

In respect of rights



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Issue 4

April 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.

Office of the Anti-Discrimination Commissioner
Level 1, 54 Victoria Street, Hobart, Tasmania 7000
GPO Box 197, Hobart, Tasmania 7001

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

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

Message from the Anti-Discrimination Commissioner



Tasmanians had the opportunity to kick off the national conversation about developing a National Anti-Racism Strategy. Federal Race Discrimination Commissioner Dr Helen Szoke hosted a meeting in Hobart on Thursday 22 March

to hear from Tasmanians about addressing racism across Australia. This was the first of a series of consultation meetings Dr Szoke will be holding over the next couple of months.

I urge all Tasmanians to get involved in the development of a National Anti-Racism Strategy for the country.

On Thursday 29 March, a week after the Tasmanian consultation meeting, the Government's National Anti-Racism Partnership, led by Dr Szoke, formally launched a discussion paper, website and online survey to get the conversation started for the rest of Australia.

Tasmanians can contribute to the development of the Strategy by making a submission in response to the Discussion Paper, or by completing the online survey. If you, as a Tasmanian, want to be part of a further consultation meeting, I am available to meet with you to hear and record your view and pass these on to Dr Szoke.

The National Anti-Racism Partnership wants to hear what you think works and about other successful strategies that have been used in the past.

The National Anti-Racism Partnership and Strategy aims to promote a clear understanding in the Australian community of what racism is, and how it can be prevented and reduced.

The National Anti-Racism Partnership and Strategy is a key initiative of *Australia's Multicultural Policy – The People of Australia*, which was launched in February 2011.

The online submission process will run until Friday 11 May 2012. For more information on the discussion paper and the National Anti-Racism Partnership and Strategy visit:

<http://www.humanrights.gov.au/antiracism/>

Robin Banks
Anti-Discrimination Commissioner

From the OADC

New posters

To add to our growing list of new resources the OADC launched two new posters (and matching postcards) on Harmony Day.

Follow the link to our website to view and print these and others

<http://www.antidiscrimination.tas.gov.au/publications>

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

Ph: (03) 6233 7832

E-mail roz.smart@justice.tas.gov.au

You can't discriminate because of skin colour. The law says so, in Black & White.

Show racism the Red Card. Race discrimination is against the law.

Do you have a question or concern about race discrimination or racial incitement?
If you do, or if you'd like to make a complaint, contact us.

Enquiry Line 1300 305 002 or 03 6233 4841
E-mail antidiscrimination@justice.tas.gov.au
Web: antidiscrimination.tas.gov.au
Free SMS 0428 421 062
NRS TTY 133 677 & ask for 1300 305 002
NRS Speech & Listen 1300 305 727 & ask for 1300 305 002



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Harmony Day 2012



Hobart Celebrates Harmony Day

The OADC joined with Soroptimists International - Tasmania, the Multicultural Council of Tasmania, the International Wall of Friendship and Sport and Recreation Tasmania to celebrate Harmony day on 22 March 2012 with a morning tea and displays at the International Wall of Friendship.

The celebration was greatly enhanced by having representatives from Cricket Tasmania, Surf Life Saving Tasmania, Royal Life Saving and Football Federation of Tasmania.

The Commissioner launched the event, noting the important bridge sports and recreational activities can be for new arrivals to our community. Tasmanian People of Australia Ambassador Sajini Sumar briefly spoke of the important work being done across Australia to strengthen harmony.

This was just one of many Harmony Day events celebrated across Tasmania. Well done!





OADC making a splash for MS



MS Mega swimathon

The Commissioner Robin Banks will be putting her swimming skills to the test by leading a team in the upcoming MS Mega Swimathon to raise funds for the MS Society of Tasmania.

The MegaSwim-a-thon is a fun swimming event that raises money for people living with MS.

The swimming will take place from 12.00 pm on Saturday 5 May to 12.00 pm Sunday 6 May 2012 at the Hobart Aquatic Centre.

You can sponsor Robin and her team by donating to MS Mega Swimathon. To do this, go to the following link and click on 'Donate'. All funds raised will go to MS Society of Tasmania.

