

In respect of rights



From the Anti-Discrimination Commissioner

After an absence of seven years it is with delight and a sense of privilege that I have returned to the role of Anti-Discrimination Commissioner. We live in times when the need to protect our right to live in a world which fosters equality and fairness is important.

History has taught us that world events and political leadership can create an environment where marginalised and vulnerable members of the community may become increasingly targeted by antisocial and discriminatory behaviours.

While it is pleasing to see so many organisations engaging in our training and education programs it is disappointing to see how ordinary people continue to be swayed by world events which seems to validate discriminatory attitudes towards certain members of our community.

Tolerance, acceptance and understanding underpin the culture and moral compass of our society. It is up to all of us to do what we can to make our own backyard a safe, accepting and tolerant one.

If you have been subjected to discrimination or unlawful conduct I urge you to lodge a complaint. If you know somebody who has been subjected to unlawful behaviour or discrimination I urge you to encourage them to lodge a complaint – the louder the

voice the greater the influence of change.

I invite employers to engage in training and education programs which will add value and assist in fostering a positive and productive workplace.

I would like to take this opportunity to acknowledge the previous Commissioner Robin Banks for her commitment to equality and equal opportunity.

Sarah Bolt
Anti-Discrimination Commissioner

From Equal Opportunity Tasmania



In March we had a visit from Professor Gillian Triggs who is the President of the Australian Human Rights Commission. This was her last official visit with staff at Equal Opportunity Tasmania as Professor Triggs will be concluding her work with the Commission in May 2017. During Professor Triggs' appointment at the Commission she has raised the profile of social justice and human rights issues across a spectrum of areas from people with disabilities, to Aboriginal and Torres Strait Islander people, to Australia's response to refugees. We would like to acknowledge Professor Triggs' contribution and commitment to human rights in Australia and internationally.

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 *Tasmanian Government Gazette*.

Bethlehem House Tasmania Inc

Exemption no: 15/11/054

Date Granted: 07/03/2017

Date of expiry: 07/03/2020

Date advertised in *Tasmanian Government Gazette*: 15/03/2017

Relevant exceptions under the Act: Sections 25, 27(1)(d)

Description

This exemption was granted to permit Bethlehem House Tasmania Inc to recruit and employ males only to the roles of Case Worker and Support Worker on the basis that:

- the recruitment is for the purposes of providing emergency accommodation and related counselling and support services for men who are homeless or at risk of homelessness and/or who may be experiencing various family or mental health issues.

Port Arthur Historic Site Management Authority

Exemption no: 16/01/024

Date Granted: 24/02/2017

Date of expiry: 24/02/2020

Date advertised in *Tasmanian Government Gazette*: 08/03/2017

Relevant exceptions under the Act: Sections 25, 26, 27(1)(d)

Description

This exemption was granted to permit the Port Arthur Historic Site Management Authority to emphasise female leadership and involvement in the design and construction phases of a history and interpretation centre at the Cascades

Female Factory.

Tasmanian State Service

Exemption no: 17/01/018

Date Granted: 23/01/2017

Date of expiry: 23/01/2020

Date advertised in *Tasmanian Government Gazette*: 01/02/2017

Relevant exceptions under the Act: Sections 25, 26

Description

This exemption was granted to permit the Tasmanian State Service to specifically recruit and employ graduates with a disability into the Tasmanian State Service who are eligible to participate in the Graduate Program for People with Disabilities ('the Program'):

- A person will be eligible to participate in the program if they meet the definition of 'disability' as set out in the *Disability Services Act 1992*, which covers people with intellectual, psychiatric, sensory or physical impairments, as well as individuals with cognitive impairments who fall within the equivalent Commonwealth legislation.
- Persons who have a disability and have been assessed by Centrelink as requiring specialist employment assistance, and have been referred to any approved Disability Employment Services provider will also be eligible to participate in the program.

For more information on exemptions go to; <http://equalopportunity.tas.gov.au/exemption> S.

Frequently Asked Questions:

I am 16 years old and would like to apply for a job as a food and beverage attendant. The job advertisement says that an applicant needs to have 3 years' experience. I am not old enough to have 3 years' experience due to the legal working age. Is this discrimination?

- This could possibly be discrimination on

the basis of age. One of the protected attributes under the Act is age.

- The Act does provide an exemption for discrimination on the basis of age however this applies in limited circumstances.
- The exemption applies when the discrimination is on the basis of a genuine occupational qualification or requirement in relation to a particular position or on wage rates that are based on age.

