

In respect of rights



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Issue 12

December 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
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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

E-mail

Message from the Anti-Discrimination Commissioner



On 21 November 2012, the Attorney General, the Hon Brian Wightman, tabled the Anti-Discrimination Commissioner's thirteenth Annual Report in the Tasmanian Parliament, the report for the year ending 30 June 2012.

I was pleased to report my office has had many achievements during that period.

Our Major Achievements

- Continuing and growing demand for education and training resulting in an increase of 16% in the number of training programs delivered and 47% more community education sessions delivered across the State.
- Enhanced information, education and promotional activities with schools and the community.
- Renewal and relaunch of the OADC's electronic newsletter as In respect of rights and development of OADC Facebook presence.
- Development and launch of a suite of posters and postcards to deliver key messages about discrimination and prohibited conduct.
- Significant increase in the use of early resolution mechanisms in complaints.
- Success flowing from major changes to the complaints process with an increase of almost 18% in the number of complaints resolved with the assistance of the OADC (through early resolution and conciliation processes).
- Strong interest from and contribution by interns and work placement students to the work of the OADC in both research and administrative projects.
- Recognition of the valuable contribution the OADC makes on policy issues through increased requests for input to both state and federal inquiries and review processes.
- Securing a permanent Senior Policy & Project Officer at the OADC.

The low number of complaints being referred to the Anti-Discrimination Tribunal reflects the success of the efforts of my staff to assist parties to resolve complaints early.

Our Future Direction

I hope that the year ahead will involve a number of new and exciting initiatives including, depending on the decisions made in the Tasmanian Parliament, the implementation of and education and promotion about the administrative changes recommended from the Anti-Discrimination Amendment Bill 2012.

I hope to look more closely at how to enhance the capacity of the Act through the use of strategic interventions and expanded provisions about who can complain and how compliance requirements can be enhanced.

A very important aspect of anti-discrimination law is its capacity to

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.

Newsletter Editor

Roz Smart

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A very important aspect of anti-discrimination law is its capacity to influence change through education and increased understanding of rights and obligations, without need for individuals to assert their rights through complaints.

All anti-discrimination laws in Australia seek to achieve this, yet there is always a struggle to ensure that there are adequate resources available to undertake the proactive work needed to support and assist all in the business, government and community sectors to understand how to achieve compliance.

There is more work ahead to further streamline the complaint-resolution and investigation process to ensure that we are being as effective as we can be with limited resources.

With the release of the exposure draft of a future single federal anti-discrimination law, I am also looking forward to examining how we can improve the State Act in line with some of the proposed federal changes.

My sincere thanks to all whom have engaged with me and my office during the year on various human rights, social justice, equal opportunity and discrimination issues at the state and level. The humanity and commitment of these people assists my office to reach closer to our objective of fostering a society free of discrimination, prejudice, bias and prohibited conduct.

The Annual Report is available online at:

http://www.antidiscrimination.tas.gov.au/publications/annual_reports

For a hard copy of the report, contact the OADC on 03 6233 4841.

Robin Banks

Anti-Discrimination Commissioner

Human Rights Week 2012



Human Rights Week Tasmania

Every year, Tasmania celebrates International Human Rights Day (10 December) with a calendar of human rights events over the week leading up to the Day itself.

This year, the spotlight is on the rights of all people — women, youth, minorities, persons with disabilities, indigenous people, the poor and marginalized — to make their voices heard in public life and be included in political decision-making.

The week formally begins this year on Monday 3 December with the launch at Parliament House, Hobart. We had hoped to have Federal Aboriginal & Torres Strait Islander Social Justice Commissioner Mick Gooda as our keynote speaker at the launch, but he has had to withdraw. In his place, we have Michael Small speaking about International Day of People with Disability (3 December) and the work going on in Australia to achieve full equality rights for people with disability. Michael has just received the Federal Minister for Community Services' Award for Excellence in Disability Reform (jointly with Western Australian, Samantha Jenkinson).

