

In respect of rights



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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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Message from the Anti-Discrimination Commissioner

I am writing this during National Reconciliation Week 2012. It began on 27 May and ends on Sunday 3 June, the 20th anniversary of the High Court's *Mabo* decision.

As with people all around Australia, I and my staff continue to hope and work for more positive outcomes for the first peoples of our country, Aboriginals and Torres Strait Islanders. Reconciliation is part of that work and one of the priorities for my office this year is to develop a focused plan for how we are going to work more effectively with Tasmania's Aboriginal people and more effectively promote awareness of rights under the *Anti-Discrimination Act 1998*.

The High Court's decision in *Mabo* was a watershed moment in Australian legal history. Australian law recognised, for the first time, that native title exists in this country. It overturned two centuries of the operation of the doctrine of *terra nullius*, and recognised that Australia's Aboriginal and Torres Strait Islander peoples had systems of law before Europeans came here.

The decision dealt with ownership of islands almost as far away from Tasmania as it possible to be in Australia. Yet it was as important for Tasmania's Aboriginal people as it was for Aboriginal people and Torres Strait Islanders across Australia. It was equally important for all of us. It allowed us as a nation to recognise our first peoples, and progress the work of reconciling our Indigenous and non-Indigenous histories and cultures. This is important work that continues today with the work on Constitutional recognition.

Robin Banks
Anti-Discrimination Commissioner

NEWS FLASH!!

Robin has been persuaded to participate in the 2012 Vinnies CEO Sleepout on 21 June. You can keep her keen and help support the great work of Vinnies in supporting homeless people across Australia by sponsoring her. It's really easy to do. Just click on the link below:

<http://www.ceosleepout.org.au/ceos/tas-ceos/profile/?ceo=2358>

From the OADC

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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The Human Rights Week Committee hosted a morning tea to thank and celebrate four committee members; Santi Mariso, Robert Henderson, Doreen and Audrey for their enormous contributions spanning over 24 years with the Human Rights Week Committee.

It was great to acknowledge and understand the hard work, perseverance and determination of our 'forebears' on whose foundation we continue to foster human rights within the Tasmanian community.

New Intern

Anna Freeman is doing her Graduate Diploma in Legal Practice at the University of Tasmania and as part of that is doing a 2-week placement with the OADC, mainly working with the complaints team. She finished the last 2 years of her undergraduate degree in Law at the University of Queensland returning home to Tasmania to complete the last component of her study to enable her to practice law.

Agfest

Staff at the Office of the Anti-Discrimination Commissioner braved the rain and mud at Agfest 2012.

OADC joined forces with the State and Federal Ombudsmans' offices, the Integrity Commission and the Telecommunications Industry Ombudsman to promote awareness of rights, avenues for redress and specific information about the work and role of each office. Our tent was located on the 'yellow brick road' for school students. This meant that students from around the state came to visit and find out about our work.

Craig, Jess and Louise represented the OADC for the full 3 days. Katrina and Leica joined the team for a day visit each to provide relief, plenty of coffees and a change of scenery.

The 3 days were very busy spent handing out thousands of show bags, which included information on each office. We answered thousands of questions on what is discrimination, what training and education we can provide and promoted our new line of discrimination posters, postcards and stickers. The 'Hey Mate.... Don't Discriminate' posters, postcards and particularly stickers were very popular.

The highlight for the staff was the impeccable behaviour of the hundreds of students who visited; so much so our office is in the process of writing to each school principal congratulating the students on their manners, interaction and general behaviour. These students showed that they understand the value of respect, a core principle underlying all human rights, including equality and non-discrimination.





Jess hard at work at Agfest explaining discrimination to Mark Gardner, well done Jess and thanks Mark



Louise, Jess and Craig were ready and rearing to go!

MS Megaswim



raised over \$7,300 and swam 62 kms.

The MS mega swim was a huge success and loads of fun.

The total distance covered in the water over the 24 hours by the 12 teams was 586.1 km and the amount raised in support of the MS Society and its important work was \$25,000 – and counting!!

