

In respect of rights



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Issue 7

July 2012

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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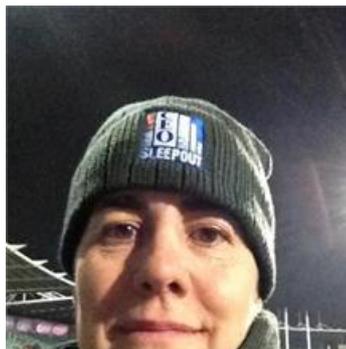
Telephone
 Ph: 1300 305 062 (local call)
 Ph: (03) 6233 4841
 Fax (03) 6233 5333

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 1300 305 062

Message from the Anti-Discrimination Commissioner

Thursday 21 June saw me and 51 other 'CEOs' rugged up and ready to raise funds for the annual Vinnie's CEO Sleepout. We arrived in dribs and drabs from our various locations around Tasmania, to the sleepout venue, the Aurora Stadium in Launceston. We were there with a shared goal of raising as much as we could to support the work of the St Vincent de Paul Society in advocating to end homelessness and working to support homeless people.



Our experience was, however, a very long way from that of homeless people. From my work with the Homeless Persons' Legal Service in Sydney, I know a little about the complexity of homelessness, the array of barriers that homeless people face to moving out of homelessness into safe, secure and supportive housing situations. I know that one night of sleeping out with a sleeping bag and pillow of choice (granted we were sleeping on cardboard) is not anything like sleeping rough. But the chill air and discomfort of the cold hard ground and the lack of refreshing sleep was a reminder that there are people whose day every day begins like that and worse. Worse because then they have to pack up all their possessions and look for a safe place to secure them for the day (or carry them with them), they have to find somewhere to get a bite to eat, somewhere to get a wash, and then they have to make their way through the day with nowhere for them to call their own, nowhere to be able to shut out the world, nowhere to simply rest unharassed.

Once I was reminded of that kind of day, then I thought also about those people who are homeless who have their children with them, those who are homeless who have disability, those who are homeless who are unwell, those who struggle with addiction. And I thought also of the stories I had heard from members of StreetCare (the advisory group of homeless and formerly homeless people who work with the Homeless Persons' Legal Service in Sydney) of being ignored, of being required repeatedly to produce identity documents, of being assaulted and abused by strangers, of being unable to escape homelessness because of unpaid fines that they simply didn't have the money to pay. And I thought of how strongly homeless people had spoken about the need for human rights protection, because they understand what it is to not have one's human rights respected.

The sleepout and similar events are an opportunity for us all to think about what we want our community to be, how we want everyone to live, what we can do to bring an end to homelessness and other forms of disadvantage.

Robin Banks
Anti-Discrimination Commissioner

From the OADC

E-mail
antidiscrimination@justice.tas.gov.au

Website
www.antidiscrimination.tas.gov.au

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

Invitation to all readers
Readers who have particular topics they wish to know more about or items to include in the next issue are encouraged to contact the Editor.

Any comments and feedback about the newsletter to ensure it is a useful resource and information-sharing tool for our readers is welcomed.

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FROM THE OADC

NAIDOC (National Aboriginal and Islander Day Observance Committee) Week

With the start of National NAIDOC Week and in recognition of Aboriginal and Torres Strait Islander people staff at the OADC acknowledges the original peoples of this land and pays respect to the Tasmanian Aboriginal community who are the continuing custodians. The OADC sends its best wishes to the Tasmanian Aboriginal Community for a great week of events.

New Interns

Carolina Vargas, Social Work student from the University of Tasmania, will be commencing her final year placement with the OADC on 2 July 2012. Carolina will be researching the issue of the removal of children from parents with disability.

Identity, translation & transformation

This was the title of the Refugee Week art exhibition held at the Moonah Art Centre as part of the Refugee Week Celebrations (22 - 30 June). Some of us from the OADC managed a quick visit.



Our training, education and development officer, Louise Adams at the Refugee Week art exhibition at the Moonah Arts Centre



Our senior policy officer, Leica Wagner at the Refugee Week art exhibition



Having attended the launch, Anti-Discrimination Commissioner, Robin Banks, returned for a quieter viewing of the Refugee Week art exhibition



Display items at the Refugee Week art exhibition

Find a Friend, Keep a Friend

On Friday 29 June, Anti-Discrimination Commissioner, Robin Banks, joined with many others at the Glenorchy Civic Centre to celebrate the launch of this important new project of Montagu Community Living, and to find out more. The project, funded by the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, will work with women with disability to encourage the development of friendships and safe networks. At the launch, speakers noted the high levels of family and domestic violence that affects women with disability and the need for women to have safe and supportive friendships that can help them take action to escape violence.



violence.