The winners of Tasmania's Human Rights Awards will be announced at the launch, with the awards being conferred by Tasmanian Governor, The Honourable Peter Underwood AC, on International Human Rights Day at a morning tea at Government House.

There are events every day during the week, with a couple in the lead-up days. For details of all the events, check out the Human Rights Week calendar, which is available on-line with downloadable linked flyers for the different events. There is also a downloadable version of the calendar for printing at www.afairerworld.org/Coming_events/Human_Rights_Week_calendar.pdf.

Monday 10 December

Human Rights Day presents an opportunity, every year, to celebrate human rights, highlight a specific issue, and advocate for the full enjoyment of all human rights by everyone everywhere.

Human Rights Week March & Rally

Building a Human Rights Culture within our Community!

Saturday 8 December

March through the city streets to Parliament House Lawns starts **10.45am** outside the Playhouse Theatre, 106 Bathurst St, Hobart.

Rally 11.20am Parliament House Lawns
Family friendly music & activities until 1.00pm

Amnesty International Take Action for Human Rights

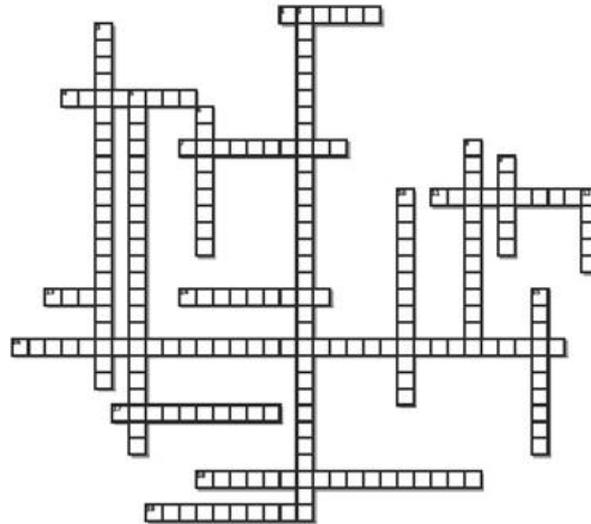
- Sign up to **Racism. It Stops With Me**, which invites all Australians to reflect on what they can do to counter racism wherever it happens:
<http://itstopswithme.humanrights.gov.au/>
- Call for an end to child detention in Australia and prevent children being sent to Manus Island or Nauru.
- **Report It!** is a tool that can be used by those who experience or witness racism or any other form of discrimination, abuse or harassment to make a report to the Office of the Anti-Discrimination Commissioner:
http://www.antidiscrimination.tas.gov.au/forms/Incident_form
- You can also subscribe to the OADC newsletter, *In respect of rights*:
<http://www.antidiscrimination.tas.gov.au/>
- Amnesty: Support the Sudanese youth group, 'Girifna', who have been peacefully protesting against the Sudanese Government and have faced human rights violations perpetrated by the government of Sudan.
- AVAAZ and Amnesty: Malala has dedicated her childhood to championing education for girls in Pakistan. As she lies in a hospital bed, shot by Taliban gunmen, stand with her and help make her dream come true.
- Donate your unwanted bike. Bikes will be collected, restored and sent to Africa. bikes@thirdplacecommunities.com or ph Anthony Elder 0438 554 957/6234 8487.
- Stop Land Grabs in rural communities in countries such as Cambodia. Spread the word by re-tweeting the farmers' messages.
- Make mining companies accountable. Send a message to the Treasurer, Wayne Swan.
- 2013 Kilimanjaro Challenge. Join a team of Amnesty supporters and climb Mount Kilimanjaro.
- Host an International Day of People with a Disability event on Dec 3.
- The End of Polio: In a recent survey conducted by Rotary International, 44% of respondents were completely unaware that polio remains a serious issue. Share their video on Facebook.
- Write for Rights letter writing marathon: 25 November - 16 December, Amnesty campaign to advocate for 11 communities and individuals suffering human rights violations.
- 'Have your say' about 'A more inclusive Australian Constitution'. The Australian Youth Foundation wants to hear the views of young people on proposed changes to the Constitution. Or visit YouMeUnity to learn how 'Recognition has the potential to give young Aboriginal and Torres Strait Islander people new pride in their heritage so they can grow up understanding that their culture is an advantage, not a disadvantage'.
- Join the headspace campaign to help young people to acknowledge their sexuality to others.
- **Manage the Amnesty Salamanca Stall**
An exciting opportunity has become available to coordinate Amnesty International's stall at Salamanca Market from January. To find out more, check out www.amnesty.org.au/tas for a description of the role or contact tasaia@amnesty.org.au.