Team Captain, Robin Banks, was the highest adult fundraiser (over \$4,000) and her team Splash for Cash was the overall winning team. They

Thanks to everyone who donated and to the all the swimmers of Splash for Cash. Let's see if we can double our results in 2013.

For more information, results or a last minute donation go to:
<http://hobartmegaswim.gofundraise.com.au/page/SplashForCash>

FAQs - Tobacco, Drugs, Alcohol and work

I have been asked to sign a drug and alcohol testing agreement by my boss. It requires me to undergo random drug and alcohol testing. Can my boss do this?

Under the Anti-Discrimination Act 1998 (the Act) and other anti-discrimination laws in Australia, addictions are likely to be considered disabilities. Discrimination on the basis of disability is unlawful. However, employers have responsibilities under other laws as well as under anti-discrimination laws, such as a responsibility to ensure a safe work environment. Under the Act and consistent with other laws, employers are permitted to discriminate (treat people differently) on the basis of their capacity to perform the duties and responsibilities of the job. As such, an employer who has staff working in safety-sensitive jobs, such as mining, abattoirs, driving heavy machinery and public transport, can require those staff to submit to random testing so long as the testing can effectively determine current impairment.

Other employers would generally be unable to justify such testing and it could be unlawful discrimination to require employees to submit to it or to sign an alcohol and drug testing agreement.

I have to take medication for my mental illness. Do I have to tell my employer about this?

You don't have to disclose the use of medication or the reason you are using it. However, if the medication could affect your work performance or ability to perform the job safely, you should probably tell your employer and ask them to consider modifications to your role while you are on the medication. Such modifications would be considered workplace adjustments because of disability and are dealt with in the Act.

Your employer may require information from your treating doctor about the effects of the medication so that they can respond appropriately. Information about your medical condition is highly personal and should not be disclosed to anyone else in the workplace. Only those members of the management team who need to know, should be informed and should be told that it is confidential.

I saw a job ad for a position I was qualified for, but it said 'non-smokers only'. Can employers exclude me from a job because I smoke, even if I don't smoke during work hours.

Because most people who smoke do so because they are addicted, they are likely to be considered to have a disability under the Act. As such, excluding them from applying for a job because they are smokers would be disability discrimination and, as such, unlawful. Employers can exclude a person with disability from a job if they cannot fulfil the inherent requirements of the job and reasonable adjustments cannot be made to enable them to do so. It is unlikely that being a smoker would affect a person's capacity to fulfil the inherent requirements of a job.

The focus of all recruitment processes should be on finding the best person for the job. Excluding people from applying on the basis of irrelevant characteristics, such as that they are smokers, means that the employer will not be selecting from the pool of qualified people available and, as such, will not necessarily get the best person for the job.

Conciliation Outcomes

A complainant alleged prohibited conduct in accomodation directed at residents of a older people's residential service.

The alleged conduct included bullying, overly strict rules, prevention of access to food, disrespect of elderly citizens, verbal abuse and threatening gestures.

The complaint was resolved with an apology from the respondent, a review of the organisation's policies and house rules, including requiring house keepers to have first aid certificates, a grievance policy and anti-bullying policy.

Victimisation

A complainant alleged she was victimised by her employment being terminated the day she went to see her General Manager and workplace Manager to complain about the way she had been treated by a co-worker.

At conciliation the complaint was resolved with the organisation agreeing to review its policies and procedures, committing to OADC training for all staff and paying the complainant \$1,500.00.

Pregnancy and gender discrimination

A complainant alleged that her performance was criticised when the owner of her workplace raised concerns that she was not doing work that involved lifting. The complainant told her employer that she was pregnant and another staff member on duty had offered to help with lifting tasks.

During the performance discussion the complainant's employer indicated that her employment was in jeopardy and she resigned. She also alleged that a male staff member said to her, 'I want help, not a female'.

The complaint was resolved through the conciliation process with an acknowledgement from the employer of inappropriate behaviour, a commitment to OADC training for all staff and payment of \$2,500 to the complainant.

Local News

2012 Tasmanian Human Rights Awards: call for nominations

Nominations are now open for the 2012 Tasmanian Human Rights Awards. This is your opportunity to identify people and organisations across Tasmania who have made an outstanding contribution to human rights protection and promotion.