<http://hobartmegaswim.gofundraise.com.au/page/SplashForCash>
(Team name: **Splash for Cash for MS**)

Tasmania absent from 2012 EOWA Employer of Choice for Women

Commissioner Robin Banks was disappointed to see that no Tasmanian employer made it onto the Equal Opportunity for Women Agency 2012 Employer of Choice list.

On 13 March 2012, EOWA Director, Helen Conway announced the 125 organisations that received 2012 EOWA Employer of Choice for Women citations at a media launch in Perth that was followed by a panel discussion between Curtin University Vice-Chancellor, Professor Jeanette Hackett, Alcoa of Australia Managing Director, Alan Cransberg, Bankwest Managing Director, Jon Sutton, and ConocoPhillips Australia President, Todd Creeger. All four organisations were WA recipients for 2012. The panellists highlighted the advantages of gender diversity, spoke about ways to achieve it, and the benefits of gender diversity in attracting and retaining talent in highly competitive markets.

Only Tasmania and the Northern Territory remain unrepresented on the list, which includes organisations from all industry sector. There are nine schools and 18 universities, two energy companies, nine banks and credit unions, three mining companies, a number of health care and social assistance providers and a large number of professional services companies.

'It is certainly disappointing that no Tasmanian companies have been recognised as employers of choice for women', Ms Banks said. 'While there is a limited number of companies in Tasmania that are required to report under the EOWA framework and that therefore are eligible for a citation, Tasmania can do better. I hope that 2013 will see a return of Tasmanian companies, which have been absent since 2009.'

The list of recipients is available through the following link:

http://www.eowa.gov.au/EOWA_Employer_of_Choice_for_Women/2012/Media_Page.asp

Legal News

\$13k penalty for apartment owner who banned guide dog

A complaint was made after a blind man was refused property rental at a luxury holiday apartment because he had a guide dog.

The respondent (Sully) claimed he had barred the complainant (Skinner) because he had been aggressive and rude to him. When Sully was told of the guide dog, as well as checking with the body corporate he had said he would have to 'think about how I feel about having the dog in the apartment'.

Noting Skinner's distress included becoming depressed, needing to take sleeping pills and questioning his decision to have a guide dog because of the conflict caused, the Queensland Civil and Administrative Tribunal awarded Skinner \$13,000 in compensation.

Skinner v Sully [2011] QCAT 589 (23 November 2011)

<http://www.austlii.edu.au/au/cases/qld/QCAT/2011/589.html>

FAQs - Age Discrimination

Age is an interesting attribute under the *Anti-Discrimination Act*, because it covers discrimination against young people, older people and ... well ... people of any age.

Juan is 57 years old and his boss has told him that he has to finish up next week because she wants to bring in a 'younger person' who is up to date with the latest computer technology. Can she do this?

- The Act prohibits less favourable treatment on the basis of age. It covers discrimination in employment.
- One of the reasons the boss has given for sacking Juan is because she wants a 'younger person'. This is clearly 'on the basis of age'.
- This decision by the employer appears to be based on a stereotype that older people are not 'up to date' with new technology. This is a false stereotype: many people of all ages are up to date with new technology that they have either learnt on the job, through personal use or through further education.
- Employers need to remember that if they want an employee of any age to update their skills, they can arrange training for them.

Phyllis is a 19-year-old student who has to move out of home to study in Launceston. She found a house to rent that she really likes, but the ad says that only people aged 30 and over can apply. Is this lawful?

- The Act covers the area of accommodation, which includes looking for rental accommodation.
- The ad states that only people over 30 can apply. This is unfavourable treatment of everyone younger than 30 because of their age.
- The real estate agent or property owner may be making stereotyped assumptions about younger people, such as that they will throw wild, drunken parties and damage the house.
- However, a person of any age might be a bad tenant, or an excellent tenant. To check whether or not they are good tenants, references, either rental or personal, can be asked of all applicants. Care should be taken, however, not to require only previous rental referees, as younger people and people from other countries may not have such references and to require them might be indirect discrimination.

If age discrimination is unlawful, why can't a 16-year-old go to a bar and drink alcohol?

- While a 16-year-old is being treated differently to a person who is older than 18, it is not unlawful to exclude them from drinking alcohol in a bar. This is because the Act says that it is not unlawful to discriminate against a person if it is necessary to comply with a law of Tasmania or a law of the Commonwealth.
- The Tasmanian *Liquor Licensing Act 1990* makes it an offence to sell liquor to a person under the age of 18 years. In order to comply with the *Liquor Licensing Act* it is necessary to discriminate against people under the age of 18.