From the OADC

Department of Premier and Cabinet's Work Placement Program
2012

The OADC recently participated in the Department of Premier and Cabinet's Work Placement Program 2012 providing working experience to humanitarian entrants settling in Tasmania. Our participant Dal (Sajan) Ghising, spent two weeks in November working with OADC staff as well as spending some time learning about the work of the Mental Health Tribunal, Monetary Penalties Enforcement Service and Justice Corporate Services. We wish Sajan all the best for his future and his wish to become a police officer.

Anti-Discrimination Crossword



In the holiday spirit we have decided to include an anti-discrimination crossword rather than our usual *frequently asked questions* segment.

Find and print the crossword from the homepage of our website <http://www.antidiscrimination.tas.gov.au/>

Good luck.

CLUES ACROSS

- 1 The number of months a complainant has to make a complaint of discrimination or prohibited conduct to the Anti-Discrimination Commissioner (6)
- 4 The Anti-Discrimination ——— is established by the Tasmanian *Anti-Discrimination Act 1998* and its main functions is to conduct inquiries into complaints of conduct prohibited by the Act. (8)
- 7 A person or organisation against whom a complaint is made. (10)
- 11 A term used to define all people of a certain group into a category that may only reflect a selected few of the demographic. (10)
- 13 The cost to make a complaint to the Office of the Anti-Discrimination Commissioner. (4)
- 14 An organisation may apply for an ——— before a complaint of discrimination is made (a proactive stance to get a 'ruling' from the Anti-Discrimination Commissioner that what the organisation wants to do is 'protected' discrimination. This can happen if the organisation wants to discriminate in favour of a disadvantaged group.) (9)
- 16 The website address for the Office of the Anti-Discrimination Commissioner. (3.18.3.3.2) *include dots
- 17 The type of discrimination most often complained about nationally. (10)
- 18 The newsletter of the Office of the Anti-Discrimination Commissioner. (2,7,2,6)
- 19 The Tasmanian Anti-Discrimination Commissioner. (5,5)

CLUES DOWN

- 2 Staff who are trained to provide other staff with confidential information and support to address discrimination, harassment and/or bullying in the workplace. (9,7,7,8)
- 3 A ——— ——— is a meeting between the parties (complainant and respondent) to attempt to resolve a complaint. (12,10)
- 5 Less favourable treatment or effect. on the basis of an attribute. in

... 2000 reasonable treatment of stress, on the basis of an analysis, in

an area of activity. (8,14)

6 An adverse judgment or opinion formed beforehand or without knowledge or examination of the facts. (9)

8 Intentional cruel or hurtful behaviour carried out over SMS, email, blogs, chatrooms, discussion boards, instant messaging and social networking pages such as Facebook and MySpace. (5,8)

9 The number of attributes in the Tasmanian Anti-Discrimination Act 1998. (6)

10 Subjecting, or threatening to subject, another person or an associate of that other person to any detriment because they have complained about discrimination or prohibited conduct, or been involved in the complaint process. (13)

12 Having the same status, rights or opportunities. (5)

15 Any form of behaviour (including comments, jokes, innuendo) which causes a person to feel offended, humiliated, ridiculed or intimidated and that it is reasonable for the person to whom it is directed to feel this way. (10)

Legal News

Marshall v Commonwealth Of Australia (represented by The Bureau Of Meteorology) [2012] FMCA 1052

A Bureau of Meteorology (BoM) employee who was dismissed for participating in a reality television show while on stress leave has been reinstated.