There are six award categories:

- School Human Rights Award
- Individual Human Rights Award
- Youth Human Rights Award
- Culturally and Linguistically Diverse Community focussed activity Human Rights Award
- Angus Downie Print Journalism Award

Further awards may be announced in the near future.

For information about the awards, eligibility and how to nominate, please go to: http://www.afairerworld.org/_HRWeek/award.html

2012 Tasmanian Community Achievement Awards: call for nominations

Nominations are now open for the 2012 Community Achievement Awards

If you know a someone who is providing an invaluable service in the community, or maybe it is your group, club, or organisation , or you or someone you know is doing well in their career or business, be proud of these achievements and nominate them for the Awards.

If someone is making a real difference in your life or the lives of others, give them a pat on the back and the recognition they deserve.

To find out more, access the nomination form and see the category guidelines, go to: http://www.awardsaustralia.com/CAA_tas.html

Six Tasmanians selected for National Youth Indigenous Parliament

Six young Tasmanian Aboriginal people were selected to attend the inaugural National Youth Indigenous Parliament: Rebekah Shurley, of Ulverstone; Marley Clark of Flinders Island; Teangi Brown of Hobart; Emarra Gower of Launceston; Jordan Clark of Bridgewater and Alice Wise of Launceston were among 50 indigenous leaders of the future who were in Canberra to debate issues affecting their communities and their country from 23–29 May 2012.

The Minister for Community Development, Cassy O'Connor said, 'Participants were chosen because of their involvement in the community, their interest in the Parliamentary system and their leadership skills.'

'This is a tremendous opportunity for young Aboriginal people to have a strong and vocal contribution to the future of our nation', she said.

Rebekah Shurley – Ulverstone – 21

Rebekah has had strong community involvement since being elected school captain, participating in Tasmania's Model United Nations Assembly and as a finalist in Rotary's Youth of the Year. She continues to work in the community as a volunteer with her local church group and as member of the Six Rivers Aboriginal Corporation.

She is aware of the ever changing environment of community life and wishes to develop her skills to make her voice stronger to make a difference, to bring awareness to Indigenous culture and to teach these skills to other young Indigenous people. Rebekah has public speaking skills which she would like to pass to others so they can make a difference and be heard.

Marley Clark – Flinders Island – 17

Marley is an active participant in her community. She is a determined young woman who has a passion for Indigenous affairs and wants to

promote ideas and issues facing Indigenous people.

Marley is a great role model and is prepared to do that little extra when difficulties arise. She has a good civic and constitutional knowledge having recently attended a constitutional recognition forum to promote constitutional change and presented to the Prime Minister, Julia Gillard.

Teangi Brown – Hobart – 17

Teangi is a young man who values being a positive role model and is active in his community.

Teangi has done Welcome to Country ceremony at events and participated in a film project to promote Indigenous culture with the Tasmanian Elders Council in Launceston. He has also made a dance documentary highlighting the French/Indigenous history in Tasmania. His diversity of interests includes being part of a philosophy group, bushwalking and scuba diving. Teangi is motivated, respectful, has a desire to learn through participation and aware that change is possible and sometimes necessary.

Emarra Gower – Launceston – 15

Emarra has shown leadership, commitment, determination and a willingness to learn in applying herself to making a difference in her life and those around her. She participates in many community events, rallies and youth programs. She is a mentor for other young people in her community and is able to work with the Elders of her community recognising their strengths and knowledge.

Emarra has awareness and understanding about issues and her community and is about making a difference not only for herself but also for others.

Jordan Clark– Bridgewater – 15

Jordan is motivated and actively involved in making a difference in her community.

A school student, she is able to communicate effectively and recognises issues that are important in her community. Jordan is willing to share her skills and encourage others to be more involved to make a better place for all.

Alice Wise – Launceston – 17

Alice has had to leave her home on Flinders Island where she is a junior member of the Flinders Island Aboriginal Association to study Indigenous art at Launceston College.

