

Human Rights and Equal Opportunity Commission

Annual Report 2006—2007

Working towards an
Australian society where the
human rights of all
are respected,
protected and
promoted



*Human Rights and Equal
Opportunity Commission*
www.humanrights.gov.au

Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for, and observance of, human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, THE GENERAL ASSEMBLY proclaims

This Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

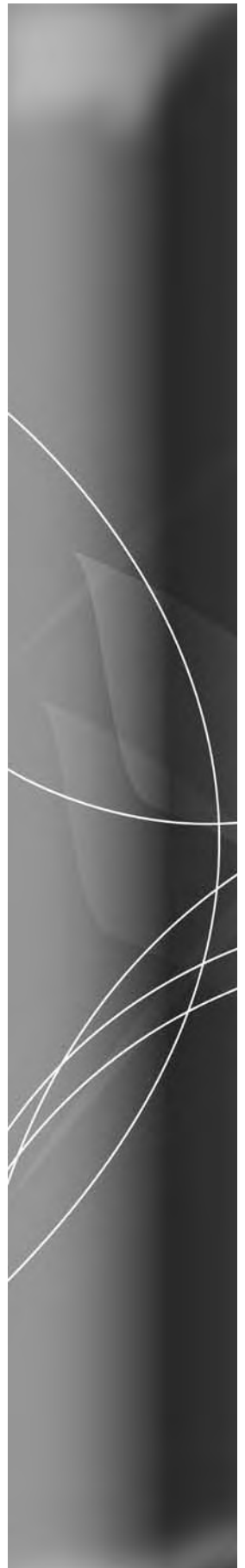


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Annual Report ***2006–2007***



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**Human Rights and Equal
Opportunity Commission**
www.humanrights.gov.au

18 September 2007

The Hon. Philip Ruddock MP

Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney-General

I have pleasure in presenting the Annual Report of the Human Rights and Equal Opportunity Commission for the period ending 30 June 2007, pursuant to section 45 of the *Human Rights and Equal Opportunity Commission Act 1986*. The report has been prepared in accordance with the requirements of section 70 of the *Public Service Act 1999*.

Yours sincerely,

The Hon. John von Doussa QC

President
Human Rights and Equal Opportunity Commission

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Significant achievements

- The *Same-Sex: Same Entitlements* Inquiry put federal laws under the human rights microscope. It found that 58 laws discriminate against more than 20 000 Australian same-sex couples – simply because of who they love. The report and community guide was officially launched in Sydney on 22 June 2007.
- The Human Rights and Equal Opportunity Commission (HREOC) undertook several projects commemorating the 10th anniversary of the *Bringing them home* report and coincided with commemorative events for the 40th Anniversary of the 1967 Referendum.
- The Social Justice Commissioner, along with project partners, continued to promote the Indigenous Health Equality campaign through promotional events, speeches and information resources.
- The Sex Discrimination Unit's major project throughout this reporting year was the women, men, work and family project, which entered its final stage with the launch of the *It's About Time: Women, men, work and family* final paper in March 2007. The launch was followed up by a number of community, business and academic forums around the country to disseminate the findings of the paper and gather feedback on the paper's recommendations.
- HREOC developed a number of projects aimed at supporting Muslim communities in defending themselves against religious abuse and hatred. These included: the *Unlocking Doors* Project aimed at facilitating a dialogue between Muslim communities and police; and a Muslim women's forum on human rights, entitled *Living Spirit: Muslim Women and Human Rights Project – the right to participate in social change*.
- HREOC welcomed the adoption of the Convention on the Rights of Persons with Disabilities in December 2006 by the United Nations General Assembly, and applauded the Australian Government's signing of the Convention on 30 March 2007. HREOC hosted a workshop on 27–28 June on the new Convention for representatives of disability peak organisations, disability advisory bodies and state and territory equal opportunity agencies.
- Action Plans under the Disability Discrimination Act provide an important mechanism for organisations to structure their own compliance efforts. As at 30 June 2007, 516 plans were registered with HREOC (an increase from 368 in June 2006).
- HREOC contributed to policy development and legislative review through the many submissions made during the reporting period. These were on a range of issues including: Aboriginal land rights, Australian citizenship, the Commonwealth access card, pay equity and counter-terrorism measures.