The employee applied for stress-based sick leave with a certificate from his GP. During his sick leave he continued to consult with his GP, his psychologist and also saw the Australian Government Medical Officer (AGMO). Of particular note was the fact that he was extremely anxious about desk-based work, as opposed to field work. It was desk-based work that triggered his anxiety due to alleged bullying. He requested field work but was told none was available.

During this time, the employee was in discussions with the producers of *Beauty and the Geek*, a reality television show. He had previously auditioned to participate but had pulled out due to work commitments.

In July 2011, the BoM dismissed the employee on the ground of non-performance of duty. The AGMO believed he was fit for duty while his treating doctor provided him with certificates stating that he was not fit for a desk-based role. Following the dismissal, the employee contacted the producers of *Beauty and the Geek* and told them he was available.

The employee made an adverse action claim in the Federal Magistrates Court on the basis that he had been dismissed for exercising his workplace right to take sick leave.

Much of the argument in this case centred around the validity of the certificates provided by his GP and whether his discussions with the producers of a reality TV show, and his appearance on the show, entitled the BoM to disregard the certificates.

Ultimately Federal Magistrate Wheeler held that the certificates were valid and should have been accepted as such by the employer and reinstated him to his former position.

Appearing on a reality television show was a very different prospect to returning to a workplace that was the source of the stress and this did not invalidate his certificates.

In this case the employee's GP had legitimate concerns about his health should he return to a desk position. The GP did not hold similar concerns about the effect a reality television show would have on his mental health. The certificate should have been accepted on face value and it was not open to the BoM to dismiss the employee on the basis that it was false.

The employee was reinstated and awarded compensation in the form of back payment of the wages lost since his termination.

<http://www.austlii.edu.au/au/other/auflii/au/other/auflii/au/other/fmca/2012/1052.html>

National News



Social Justice and Native Title Reports

Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda will launch the *Social Justice and Native Title Reports* today, Friday November 30.

Each year, the Commission is required to produce an annual review into the human rights impacts of legal and policy developments on Aboriginal and Torres Strait Islander peoples and in relation to Native Title.

http://www.humanrights.gov.au/social_justice/sj_report/index.html



16 Days of Activism Against Gender Violence campaign

Sunday 25 November 2012 marked the International Day for the Elimination of Violence Against Women.

It also marked the first day of the 16 Days of Activism Against Gender Violence campaign.

This campaign gives everybody an opportunity to stand up against all forms of violence against women.

Have a read of the blog on the Australian Human Rights Commission's 'Something in Common' site for a different story each day about gender-based violence.

The 16 Days of Activism Against Gender Violence campaign is dedicated to the issue of violence against women.

However, men and boys can be victims of violence, including domestic and family violence and sexual assault and the elimination of violence against men and boys is also crucial to protecting human rights.

For more information visit <http://somethingincommon.gov.au/16days>

More national news

Face the Facts survey

The Australian Human Rights Commission is conducting a survey on the publication, *Face the Facts: Some Questions and Answers about Indigenous Peoples, Migrants and Refugees and Asylum Seekers*, and is interested in your feedback!

Your feedback will be integral to determining how the information contained in the publication is delivered in the future.

The survey will take approximately 10



minutes to complete and is anonymous. You may complete the survey online at:



https://www.surveymonkey.com/s/face_the_facts by Monday, 10 December 2012.

If you have any questions about the survey, please email christine.ratnasingham@humanrights.gov.au

National Human Rights and Anti-Discrimination Bill

The Australian Human Rights Commission and the Tasmanian Anti-Discrimination Commissioner have welcomed the release of the exposure draft of a national Human Rights and Anti-Discrimination Bill.