Chris is 23 years old and has applied for a job as a retail assistant. However, he was told that they are looking for someone with 10 years' experience even though it's not a senior position. Is this discrimination?

- A requirement that a person have 10 years' experience is more likely to disadvantage younger people as they are likely not to have been in the workforce as long as older people and they may have the relevant skills and knowledge to do the job effectively.
- The employer needs to consider the work to be done in the role and whether 'experience' is essential to do the job effectively (and why).
- A person may have the relevant skills and knowledge even if they only have 1 year's experience.
- Some jobs do require more experience: for example, the *Supreme Court Act 1887* says that to be appointed as a Supreme Court Judge in Tasmania the person must be at least 35 years old and have 10 years' experience as a barrister.

Jenny is a wheelchair user and goes to her local primary school. She cannot go to the canteen because there are steps into it and no wheelchair ramps. Can she, as a child, make a complaint of discrimination or can someone else, such as her parents, make a complaint on her behalf?

- The Act says that a person who has been discriminated against can lodge a complaint, so Jenny could make the complaint herself. However, this may be difficult for Jenny because she is a young primary school student.
- The Act also says that a person can complain on behalf of someone else who has been discriminated against.
- So Jenny's parents or guardians could complain on her behalf.
- There are also other circumstances in which a person can make a complaint on behalf of someone else: an adult with an intellectual disability may be unable to make their own complaint, and a parent/guardian, carer, organisation or advocate could complain on their behalf
- If a person is making a complaint on behalf of another person, they need to explain why they are making the complaint.

If a person thinks they have been discriminated against on the basis of age they can call the Office on 6233 4841 or 1300 305 062 and ask to speak to or meet with an Investigation Officer or they can visit our website www.antidiscrimination.tas.gov.au.

Conciliation Outcomes

A person complained on behalf of a family member alleging that the family member had been discriminated against by his disability support provider. The complainant alleged that the family member was subjected to uninvited sexual touching by another client of the service. The complainant alleged that staff failed to report the incidents and didn't provide enough supervision of clients. The disability support provider denied discrimination had occurred.

The complaint was resolved with the respondent agreeing to provide further training and professional development for its staff, including management. The complainant was given the opportunity to have input into his brother's support and development program.

A person complained on behalf of a family member alleging that the family member had been victimised and discriminated against by an accommodation provider. The complainant had previously made a

complaint about the provider, which was notified of the complaint by the Commissioner. After making that complaint the provider required family members to give advance notice of visits to the house. The complainant alleged this request was a direct result of having made the original complaint.

While the provider denied they had discriminated, it agreed there would be no restrictions on the complainant and immediate family members visiting the house during the day.

Training News

School talks

The OADC is keen to increase the number of schools that we visit to speak with students about discrimination, harassment and bullying. We have short presentations that we use for all school levels and ages that can also be tailored to particular needs.

We will soon be sending letters out to all school principals to encourage participation in the schools program. Please contact our training and education officers to invite us to talk to your students.

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

Lunch Box sessions

The feedback we have received from our lunchbox manager session 'Using your Workplace Support/Contact Officers to help you and your workplace' has been fantastic. If you would like us to run this free session at your workplace, please contact our training team.

April Training Calendar

Train the Trainer, conduct your own discrimination, harassment & bullying program in your workplace

Date change, please fill out an expression of interest form for notification of the new date

Engaging diversity & discrimination, harassment & bullying

Latrobe: Wednesday 11 April 2012, 1:00 - 3:00 pm

Racial diversity & preventing discrimination, harassment & bullying

Hobart, Monday 16 April 2012, 9:30 am - 12:00pm

Launceston, Friday 20 April 2012, 1.00 - 3.30 pm

Discrimination free management and management practices

Latrobe, Thursday 12 April 2012, 9.00 am - 3.30 pm

Hobart, Tuesday 17 April 2012, 10.30 am - 5.00 pm

For more detailed course information, price and registration forms follow this link

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

National News

Six months on

by Susan Ryan AO, Federal Age Discrimination Commissioner

After six months in the job, I'm pleased by the response from the community to the new focus on age discrimination.