One of the speakers, Marrette Colby (pictured) from Women with Disabilities Australia, spoke of how important it is to ensure when we speak about violence and abuse and the right to be free from it, that we do this in ways that are understood by the women we are speaking with.

The Commissioner spoke to the project officer, Harcharan Kaur, about the OADC working with the project to ensure the women involved know about their rights to be free from discrimination and related conduct.

For information about the project, contact Harcharan Kaur on fafkaf@mcl.org.au or by phone on 03 6278 8599.

Report It



Ending racism and other discrimination is something we can all help to achieve.

The Australian Human Rights Commission is developing a national anti-racism strategy to address racism within the Australian community.

Central to the strategy will be actions that empower communities and individuals to act in positive ways. This includes actions we can all take as bystanders to address racism when and where it occurs.

In Tasmania, the OADC launched an incident reporting form in 2010 to enable anyone who witnesses or is the target of bullying, harassment, discrimination or offensive behaviour to report what they have seen or experienced.

By getting involved, you are providing important information that could help prevent it from happening to someone else.

We are now in the process of updating the incident reporting form and widening its distribution around Tasmania. Details about the new forms will be provided in coming newsletters.

Meanwhile, access the current incident reporting form at http://www.antidiscrimination.tas.gov.au/forms/Incident_form

So if you see or experience something that you feel is offensive, **REPORT IT!**

Welcoming a new face and saying goodbye to old friends

We have another new face at the OADC to introduce to you this month.

Carolina Vargas is a final year Master of Social Work student from the University of Tasmania who will be working with OADC over the next 16 weeks.

Carolina will be undertaking a research project into issues of disability and parenting.

Research suggests that parents with disability are disproportionately represented in child protection and care proceedings. Many parents with a disability live with the fear that contact with welfare and disability services will result in the removal of their children.

Discrimination legislation provides that having disability should not

prevent a person from participating equitably in the activities of the broader community, including having families. Treating parents with disability differently from other parents could amount to disability discrimination. International human rights law provides that people with disability have the same right to family as others.

Service providers have acknowledged the need for additional assistance for parents with disability and parents of children with disability to meet their support needs, however little work has been undertaken to identify the institutional and social barriers to positive outcomes for both parents and children.

Carolina will be looking at this important issue with a view to understanding the situation in Tasmania.

As Carolina joins us, we also say a big thanks and goodbye to our intern students from last semester. **Rachel Nichols**, **George Katos**, **Valentina Lazcano** and **Ashley Rihak** completed research projects on issues ranging from women in leadership, discrimination on the basis of physical appearance, cyber-bullying, and understanding inherent occupational requirements.

Their work will provide an important foundation for policy development in these areas. We thank them for their contribution and wish them well for the future.



Completed Interns Project Papers



OADC welcomes UTAS Master of Social Work Student, Carolina Vargas

FAQs - Race discrimination

Race discrimination occurs when a person is treated worse (less favourably) than other people or is denied the same opportunities as others because of their race. Race discrimination is unlawful under the *Anti-Discrimination Act 1998* (Tas) (the Act)

Race includes:

- a) colour;
- b) nationality;
- c) descent;
- d) ethnic, ethno-religious or national origin; and
- e) status of being, or having been, an immigrant.

I want to advertise for an Australian tenant to rent my unit, is this okay?

- When advertising, doing any promotion or preparing publications you need to be aware of discrimination and how the advertisement or material may affect the people who read it.
- By advertising in a way that specifies that a person must be from one place, in this case Australia, the owner of the unit is excluding others from renting the unit. This is discrimination on

the basis of race and, as such, is unlawful.

- The Act prohibits publishing or displaying any material, including advertisements, that 'promotes, expresses or depicts'

statements, that promote, express or express discrimination or prohibited conduct.

- Both the advertiser and the owner of the place or publication in which the advertisement is published or displayed can be responsible for discriminatory advertising. This is because the Act makes it unlawful for a person to 'knowingly ... aid another person to contravene' the Act.

Do I have the right to refuse treatment at a medical centre by a Chinese nurse?