She recognises education as a way for furthering Indigenous issues in her community and the broader Australian community. Alice is committed to keeping Indigenous knowledge alive through her own learning and understanding.

National News



The Sexual Harassment in Australia project sets out to examine how to most effectively prevent sexual harassment and to reduce the impact of sexual harassment on individuals and organisations where it occurs. For more information or to assist the project, go to www.sexualharassmentinaustralia.org.

Gender pay gap short-changes women \$250.50 a week

- Australian women, on average, earn 17.4% less than men
- The gender pay gap has remained almost unchanged for two decades
- Western Australia has the widest pay gap of 25.8%
- Australia's working women earn 17.4% less than their male

colleagues, based on new ABS data.

The Equal Opportunity for Women in the Workplace Agency (EOWA) has calculated the gender pay gap based on average weekly ordinary time earnings for men and women.

Visit www.eowa.gov.au for more information and a more detailed analysis of the gender pay gap statistics, including the breakdown by state and territory as well as by industry sector.

www.eowa.gov.au also has tools available to help organisations close the gender pay gap

Walk Together: 23 June

'Walk Together' is an opportunity for all Australians to join in celebration of our diversity and recognition that, for the sake of our future, we need to learn to 'walk together'.



The walks will be an opportunity for everyone in Australia to demonstrate our multicultural reality and call for an end to the politics of fear, division and prejudice. The slogan of the campaign is, simply, 'It's Time To Walk Together'.

This project is supported by the Refugee Council of Australia, the Settlement Council of Australia, the Federation of Ethnic Community Councils of Australia (FECCA), the Australian Council of Trade Unions (ACTU), the Diversity Council of Australia, Mission Australia, Amnesty Australia, the Oaktree Foundation, the Salvation Army, the Uniting Church in Australia and many more. It's a non-partisan, non-political statement of solidarity and multicultural unity.

At 1:00 pm on June 23, in more than ten capital cities and regional centres across Australia, thousands of Australians will walk in unity, symbolically expressing the positive future we dream of for our communities and nation. Walk Together will be a celebration of all that diversity adds to our society, culture and nation as we recognise that we have all walked different paths to become part of the Australian community. Each walk will finish at a local place of significance with a small festival celebrating the diverse cultures that make up the Australian experience.

Walk Together exists to bring out the best in the Australian character, our inclusive, generous, compassionate and welcoming nature in a public demonstration of the nation we'd like to become. We believe the time is right for this sentiment to be given public expression. It's time to Walk Together.

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

International News

US legislature moves to prevent employers from checking employees' social media pages,

7 May 2012

Following a growing trend among employers to require employees and job applicants to provide access to social media information, legislation has been introduced in the USA House of Representatives to ban the practice.

The Social Networking Online Protection Act would prevent employers from requiring job applicants to divulge password, username or other access information for their social media accounts.

The legislation would prohibit employers from demanding such access in order to discipline, discriminate or deny employment to individuals, and from punishing them for refusing to volunteer the information. The

prohibition would also apply to colleges, universities and schools.

'Part of the attraction to social networking is that you can feel free to interact with those you wish to, and post content as if it were part of a group dynamic', said the Bill's chief sponsor, New York Democratic Party Representative Eliot Engel.

'We must draw the line somewhere and define what is private. No one would feel comfortable going to a public place and giving out their username and passwords to total strangers. They should not be required to do so at work, at school, or while trying to obtain work or an education. This is a matter of personal privacy and makes sense in our digital world', said Engel.

June Training Calendar

Workplace Support / Contact Officer / Person Role

Launceston

Wednesday 13 June, 1.00-5.00 pm

&

Thursday 14 June, 9.00am-1.30 pm.

*Must attend both days.

Workplace Support / Contact Officer / Person Networking Meeting

Hobart

Tuesday 26 June, 9.00am-12.00 pm

Launceston

Thursday 28 June, 1.00-4.00 pm

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

NEW July – December 2012 training calendar now available

To see the new courses and course dates and to register to attend go to http://www.antidiscrimination.tas.gov.au/education_and_training

New courses

We have re-branded some old courses and developed some new ones for our July – December training calendar.