I remain positive that, together, we can reduce the incidence of ageism and age discrimination across the community.

To-date, I have addressed a number of community and industry events to explain my role, the protections provided to people of all ages by the

Age Discrimination Act and the work of the Australian Human Rights Commission, particularly the complaints process (click here to find out more).

I have commenced discussion with peak bodies representing younger people about the age discrimination issues facing young Australians.

And I continue to hear from members of the public about their own experiences in battling to find employment as a mature age jobseeker.

Employment

In fact, one of my top priorities is to address the discriminatory attitudes which restrict the hiring and retention of older workers.

I am currently involved in this issue on a number of fronts:

- I am having ongoing constructive meetings with industry bodies, companies and recruiters to discuss how businesses do and could take constructive, supportive approaches to hiring and keeping older workers. These positive strategies will be showcased in a conference I have planned for later in the year that will also highlight the economic costs of discrimination against older workers.
- I am taking part in the government's Consultative Forum on Mature Age Participation and encouraging the implementation of recommendations from the Advisory Panel on the Economic Potential of Seniors Australians.
- In addition to my role as Age Discrimination Commissioner, I am commencing an appointment as part time Commissioner to the Australian Law Reform Commission, undertaking an audit of Commonwealth laws and policies which contain age bars that prevent older Australians from continuing in work.
- Additionally, I will also be meeting with government and business representatives to discuss reforms to the age caps on workers compensation payments, income insurance and travel insurance.

Older people online

The internet is another priority area for me.

In our submission to the Parliament's Joint Select Committee on Cyber-safety inquiry into cyber safety for older Australians, I have recommend that better targeted information and accessible training be made available to all older people so they can participate with the rest of Australia in confidently accessing the benefits of the Internet.

Financial security

Over this first six months as Age Discrimination Commissioner, I have also found that financial security is another major area of concern for older Australians. Therefore, financial security has formed another one of my priority areas while I am Commissioner.

To this end, the development of information to assist older people to avoid financial abuse and approach the management of finances with confidence is another project I have in preparation.

'Age Positive' - combating age prejudice

Finally, one of the overriding observations I have made as Commissioner, and before I took up the role, concerns the image of older people in our community and popular culture. There is a disturbing tendency for older people to be pigeon-holed as slow learners, rigid in their ways and as generally inactive in retirement. These destructive ageist images and stereotypes directly support age discrimination in our community. I believe we need to push back against them.

As you will be aware, early in my term I put out a call for contributions to our 'Age Positive' initiative, a sub site to the Australian Human Rights Commission website which showcases the varied and important ways older people contribute to Australian society. You can access Age Positive online at humanrights.gov.au/age-positive/stories.html

I am very pleased to report that 'Age Positive' has been very successful. We continue to receive many inspiring contributions, and are very interested in receiving many more.

We all know people with an inspirational story to tell, so either send us their story, encourage them to send it to us or send us your own!

What else can you do?

Finally, my task as Age Discrimination Commissioner is to serve the Australian community in promoting awareness of ageism and unlawful age discrimination and in working to eradicate it.

Therefore, I am very interested in hearing from all of you who have suggestions about ways this can be done so that, together, we will ensure all Australians can live with dignity and security, regardless of age.

You can contact me/send your suggestions to:

Age Discrimination Commissioner
GOP Box 5218
Sydney NSW 2001
or agediscriminationcommissioner@humanrights.gov.au

OHCHR Indigenous Fellowships: 2013 English Speaking Programme - CALL FOR APPLICATIONS

The Indigenous Fellowship Programme was launched in 1997 by the Office of the High Commissioner for Human Rights (OHCHR) in the context of the first International Decade of the World's Indigenous People. The aim of the programme is to give indigenous persons the opportunity to gain knowledge on the UN system and mechanisms dealing with human rights issues in general and indigenous issues in particular. Trained participants are better equipped to assist their organisations and communities in protecting and promoting their rights. This training programme is available in four languages: English, Spanish, French and Russian.

Please note that the deadline to receive applications for the 2013 English speaking Indigenous Fellowship Programme is: Tuesday 1 May 2012.

You are strongly encouraged to send your applications (by post or fax) well before the deadline. Please also note that given the high number of applications, the program is not in a position to print scanned applications. Therefore, scanned applications sent via email will not be taken into consideration.