Australian Human Rights Commission President, Professor Gillian Triggs, said the Bill streamlines human rights protections and provides greater clarity than the existing four separate anti-discrimination laws and the *Australian Human Rights Commission Act* that it is intended to replace.

'The proposed Bill strengthens access to justice for individuals by greatly simplifying the legal process. It also provides greater certainty for business by clarifying the evidentiary requirements for complaints and providing a streamlined ability to reject complaints,' Professor Triggs said.

'The proposals in the Bill to place some of the evidentiary onus on respondents to claims are common sense. It means that those with the relevant information will be the ones who are required to supply it – this is consistent with other civil claims processes in Australia,' said Professor Triggs.

Professor Triggs welcomed the Bill's emphasis on prevention, enhancing the Commission's ability to work with business and other stakeholders to eliminate discrimination.

'The Bill proposes a range of voluntary measures for business to work with the Commission, such as codes of practice and certifications of special measures.

'This will enable business proactively to take steps to address discrimination and therefore to reduce the likelihood of legal action being taken against them,' said Professor Triggs.

Professor Triggs particularly welcomed the inclusion of protections against discrimination based on sexual orientation and gender identity.

She also welcomed the simplified and improved provisions contained in the draft Bill on what discrimination means and when harassment and discrimination may be unlawful.

Professor Triggs said she looked forward to public debate on the exposure draft Bill before it is tabled in Parliament.

'We will engage in public discussions to promote a Bill that provides more effective protection of human rights,' Professor Triggs said.

Tasmanian Anti-Discrimination Commissioner, Robin Banks, noted the importance of these federal reforms for the development of discrimination and equality law at the state and territory level. Ms Banks said, 'The Bill certainly provides some options for future developments to be considered at the state level, particularly some of the more preventative strategies proposed'.

Commission Welcomes First Mental Health Report Card

The Australian Human Rights Commission has welcomed the production of

Australia's first *Mental Health Report Card*. This Report Card was produced by the new Mental Health Commission.

The report card may be viewed at www.mentalhealthcommission.gov.au

EOWA launches 2012 Australian Census of Women in Leadership

http://www.eowa.gov.au/Information_Centres/Resource_Centre/EOWA_Publications/EOWA_Census.asp

December Training Calendar

Workplace Support / Contact Officer Networking Meeting

Hobart

Monday 17 December
9:00 am - 12:00 pm

Launceston

Tuesday 18 December
1:00 - 4:00 pm

FREE to Workplace Support/Contact Officers

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

2013 Training Calendar

The OADC's February to June 2013 training calendar is available on our website
http://www.antidiscrimination.tas.gov.au/education_and_training.

The OADC offers a comprehensive range of anti-discrimination courses for all parts of business, government and community, including school talks for all student grades. Please contact Roz at roz.smart@justice.tas.gov.au or Louise at louise.adams@justice.tas.gov.au for more information.

January Workplace Support / Contact Officer and Workplace Support / Contact Officer Refresher courses

The OADC has participants interested in attending both of these courses in January 2013. Please complete an expression of interest form to register your interest and we will be in touch with dates and details.

http://www.antidiscrimination.tas.gov.au/education_and_training/2012_training_registrations_and_expressions_of_interest

Supporting the Process - Training for Advocates and Community Workers

Robin and Roz facilitated two more very successful sessions of *Supporting the Process - Training for Advocates and Community Workers* last month. Thanks to all that attended for your discussions and feedback.

The next course is in Devonport in the new year:

Devonport

Wednesday 6 March (1:30 - 5:00 pm) AND
Thursday 7 March (9:00 am - 2:00 pm)

We will be facilitating this popular course again in Hobart and Launceston in 2013. Please fill out an expression of interest form to register your interest and we will be in touch with details.

http://www.antidiscrimination.tas.gov.au/education_and_training/2012_training_registrations_and_expressions_of_interest

Community News and Networking

The Postcard Project, a project run by Hobart Women's Shelter and SHE, was launched on 28 November at the Glenorchy LINC.