In July we will be presenting:

- **Racism - defining, recognising and dealing with it**

as well as the following short management seminars:

- **Recognising discrimination, harassment & bullying**
- **Is your workplace disability ready?**
- **Handling discrimination complaints**

Also new to the calendar are:

- **Young, old, in-between.. Is your workplace age inclusive?**

and

- **Sexual Harassment - what it is, what it's not and what to do about it**

For those that have been waiting for our updated **Supporting the process – training for Advocates** we will be running this course in

Hobart on 23 July and in Launceston on 31 July. Please contact the training team on 6233 4841 to register and find out more information.

Workplace Support / Contact Officer / Person Networking Meeting

Our bi-annual networking meetings for workplace support/contact

Our annual networking meetings for workplace support contact officers (WS/COs) are coming up this month. These meetings are **free** to attend for all OADC trained WS/COs.

The meetings are facilitated by our trainers and the Commissioner, Robin Banks, and are becoming increasingly popular. Past meetings have resulted in the re-development of WS/CO resources, WS/CO prompt cards and the successful delivery of manager lunchbox sessions to help organisations to more effectively utilise their WS/COs.

We look forward to seeing your WS/COs later in June. Please register as numbers are limited.

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

Community Networking



2012 Tasmanian Disability Support Worker Awards: call for nominations

Nominations are now open for the 2012 Tasmanian Disability Support Worker Awards.

These awards recognise the professional achievement and value of direct support workers in the Tasmanian disability field.

The awards are open to anyone employed in a State-funded or operated disability service, who is working in a direct support role and has been employed in the disability services field for at least 12 months. Self-nominations are accepted, but should be supported by a recommendation from an employer or supervisor.

THERE ARE THREE AWARD CATEGORIES:
HACSU Support Worker of the Year
HESTA Long-Term Service to the Industry
ME BANK Outstanding Achievement in the Industry

Nominations close on Tuesday 7 August 2012

The Nomination Form and Category Guidelines are available from the NDS Website, or by contacting Lyndell George on 6223 2420 or by e-mail to lyndell.george@nds.org.au

Worksafe Month to help Tasmanians get ready for new laws

WorkSafe Tasmania Month features an extended program in 2012 and runs from 1 October – 2 November.

The focus of WorkSafe Tasmania Month will be on ensuring Tasmanian employers and workers are informed and ready for the introduction of the new model Work Health and Safety (WHS) Act in 2013.

Free statewide practical workshops will be held during the month on the new Act, its supporting regulations and codes of practice, the impact these will have on Tasmanian businesses and workers, as well as any changes that may be required in preparation. To get involved or for more information about the month, visit www.worksafe.tas.gov.au or phone the Helpline on 1300 366 322.

Friday Forum: Simply right and wrong?

Why Australia is going it alone on human rights.

Australia is the only liberal democracy in the world without domestic human rights legislation (variously called a Charter, Act or Bill). Moreover, every attempt to enact such legislation has precipitated vigorous public debate, frequently led by Christian groups.

Why is it that Australia, a country well-known for its international human rights advocacy, has been so reluctant to follow its peers on the domestic level when it comes to human rights reforms?

Why is it that sections of the Church have been so vocal against reforms aimed at protecting the vulnerable & needy?

This seminar examines the recent history of domestic human rights debate and asks whether Australia should re-consider human rights legislation or continue to go it alone.

Rev Angus McLeay, human rights advocate, will speak and take questions on our ongoing need for a charter of human rights

1.00-2.00 pm Friday 8 June 2012 at St David's Cathedral, Hobart.

<http://stdavidscathedralhobart.org/friday-forum/>



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 June



Friday 1 June

National Buddy Day

A day to celebrate friendship and raise awareness about the issue of bullying.

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

Monday 4 June

International Day of Innocent Children Victims of Aggression

<http://www.un.org/en/events/childvictimday/>

17-23 June

Refugee Week

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

Wednesday 20 June
World Refugee Day
<http://unhcr.org.au/unhcr/>

Tuesday 26 June
International Day in Support of Victims of Torture
<http://www.un.org/events/torture/>

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