- If a person refuses to let the nurse treat them because he or she is Chinese, the nurse is being treated differently because of race and, as such, is being discriminated against.
- If the medical centre allowed the person to have a different nurse, it would be exposed to a possible complaint of race discrimination by the nurse.
- All employees should be employed based on their ability to fulfil the inherent requirements of a job not based on their race or other irrelevant characteristics.

There is a kid at our school who has come from Sudan and he is 'black'. So we nicknamed him 'Blacky'. Someone said we should have asked him if he wanted a nickname and 'Blacky' isn't appropriate anyway?

- Not everyone is confident to speak up if they are not happy or comfortable with something.
- To give someone a nickname that makes direct reference to their skin colour is less favourable treatment related to race and, as such, race discrimination.

Surely I can say what I want ... Isn't this a free country with the right to free speech?

- Some people mistakenly believe that the public expression of racist attitudes is a legal and acceptable form of free speech.
- In Australia, as internationally, the right to freedom of speech carries with it certain responsibilities and restrictions which protect the rights of others against open hostility and discrimination. The Act prohibits incitement, by a public act, to hatred, serious contempt or severe ridicule on the basis of race.
- Making negative or derogatory comments about a person or about a group of people because of their race may be less favourable treatment and therefore unlawful race discrimination.

Can our company have a policy that says employees must not wear hats or other headwear at work?

- This requirement is likely to have an unfair effect on the basis of religious belief or activity (and also possibly race) because some people wear head coverings as part of the practice of their religion, for example, Sikh men wearing turbans, Islamic women wearing the hijab, nuns wearing a veil.
- If a workplace wishes to have a policy about wearing hats, other head coverings or any other form of clothing at work that might be inconsistent with religious practice, the workplace would need to show that the uniform requirements are part of the inherent requirement of the job (such as safety considerations) or have sufficient flexibility in the policy to enable staff members to comply with the policy while adhering to their religious practice.

On a social networking site I have seen a social group set up for members of the group to make comments that racially vilify Aboriginal people. Is this okay?

- This is not okay. It is against the law.
- When racism happens online it is known as cyber-racism. On the internet, cyber-racism can take the form of a website itself, written content or images, blogs, videos and on-line comments. Additionally, racist comments, images or language in text messages, on social networking sites or in e-mails are also examples of cyber-racism.
- There are a number of different organisations to which you can report inappropriate material and you can also make a complaint under the *Anti-Discrimination Act* to our Office (the OADC).

- It is a good idea to keep a record of the offensive material, preferably by taking screen captures and printing the materials with dates and identifying features. There are also some instant messaging programs available that have an inbuilt option of automatically saving conversations.

I have seen job advertisements for an Aboriginal Youth Worker and only Aboriginal people can apply. Isn't this discrimination?

- The Act recognises that sometimes an exception may be appropriate to the law prohibiting discrimination, and makes 'discrimination' on specific grounds lawful. Exceptions are set out in Part 5 of the Act, along with the procedure to follow if someone wants to apply for an exemption from the Act's provisions.
- Section 41 of the Act (Employment based on race) states that 'a person may discriminate against another person 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'.
- Some ads that specify the race of applicants will have been approved by the Commissioner through her granting an exemption consistent with section 41.

What if I want to speak to someone at the OADC to get information or to write my complaint in a language other than English?

- The OADC will organise an interpreter if needed. Complaints can be written in a language other than English and the OADC will have the complaint translated into English.

Legal News

***Smith v Jamsek* [2012] NSWADT 3**

An Aboriginal man was refused accommodation at a guest house because of his race.

Mr Smith alleged that he was refused accommodation at a guest house in Tamworth because he is Aboriginal. As a result of the refusal, Mr Smith, who is on a disability support pension, spent the night sleeping in his car.

He had been told that there were rooms available at the guest house but when he arrived he was asked by Ms Jamsek (one of the respondents) if he was Aboriginal, and told by her that the guest house did not take Aboriginals. She said that her boss in Sydney did not want the guest house to accommodate Aboriginal people as they caused trouble. The owner of the guest house was Mr Jamsek, uncle of Ms Jamsek. He was also a respondent to the complaint.

Mr Smith was humiliated and made a discrimination complaint to the NSW Anti-Discrimination Board. The complaint was not resolved at the Board, and was referred to the NSW Administrative Decisions Tribunal (ADT).

