

## *In respect of rights February 2018*



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

***Complaints have negative connotations for many people. Personally, I am of the view that we should look at complaints in a positive light. History has proved that complaints are a key to change.***

If people with vision impairment had not complained loudly and clearly, they would still be standing at the traffic lights, waiting for a sighted person to tell them the green man was flashing.

If women had not complained about the difficulties of juggling work hours around family responsibilities, we would not have flexible workplace practices.

If both men and women had not complained, we would still have the requirement that all Police officers must be of a certain height, which precluded many people from even applying to join the force.

If women and indigenous communities had not complained, they may not have won the right to vote.

If the parents of children with disabilities had not complained, their children would still be marginalised and sent to 'special schools' rather than, in most instances, being able to receive a mainstream education.

The list is endless.

■ The #MeToo campaign is the most recent

example of attitudinal and behavioural change that is coming about because people, primarily women, are giving their voice to complaints against sexual harassment.

If you believe you have been treated unlawfully or discriminated against, I would encourage you to [complain](#). If you receive a complaint, I would encourage you to consider the positive outcomes that may come as a consequence of dealing with the issues raised by the person making the complaint.

It is because of complaints that we live in a society in which equality is seen as a better alternative to inequality.

**Sarah Bolt**  
**Anti-Discrimination Commissioner**



[Image credit: Nico Kaiser](#)

## Guardianship Review

The *Guardianship and Administration Act* provides for decision-making for people with disability who are unable to make their own decisions about personal and financial matters, or medical treatment. This might include people with dementia, an acquired brain injury, or intellectual disability.

The Tasmania Law Reform Institute (TLRI) has been engaged by the Tasmanian Government to conduct a review of the *Guardianship and Administration Act 1995* (Tas). It is the first comprehensive review of the Act since it was introduced more than 20 years ago.

The review is examining:

- the roles of administrators, guardians, persons responsible, and the Guardianship and Administration Board in making substitute decisions for people with disability

- the role and powers of the Public Guardian
- the functions of the Guardianship and Administration Board
- the use of advance care directives and appointments of enduring guardians
- safeguards for substitute decision-making
- informal and formal supported decision-making options as alternatives to substitute decision-making.

The review is aiming to ensure that reforms are consistent with the international human rights framework and are responsive to the needs of Tasmanians.

The TLRI released its Issues Paper in late December, and welcomes community responses to the paper until 9 March 2018. You can write in, phone in, request individual or group meetings.

Copies of the Issues Paper and an Easy English summary are available at [www.utas.edu.au/law-reform/publications/ongoing-law-reform-projects2](http://www.utas.edu.au/law-reform/publications/ongoing-law-reform-projects2)

For more information, contact the TLRI on (03) 6226 2069 or email [law.reform@utas.edu.au](mailto:law.reform@utas.edu.au)



## From Equal Opportunity Tasmania

### **21 March International Day for the Elimination of Racial Discrimination**

The United Nations' (UN) International Day for the Elimination of Racial Discrimination is observed with a series of events and activities worldwide on March 21 each year. The day aims to remind people of racial discrimination's negative consequences. It also encourages people to remember their obligation and determination to combat racial discrimination.



[Image credit: Wonder woman0731](#)

**18-25 March: Harmony Week Tasmania**

We are proud to support Harmony Week Tasmania 2018, and this year's theme *Everyone Belongs*.

There are events planned for all around the state, and a poster competition for primary school children. You can find all the details and additional resources for celebrating Harmony week, online at [www.harmonytasmania.com](http://www.harmonytasmania.com)

Equal Opportunity Tasmania staff are looking forward to participating in **'Here to Help - the Faces of Your Government'**

**Where:** Multicultural Hub, 65 Hopkins St, Moonah **What:** An informal event where community members can meet with representatives from government organisations to discuss how we can help you with important issues (including Equal Opportunity Tasmania, the Fair Work Ombudsman, Department of Social Services, Department of Home Affairs, the Australian Tax Office, Tasmania Police, WorkerAssist and WorkCover)

**When:** 4 - 6pm, 22 March



## Training News

The training team are all back after some leave in January; February has been very busy already. We have large blocks of training booked up through into the second half of the year. Please get in touch with us soon if you need to book training for your workplace this year.

