved in the criminal justice system. Such a scheme would aim to enhance the opportunities for people with complex communication needs to experience equal access to justice. Many Tasmanians have complex communication needs that mean their interactions with police, lawyers and the courts can be more difficult. These needs have many sources including physical, mental, intellectual or cognitive impairments, traumatic experiences, learning disorders, language difficulties and age. The ability of a person who has been the victim of a crime, who has witnessed a crime or who may have been accused of a crime to have an effective way of communicating with police and giving evidence in criminal trials will fundamentally determine whether that person will experience access to justice.

The Tasmanian Law Reform Institute's work on these issues will be an important source of information for the Disability Justice Strategy for Tasmania that is currently being developed.

Submissions on the Issues paper are being accepted until **15 July 2016**. The Issues Paper, Easy Read Consultation Paper and Submission Template are [available at the Institute's webpage](http://equalopportunitytasmania.createsend1.com/t/j-l-kisldl-l-b/)

National News

Vote for Volunteering

Volunteering Australia has launched a Federal Election platform called *Vote for Volunteering*, asking candidates to pledge their support for the volunteering sector by acknowledging the significant contribution of volunteering to the Australian economy and society. It is estimated that volunteering contributes 743 million hours of time to our community and \$290 billion in economic value. For more information and to see which candidates have made the pledge, please go to [Vote4Volunteering](#)

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SBS National Languages Competition

SBS has partnered with Community Languages Australia (CLA) to launch the inaugural SBS National Languages Competition from 20 June to 29 July 2016. The exciting new initiative aims to contribute to the retention and continuing development of language and other cultural skills, while also encouraging and celebrating a love of learning languages in Australia.

Nearly one in five Australians speaks a language other than English at home, yet rates of language learning are on the decline. With more than 300 languages spoken, the SBS National Languages Competition hopes to inspire young Australians to explore and embrace what it is to be an Australian in all our diversity.

The theme for the 2016 SBS National Languages Competition is 'What does learning a language mean to you?' Community Languages Australia students aged four to seven are encouraged to draw a picture that illustrates what learning another language means to them, while the secondary primary and senior categories are to write their responses in language.

The competition is open to all CLA students in Australia aged 4 to 18. CLA is an umbrella body that unites over 1000 community language schools, providing language maintenance in 69 languages to in excess of 100,000 school aged children.

For more information go to sbs.com.au/nlc

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Diversity Council Australia encourages use of inclusive language in the workplace

Diversity Council Australia's **#WordsAtWork** campaign promotes a better understanding of the role that language plays in building inclusive (or exclusive) workplace cultures. Basically, the way we speak to and about each other influences how we treat each other.

Is the language you use in your workplace respectful, accurate and relevant to everyone? Watch the Diversity Council Australia **#WordsAtWork video** and find out – you might be surprised!

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Nominations open for the 2016 Human

Rights Awards

This year's Human Rights Awards will mark 30 years since the Australian Human Rights Commission came into existence.

Nominations for the; Human Rights Medal; Young People's Human Rights Medal; Business Award; Racism. It Stops With Me Award; Media Award; Tony Fitzgerald Memorial Community Individual Award; Community Organisation Award and the Law Award are now open.

"I'd like to encourage everybody who knows an individual or organisation doing inspiring work on human rights to nominate them for an Award," said Professor Triggs.

Nominations close on 11 September 2016. The awards will be presented on 9 December 2016.

Details and nomination forms are online at <http://equalopportunitytasmania.createsend1.com/t/j-l-kisldl-l-q/>

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-kisldl-l-z/) (<http://equalopportunitytasmania.createsend1.com/t/j-l-kisldl-l-z/>).

Awareness days in July

[NAIDOC Week logo](#)

[Lifeline's Stress Down Day logo](#)

NAIDOC Week 3 - 10 July 2016

The 2016 NAIDOC Week theme is, *Songlines – The living narrative of our nation.*

NAIDOC Week is an opportunity for all Australians to come together to celebrate the history, culture and achievements of Aboriginal and Torres Strait people.

<http://equalopportunitytasmania.createsend1.com/t/j-l-kisldl-l-s/>

Stressdown Day

22 July 2016

Research shows that **90%** of Australians need to stress less - with **74%** of people reported being stressed from work. Take action to stress down this Stressdown Day.

<http://equalopportunitytasmania.createsend1.com/t/j-l-kisldl-l-g/>

Contact us

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

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Website

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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.

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<http://equalopportunitytasmania.createsend1.com/tj-l-kisldl-l-yk/>. We would love to receive copies of your publications.

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