The NSW ADT found that the respondents had discriminated against the complainant because of his race in breach of section 20 of the *Anti-Discrimination Act 1977* (ADA). Mr Smith suffered the detriment of being refused accommodation and spending the night sleeping in his car because of the respondents' actions. He was hurt and humiliated by the treatment.

The NSW ADT ordered the respondents to pay Mr Smith \$5,000 compensation for emotional distress, to apologise to Mr Smith and to pay his legal costs.

<http://www.austlii.edu.au/au/cases/nsw/NSWADT/2012/3.html>

Conciliation Outcomes

A complainant's employment was terminated when her employer took the view that, because of her disability, she was not able to carry out

the view that, because of her disability, she was not able to carry out the inherent requirements of her job as a customer relations employee.

The complainant argued that she could carry out the inherent requirements but required some workplace adjustments ('accommodations') to do so. The employer declined to make the adjustments after concluding that the complainant was a safety risk because of her disabilities.

After constructive and useful discussion, the complaint was resolved with the respondent agreeing to provide a reference and compensation of \$2,000.00.

The complainant was pleased she was able to get clarification on the issues and to be given the opportunity to explain to the respondent how the way she was treated affected her. She said that the conciliation went a long way towards giving her closure.

National News

National Media Releases

Allow people with print disability worldwide to read: Australian Government should take the lead

Australian Disability Discrimination Commissioner, Graeme Innes, has said that people with a print disability throughout the world are currently experiencing a 'book famine', yet the Australian Government has failed to take action that could change the situation.

'Only 5% of all books produced in Australia are published in accessible formats such as large print, audio or braille, while in developing countries it is just 1%,' said Commissioner Innes. 'Australia should change its position and take the lead in ending this "book famine".'

'Australia could lead the change to international law in this area and, at little cost to us, provide the opportunity to read to millions more people with print disability throughout the world', Commissioner Innes said. 'An international treaty would allow hundreds of thousands of books already produced in formats like braille, audio and large print, to be shared from one country to another.'

To read more

http://www.hreoc.gov.au/about/media/media_releases/index.html

No room for short-term-ism when it comes to Closing the Gap

COAG Reform Council findings reinforce the importance of long term commitments in closing the health inequality gap, says the Close the Gap Campaign.

The campaign Co-Chairs say the report shows small improvements in areas like child mortality show progress towards health equality.

'That Aboriginal child death rates have decreased is welcome news, however that rate is still more than double that of non-Aboriginal children,' said Co-Chair, Jody Broun.

'This report supports the need for early childhood programs as they provide strong basis for better health and education right through life.'

'This situation needs to improve and this report shows that long-term commitments must be backed up with a comprehensive plan of action that is need- and evidence-based.'

To read more

http://www.hreoc.gov.au/about/media/media_releases/index.html

Paid parental leave for partners an important addition to scheme

Australian Sex Discrimination Commissioner, Elizabeth Broderick, congratulated the Australian Government on the passing of the Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Bill 2012, because it acknowledges, includes and supports the caring role played by fathers and partners, which is very important.

With the discussion of paid parental leave mostly concentrated on the birth mother, this amendment provides vital support and assistance to men and other partners who have traditionally found it difficult to secure leave to care for the mother, the newborn child and other family members, a role that has often gone unacknowledged,' said Commissioner Broderick.

To read more

http://www.hreoc.gov.au/about/media/media_releases/index.html

July Training Calendar

Racism - defining, recognising and dealing with it

Hobart

Tuesday 3 July
1.00-3.00 pm

Launceston

Thursday 5 July
1.00-3.00 pm

\$110.00

Discrimination-free management - short seminars

Hobart

Monday 16 July

1. **Recognising discrimination, harassment & bullying**
9.30-11.00 am
2. **Is your workplace disability ready?**
12.30-2.00 pm
3. **Handling discrimination complaints**
2.30-4.00 pm

\$110.00 each session

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

http://www.antidiscrimination.tas.gov.au/education_and_training

Training News

Workplace Support Contact Officer Networking Meeting

The OADC facilitated Workplace Support Contact Officer (WSCO) networking meetings in the north and south in the last week of June. As usual our trainers, the Commissioner and the WSCOs shared experiences, learnt from each other and had very fruitful discussions.



Our Launceston WSCOs hard at work



WSCOs networking in Launceston

Train the Trainer - Anti-Discrimination, harassment & bullying

On request we have added our Train the Trainer course to the July-December training calendar. The course will be delivered in Hobart on 6 & 7 August (9.30-4.30 both days).