For further information on our training go to [www.equalopportunity.tas.gov.au/training](http://www.equalopportunity.tas.gov.au/training)

### Community Information Sessions

Talk to us about coming to your workplace, community, school or organisation. Jennie, Louise and Mel are available to discuss your training needs.

**Call** (03) 6165 7515

**E-mail**

[training@equalopportunity.tas.gov.au](mailto:training@equalopportunity.tas.gov.au)

## Upcoming Training

### Workplace Support Contact Officer Training

Workplace Support Contact Officers are an important first contact for people who believe they have a grievance in the workplace. The grievance may relate to bullying, harassment, discrimination, or other workplace issues.

This course explores: the role of the Contact Officer in line with their employer's policy; the principles underlying the role, and putting the principles into practice.

**This course costs \$480 per person, 8 hours over two half days (1pm - 5pm & 9am - 1pm)**

- Hobart 7 & 8 March
- Launceston 21 & 22 March
- Burnie: 2 & 3 May

### Workplace Support Contact Officer Refresher

Has it been some time since you last attended Contact Officer Training?

Have you had many opportunities to actively practice the role of Contact Officer?

If you already have a **good understanding** of the Anti-Discrimination Act (Tasmania) and have **previously attended Contact Officer training** this course will **'refresh'** your knowledge and give you the opportunity to take part in role-plays, look at

case studies and brainstorm ideas.

**This 3.5 hour course costs \$210 per person.**

- Hobart 12 April
- Launceston 18 April
- Burnie 19 April

Download the registration form at [www.equalopportunity.tas.gov.au/training](http://www.equalopportunity.tas.gov.au/training)

## Frequently Asked Questions

Offensive, humiliating, intimidating, insulting or ridiculing conduct: an explanation of section 17(1) of the *Anti-Discrimination Act 1998* (Tas).

### **What are people talking about when they refer to 'offensive conduct'?**

Section 17(1) the *Anti-Discrimination Act 1998* (Tas) (the Act) prohibits certain conduct. This means it is against the law to behave in that way.

In Tasmania it is unlawful to offend, humiliate, intimidate, insult or ridicule someone on the basis of certain attributes (personal characteristics).

### **What attributes are covered?**

All of the attributes protected under the Act are listed in section 16. However, not all of them are covered by offensive, humiliating, intimidating, insulting or ridiculing conduct.

You can't offend, humiliate, intimidate, insult or ridicule someone because of their: race, age, sexual orientation, lawful sexual activity, gender, gender identity, intersex, marital status, relationship status, pregnancy, breastfeeding, parental status, family responsibilities, or disability.

It also means that you can make a complaint if someone offends, humiliates, intimidates, insults or ridicules you because of one of the attributes listed above.

### **Does that mean anyone who is offended can make a complaint?**

Yes and no. Everyone has the right to make a complaint, but not everyone's complaint will be accepted for investigation by the

Commissioner.

The Commissioner will do a legal assessment of a complaint to decide if she will accept it for investigation, or reject it. If the allegations in the complaint do not show the **possibility** of a breach of the Act, then the Commissioner will reject the complaint.

In 2016-2017, the Commissioner rejected 41% of complaints lodged under the Act.

**When would the Commissioner accept a complaint about offensive, humiliating, intimidating, insulting or ridiculing conduct then?**

The legal test the Commissioner has to consider is in two part: a subjective test and an objective test.

The first (subjective) part of the test is whether a person has engaged in conduct which has offended, humiliated, intimidated, insulted or ridiculed another person on the basis of an attribute which is protected under section 17(1) of the Act. This is generally the point when someone might lodge a complaint – if they *feel* someone has offended, humiliated, intimidating, insulted or ridiculed them.

The second (objective) part of the test is whether this occurred in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidating, insulted or ridiculed.

The Commissioner will consider all the facts, as well as relevant case law, before making a decision to reject a complaint or accept it for investigation.