The Project invited women who have been part of the support group run by SHE and Hobart Women's Shelter to engage with a photography brief. Women were invited to learn about taking photographs and to use these to make free postcards that could be distributed in the community to provide a prompt for other women to make the choice to seek help to deal with abusive relationships.

The project in essence invited these women to reach out to other women who might be in the kinds of abusive relationships that they are recovering from.

The launch included a powerful speech from one of the program participants as well as the first public appearance by the group choir 'giving a voice to survivors of domestic violence'.

The Project was funded by the Community support Levy under the Charitable Organisations Grant Program, DHHS.

Ethics in sport - a chance to have your say

Sport and Recreation Tasmania (SRT), in conjunction with the Department of Premier and Cabinet, and the Office of the Anti-Discrimination Commissioner, is currently developing an Ethics in Sport Framework.

The framework will:

- set out the Tasmanian Government's vision for an inclusive, welcoming and safe sporting sector
- enhance awareness and understanding of ethics issues and promote inclusive, welcoming and safe sporting environments
- provide direction for action to be taken to increase the capacity of sporting organisations to prevent, mitigate, and manage ethics in sports issues.

A draft framework is being circulated for public consultation until Friday, 14 December 2012. SRT are seeking feedback from interested individuals and organisations. You can access the draft framework and consultation questions from the SRT website.

Please send responses by Friday, 14 December 2012 to:

sportrec@development.tas.gov.au or

Sport and Recreation Tasmania

GPO Box 646

HOBART TAS 7001

Please contact Ms Sarah Davidson, SRT Client Manager, at

sarah.davidson@development.tas.gov.au or telephone (03) 6233 5616 if you wish to discuss the draft framework or if you require any further information.

Sign Language Communications is Australia's most experienced provider of professional Auslan/English interpreting services. The new-look SLC website simplifies booking an interpreter from anywhere in Australia, provides Auslan video content and a visual registry of all our interpreters among other great updates.

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



BHUTANESE ANNUAL FESTIVAL

Bhutanese Annual Festival at St Ailbes Hall, Launceston on Saturday 15 December 2012 from 11:00 am to 3:00 pm.

<http://www.bctn.org.au/>

Awareness Days in December

World AIDS Day

1 December

HIV is still very much a real issue here in Tasmania, with one to two people contracting HIV every month.

In Tasmania, all the funds raised during World AIDS Day go to the Andrew Shaw Foundation. This foundation is the only source of emergency relief funding specifically for people living with HIV/AIDS in the state. People living with HIV/AIDS, and their carers are able to access Andrew Shaw funds for expenses such as pharmacy costs associated with HIV treatments.

During **AIDS Awareness Week the 26 November to 1 December**, please take a moment to remember those in Tasmania who are living with HIV/AIDS, and please increase awareness of HIV by wearing a red ribbon on Saturday 1 December.

On the World AIDS Day page of the TasCAHRD website you will find a list of all the locations you can buy a red ribbon this year.

<http://tascahrd.org.au/sponsors/>

International Day for the Abolition of Slavery

2 December

<http://www.timeanddate.com/holidays/un/international-day-abolish-slavery>



International Day of People with Disability

3 December

Celebrating 20 years of International Day of People with Disability

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

International Migrants Day

18 December

The United Nations' (UN) International Migrants Day is annually held on 18 December to recognise the efforts, contributions and rights of migrants worldwide.

<http://www.timeanddate.com/holidays/un/international-migrants-day>

International Human Solidarity Day

20 December

International Human Solidarity Day reminds people on the importance of solidarity in working towards eradicating poverty.

<http://www.timeanddate.com/holidays/un/international-human-solidarity-day>

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