For further information on OHCHR Indigenous Fellowship Programme or to find the application form, you can visit the webpage by clicking on these two links:

<http://www2.ohchr.org/english/issues/indigenous/fellowship.htm>
<http://www.ohchr.org/EN/Issues/IPeoples/Pages/IFP.aspx>

The Victorian Equal Opportunity and Human Rights Commission welcomes the Victorian Government's decision to retain the Charter of Human Rights and Responsibilities.

Acting Victorian Commissioner Karen Toohey said the response by the Victorian Government demonstrates the strong commitment to human rights in Victoria. It also recognises that legislative protection of these rights provides tangible benefits to the Victorian community.

Ms Toohey also welcomed the Government's statement that there is an 'ongoing place for the courts in protecting rights' in relation to the Charter.

The Victorian Equal Opportunity and Human Rights Commission is pleased to note that a number of recommendations made in its submission to the review have been supported in the Government's response. These include the addition of other rights under the United Nations' International Covenant on Civil and Political Rights and the development of a framework to understand the benefits of the Charter to the community.

to the community.

Ms Toohy said the Victorian Commission supports the Government's use of the review process to make the operation of the Charter clearer and more accessible and it will continue to work with the Government to ensure the Charter is a practical tool for all Victorians.

Community News

TasDEAF Business Lunches

TasDeaf is a community service organisation that provides services and education for deaf and hard-of-hearing Tasmanians and their families. TasDeaf also provides services for the broader Tasmanian community, to promote better understanding of hearing loss and to ensure that our community is equitable and inclusive.

As part of Tasdeaf's efforts to make the community and businesses aware of the issues and barriers faced every day by more than 80,000 Tasmanians (one in six people in Tasmania has some form of hearing loss) it is holding a series of Business breakfasts and lunches during the year.

'The focus of these lunches is on hearing loss prevention and the legal obligations of business owners to have their employees who work in a noisy environment tested for any potential hearing loss. Industry has legal obligations under the National Code of Practice for Noise Management and Protection of Hearing at Work to regularly monitor the work environment.

We constantly find that businesses are unaware of Workplace Health & Safety laws and the potential workers compensation claims that can be made against them. Neale Buchanan from WorkCover Tasmania will be one of the guest speakers and will highlight this very important requirement of all employers.'

Andrew Willis from Word of Mouth Technology will also be in attendance demonstrating and talking about the various hearing protection and assistive listening devices that can be used in the workplace ensuring a safer and more productive work environment.

TasDEAF's 2012 Business Lunches are happening:

Thursday 10 May 2012, at 12:00 -2:00 pm at the Mercure Hobart, 156 Bathurst Street, Hobart.

Hobart office: Ph/TTY 6231 6501

Wednesday 8 August, at 12:00-2:00pm at the Hotel Grand Chancellor, 29 Cameron Street, Launceston.

Launceston office: Ph/TTY 6331 9766

Numbers are strictly limited so call TasDEAF and register your attendance early.

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/888-march-2012-e-bulletin>

Community Diary



National Youth Week (NYW) 2012 is on from Friday 13 April to Sunday 22 April 2012, with events running all over the country. The 2012 theme is 'Imagine. Create. Inspire'. NYW is the largest celebration of young people in Australia.

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

Days to celebrate in April

World Health Day - 7 April

Every year, World Health Day is celebrated on 7 April to mark the anniversary of the founding of the World Health Organization (WHO) in 1948. Each year a theme is selected for World Health Day that highlights a priority area of concern for WHO. This year's topic is health and ageing and the theme is 'good health adds life to years'.

<http://www.who.int/world-health-day/2012/en/>

World YWCA Day

World YWCA Day is celebrated annually on April 24 and is an opportunity for YWCAs around the world to commemorate the history of this special movement.

<http://www.worldywca.org/Events/World-YWCA-Day>

International Pay it Forward Day - 26 April

This year's international Pay it Forward Day aims to inspire over 3 million acts of kindness around the world. Imagine the difference that would make!

What can you do?

- Pay for someone's cup of coffee
- Get the next person's food, toll, petrol, etc.
- Help someone out in need
- Be creative!!! Click on the link below for more ideas.

<http://payitforwardday.com/>

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