**For more information about the law or making a complaint, visit our website for further information [www.equalopportunity.tas.gov.au](http://www.equalopportunity.tas.gov.au)**

## Case Summary

In 2013, a Tasmanian man produced and distributed a pamphlet called 'Homosexuality Stats', which stated "homosexuality should not be tolerated" and "scripture rejects homosexuality as utterly abominable". The pamphlet provided unfavourable 'statistics' on the lifespan and causes of death for

LGBTI people compared to heterosexual men and women.

A gay man lodged a complaint with the Anti-Discrimination Commissioner. No agreement was reached in conciliation and the matter proceeded to the Tribunal.

The Tribunal ruled that publication and distribution of the pamphlet humiliated, insulted and ridiculed LGBTI people on the basis of their sexual orientation - and that the pamphlet breached s19 of the Anti-Discrimination Act regarding incitement of hatred, serious contempt or ridicule of a person or group of persons on the grounds of sexual orientation.

The Tribunal ordered the publisher to make a public apology and retraction, to be published in *The Mercury* within 14 days. Failure to give the apology would result in a fine.

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## 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*: [www.gazette.tas.gov.au](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*.

The following exemptions have recently been granted by the Commissioner:

- Department of Primary Industries, Parks, Water and Environment trading as Tasmania Parks and Wildlife Service. Granted 24 January 2018.
- Warrawee Committee Inc (Warrawee Women's Shelter). Granted 3 January

2018.

- Relationships Australia Tasmania Incorporated trading as Relationships Australia Tasmania. Granted 21 December 2017.
- Relationships Australia Tasmania Incorporated trading as Relationships Australia Tasmania. Granted 16 November 2017.
- Launceston Women's Shelter (Inc). Granted 16 November 2017.
- Department of Education (TasTAFE). Granted 7 November 2017.

Further information can be found on our website at

[www.equalopportunity.tas.gov.au/current\\_exemptions](http://www.equalopportunity.tas.gov.au/current_exemptions)

### Awareness Days



# International Women's Day





### **16 March: National Day of Action against Bullying and Violence**

Tasmanian school students are being asked to imagine a world free from bullying and share their ideas on how to make this happen #TASGOVBullyingNoWay. Prizes on offer for getting involved,

see: [www.education.tas.gov.au/2018/02/national-day-of-action-against-bullying-and-violence/](http://www.education.tas.gov.au/2018/02/national-day-of-action-against-bullying-and-violence/)

### **13-22 April: Youth Week**

A large range of events will be held around the state, including: Tascare Society for Children's Music @ MONA, an all abilities performance showcase; GenZed Music Festival (Huron Valley Council); Reclaim the Lane (Devonport City Council); Youth, Family and Community Connections' Burnie Youth Festival and more!

### **23 April: World Book Day / Hobart Language Day**

Celebrate at Mathers House, Sunday 22 April - live music, dances, food, readings, calligraphy and more.

### **17 May: International Day Against Homophobia, Biphobia & Transphobia**

'The Dorothies' acknowledge inclusive practice in Tasmania and are open to different entrants this year – the 2018 theme is faith-based organisations.

See [www.workingitout.org.au/thedorothies](http://www.workingitout.org.au/thedorothies) for nomination information.

### **17 May: Global Accessibility Awareness Day**

The purpose of GAAD is to get everyone talking, thinking and learning about digital access and inclusion for people with different disabilities. Attend a virtual event or experience accessibility issues first-hand on May 17 – for more details, see:

[www.globalaccessibilityawarenessday.org/participate.html](http://www.globalaccessibilityawarenessday.org/participate.html)

### **21-27 May: National Volunteer Week**

Nominations for the 2018 Tasmanian Volunteering Awards close midnight, Sunday 4

March: <http://www.volunteeringtas.org.au/2018-tasmanian-volunteering-awards/>

### **26 May: National Sorry Day / 27 May - 3 June: National Reconciliation Week**

*Don't Keep History a Mystery*: Learn more about Aboriginal and Torres Strait Islander histories and cultures, and develop a deeper understanding of our national story. Special resources for NRW 2018 will be released online 9 April

at [www.reconciliation.org.au/national-reconciliation-week/](http://www.reconciliation.org.au/national-reconciliation-week/)

### 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](http://www.equalopportunity.tas.gov.au)

### 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

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

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



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