To register, please go to

http://www.antidiscrimination.tas.gov.au/education_and_training

Supporting the process - Training for Advocates and Community Workers

This full-day course will be run in Hobart on Tuesday 4 September. The course has been designed for advocates and community workers to equip you with the skills to understand and identify potential discrimination and to assist and support a person through the complaint process.

For more information about this course, please contact Roz by e-mail roz.smart@justice.tas.gov.au or phone 6233 7832.

WorkSafe Tasmania Month



WorkSafe Month (1 October - 2 November 2012) is about sharing knowledge and taking positive steps to make you, your workmates and your workplace safer and healthier.

The OADC will be delivering sessions for WorkSafe Tasmania Month again in 2012, stay tuned for more information.

To register and for more information, visit

www.worksafe.tas.gov.au/events/worksafe_month/ws_2012/holding_an_event

Community News



Young Women's Multicultural Leadership Group

In June 2009, *Tas-Discrimination News* featured an article about the Glenorchy Young Women's Multicultural Group when they launched their *Our Stories*

DVD(http://www.antidiscrimination.tas.gov.au/news_and_events/Previousissues/newsletters/newsletter-17).

In 2011-12, funding through the Department of Immigration and Citizenship, social inclusion funding has enabled the young women to be trained as young leaders!

The Young Women's Multicultural Leadership Program is facilitated by Glenorchy City Council's Youth Development Officer, Angela Pate, and currently has members aged from 11 to 20.

A forum **Looking Back Looking Forward** was held at the Glenorchy Civic Centre on Tuesday 26 June and was attended by over eighty people. The forum was an opportunity to showcase the skills of the young women and was about celebrating cultural diversity, connecting with people from other cultures and communicating and sharing our stories.

Looking Back Looking Forward highlighted that one way to engage

with young people is through activities and fun. There was traditional and modern dance, music, a PowerPoint presentation by the young women, a video featuring adults from Glenorchy Cultural Advisory Committee talking about their experiences as humanitarian entrants and an amazing art work created by the group expressing the young women's pride in the past and in their countries and showing their culture is now in Tasmania.

Angela Pate said, 'A highlight for me was seeing these young women who are very shy speaking with such confidence, expressing themselves in the way they enjoy through dance and music and art and having fun! The girls have grown so much in 12 months, they have worked hard and we are proud to call them our Young Women Leaders in the city of Glenorchy. We are hoping to continue the group into the future and to develop an intergenerational project together with the Cultural Advisory Committee.

OADC staff members who attended the Forum congratulate Angela and the young women for creating such a high energy, uplifting and very positive experience for all who attended.

For enquiries, please contact Angela Pate 6216 6347 or apate@gcc.tas.gov.au

Community feel good opportunities

These websites have something for all of us with great ideas and campaigns on environmental and social issues.

<http://www.dosomethingnearyou.com.au/>

<http://dosomething.net.au/>

Community Networking

HUMAN RIGHTS DAY

Monday 10 December 2012

Invitation to share ideas for an event in Launceston on Human Rights Day

Let's get together and find out who is interested.

What kind of event? Forum? Celebration?

Let's share ideas and work out a plan (including a realistic picture of who will do what)

Thursday 5 July 2012

Meeting 12.30 to 1.30pm

Facilitator: Ella Dixon

RSVP and enquiries to Krystyna.Baylis@dpac.tas.gov.au

Phone 6336 2347

http://www.afairerworld.org/_HRWeek/index.html

Play by the Rules e-bulletin



To see the latest e-bulletin from Play by the Rules please follow this link <http://www.playbytherules.net.au/news-centre/ebulletins>

Days to Celebrate in July

Naidoc Week

1-7 July 2012

[http://www.naidoc.org.au/naidoc-events/event/?](http://www.naidoc.org.au/naidoc-events/event/?mylist=Tasmania&check=Check)

[mylist=Tasmania&check=Check](http://www.naidoc.org.au/naidoc-events/event/?mylist=Tasmania&check=Check)

NATIONAL HOODIE DAY

21 July 2012

Australian Indigenous Mentoring Experience (AIME) is asking the Australian community to don an AIME Hoodie on 21 July and say to the next generation who are stepping up with AIME, 'We will walk with you'. By doing this you will be supporting all of our Indigenous kids to finish school at the same rate as their fellow Australians.

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

Stress Down Day

27 July 2012

www.stressdown.org.au

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