My friend is of African descent and has dark skin. He is 'one of the boys' and we often make jokes about not being able to see him at night. We don't mean any harm. He knows we are joking and even laughs, so it can't be discrimination.

- Race is one of the protected attributes under the Act.
- This conduct could possibly be discrimination on the basis of race.
- It may also be offensive, humiliating, insulting, intimidating or ridiculing conduct on the basis of race.
- Even if your friend laughs at these jokes, it does not mean that he finds them funny. He may be laughing to avoid a confrontation.
- You should discourage your friends from making these sorts of jokes and you should also refuse to participate in them yourself.

I am a girl in high school and boys often make sexual jokes towards me. They also try to lift up my skirt and I get messages asking for nudes. This makes me upset and uncomfortable. A teacher told me that because I am a girl that behaviour is something I will have to get used to and I should just try to ignore it.

- Sexual harassment is unwelcome and unwanted behaviour and includes –
 - physical contact;
 - verbal requests for sexual favours;
 - remarks or statements that have sexual connotations;
 - gestures, actions or comments of a sexual nature; or
 - conduct of a sexual nature towards a person that is offensive to that person (and where a reasonable person would consider that conduct to be offensive).

Jokes of a sexual nature, trying to lift up a person's skirt or asking for nudes could all

constitute sexual harassment.

Even if it only happens once, that could be sexual harassment.

If you have brought the behaviour to the attention of a teacher who told you to get used to it because you are a girl, that could be discrimination on the basis of gender and also offensive, humiliating, insulting, intimidating or ridiculing conduct on the basis of gender.

If a person is experiencing sexual harassment of this nature they could make a complaint against the:

- people who are sexually harassing them;
- teacher; and
- school

For more information about the law or making a complaint, 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 \(www.equalopportunity.tas.gov.au\)](http://www.equalopportunity.tas.gov.au).

Case Summary

Conciliation reaching agreement and recording that agreement Equal Opportunity Tasmania

Mr Ralph lodged a complaint with Equal Opportunity Tasmania on behalf of his daughter, Ms Ralph, about her treatment by child protection authorities (the Department). At a conciliation conference, the parties reached an agreement which involved the reunion of Ms Ralph with her children.

The Anti-Discrimination Commissioner (the Commissioner) prepared a document recording the terms of this agreement. Mr Ralph signed the draft agreement, but the Department refused to do so.

An agreement is enforceable even if a party refuses or fails to sign the formal documentation of the agreement.

Mr Ralph attempted to file a copy of the Agreement and the Commissioner's certificate with the Supreme Court so that the Agreement could be enforced. The registrar refused to accept these documents, as the Agreement had not been signed by both parties.

Mr Ralph applied to the Supreme Court for a direction requiring the registrar to accept his documents for filing. This was granted. The Department applied to the full court of the Supreme Court of Tasmania for judicial review of that decision. The majority of the full court dismissed this application and held that a record for the purposes of the Act is not required to be signed by each party.

Training News and Training Calendar



The training team has seen a few changes since the last issue, and with our new Senior Trainer Jennie Goringe now on board we are busy delivering training and events around the state.

Jennie and Louise have delivered a number of sessions on discrimination, harassment and bullying information sessions in schools, colleges and TAFE as well as attending a number of community events such as Hearing Our Voices, Harmony Day and Agfest. Thanks to Craig and Louise for the great work at Agfest in promoting Equal Opportunity Tasmania.

Upcoming training in June

Contact Officers Network Meetings - FREE

Monday 5 June - Hobart 9am - 12pm,
Equal Opportunity Tasmania Level 1, 54
Victoria Street Hobart.

Tuesday 6 June - Launceston 12.30pm -
3.30pm Windsor Community Precinct, 1
Windsor Drive Riverside.

Wednesday 7 June - Burnie 9am - 12pm -
Venue to be confirmed.

**Our New Training Calendar will be out
in July 2017.** Please remember Jennie and
Louise are also available to meet with you

and your organisation to discuss your training needs.

To register or for more information about EOT training options
: <http://www.equalopportunity.tas.gov.au/training/resources>

Talk to us about coming to your workplace, community, school or organisation.
phone 61657515

E-mail
training@equalopportunity.tas.gov.au



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).

International Awareness Days

5 June

World Environment Day

15 June

World Elder Abuse Awareness Day

20 June

World Refugee Day

18 July

Nelson Mandela International Day

9 August

International Day of the World's Indigenous People's

12 August

International Youth Day

23 August

International Day for the Remembrance of the Slave Trade and its Abolition

National Awareness Days

Celebrating NAIDOC Week 2017



**Our Languages
Matter**

2-9 JULY 2017

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.

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