- One report of a breach of human rights was completed under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth).
- HREOC considered intervening in nine court cases that raised human rights issues and made an application to intervene in two matters. During 2006–07, Commissioners were granted leave to appear as *amicus curiae* in five unlawful discrimination cases.
- The Legal Section organises seminars on topics of current interest in domestic or international human rights law. During 2006–07, seminars were held on: recent issues in Australia’s legal response to terrorism, stolen wages – the way forward, and native title – developments in case law and practice.
- HREOC’s most substantial international program involvement is with the China-Australia Human Rights Technical Cooperation Program (HRTC), which is an integral part of Australia’s annual inter-governmental Dialogue on Human Rights with China. HREOC also participates in the annual Australia-Vietnam Dialogue on International Organisations and Legal Issues, including Human Rights. HREOC attended the 2007 Dialogue held in Hanoi in April 2007. HREOC also participated in the Laos-Australia Human Rights Dialogue meeting, held in Vientiane in October 2006.
- Over the past four reporting years HREOC has received, on average, around 10 000 enquiries each year. In 2006–07, 16 606 enquiries were dealt with by the Complaint Information Service.
- Over the past four reporting years HREOC has received, on average, around 1 250 complaints each year. In 2006–07 HREOC received 1 779 complaints.
- While there was an increase in the number of complaints received in this reporting year, the Complaint Handling Section finalised 94 percent of matters within 12 months – a slight improvement on figures for the previous reporting year. Thirty-eight percent were finalised by conciliation – this is consistent with the conciliation rate for the previous three reporting years.
- In 2006–07 HREOC issued 172 media releases and alerts, the President and Commissioners had 18 opinion pieces published in major metro newspapers across Australia and have conducted approximately 800 media interviews. This represents an increase of 70 percent in media releases and 25 percent in media interviews from the previous reporting year.
- Usage of HREOC’s website has increased by 50 percent from the previous year. There were 12 612 942 page views in 2006–07 equating to 85 281 017 hits on the site in total.
- HREOC’s online human rights education resources are widely used by educators, both nationally and internationally. During 2006–07, the resources received 1 140 587 page views. This is an increase of 25 percent on usage of the online education resources since the previous financial year.
- In addition to all HREOC publications being made available on HREOC’s website, around 100 000 publications were dispatched in hardcopy format during 2006–07.
- The most popular publications were *Face the Facts*, *Voices of Australia* (magazine and CD), *Good Practice*, *Good Business* CD and *The Complaint Guide*.

Statement from the President

This Annual Report reflects the commitment and dedication of the Commissioners and staff at the Human Rights and Equal Opportunity Commission (HREOC) to the promotion and protection of human rights in Australia. Over the 2006–07 reporting period HREOC has acted on a broad range of challenging and complex human rights issues.

As the independent body charged with the statutory responsibility of upholding human rights in Australia, our work during the last 12 months has focused on defending human rights principles at fundamental levels. Many significant achievements are recorded in the preceding pages. I take this opportunity to commend and thank the Commissioners, their units, and all HREOC's staff for their efforts over the past 12 months.

I record my thanks to Ms Pru Goward, and the gratitude of everyone at HREOC, for her outstanding service as Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination. Following leave of absence from November 2006, Ms Goward resigned to take up a new career in politics in March 2007. During her six years as Sex Discrimination Commissioner she advocated tirelessly for the advancement of human rights, particularly for the equality of women in the workplace and in the community generally. She was the visionary behind the Sex Discrimination Unit's major project on balancing paid work with family responsibilities. The project's final paper *It's About Time: Women, men, work and family* was launched in March 2007 and is the result of two years of research and national community consultation. The paper contains 45 broad-ranging policy recommendations, including the proposal for new legislation to provide protection from discrimination in the workplace due to family responsibilities.

For the last eight months of the reporting period I acted in the position of Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination. During this time I had the opportunity to participate in community forums around the country on *It's About Time: Women, men, work and family*. The feedback we received from these forums has clearly demonstrated how central the issue of work/life balance is to both individuals and families across their life course, and how important it is that all Australians, men as well as women, are given real options for balancing paid work and unpaid family care responsibilities.



The Hon. John von Doussa QC
President
*Human Rights and Equal
Opportunity Commission*

Another key publication released by HREOC was the Report of the *Same-Sex: Same Entitlements* Inquiry. The Report, which was launched in Sydney in June 2007, put federal laws under a human rights microscope to identify the discrimination faced by people in same-sex relationships in accessing basic financial and work-related entitlements. It found that 58 federal laws discriminate against more than 20 000 Australian same-sex couples. Importantly, the Report highlighted how easily discrimination against same-sex couples can be eliminated by legislative amendment. The recommendations made in the Report have received broad-based public support.

In December 2006, HREOC welcomed the adoption of the Convention on the Rights of Persons with Disabilities by the United Nations General Assembly, and on 30 March 2007, we applauded the Australian Government for being among the first countries to sign the Convention on the day it opened for signature. Australia is now working towards early ratification of the Convention, which will mark another important step towards the long overdue recognition that people with disabilities and their families are entitled to the full range of human rights.

HREOC has continued to pursue projects aimed at supporting Muslim and Arab communities to respond to anti-Muslim prejudice and vilification. This work has been significantly strengthened as a result of funding HREOC has received under the federal government's National Action Plan to Build on Social Cohesion, Harmony and Security (NAP). As a result of this funding, in early 2007 HREOC established a new Education and Partnerships Section within the Race Discrimination Unit. Initially, activities have focused on two principle areas: working with young Muslim and Arab Australians and law enforcement. A summary of HREOC's projects under the NAP is outlined in Chapter 10 of this Annual Report.

May 2007 marked the 40th anniversary of the 1967 referendum which changed the provisions of Australia's Constitution relating to Indigenous people. This anniversary added a sad irony to the release of the *Little Children are Sacred* Report by the Board of Inquiry into the Protection of Aboriginal Children from Sex Abuse just one month later, in June 2007. In response to this report, the Australian Government announced its 'Emergency Response' to protect Indigenous women and children in the Northern Territory. While HREOC welcomed the government's commitment to take immediate protective action, we were concerned that the proposed measures raised a host of fundamental human rights issues. HREOC urged the government to ensure that the approach adopted was consistent with Australia's international human rights obligations.

The legislation to implement the 'Emergency Response' expressly provides that the package of measures are 'special measures' under the *Racial Discrimination Act 1975* (RDA), and that the RDA does not apply to administrative action taken under the legislation. These provisions put at risk Australia's proud reputation as a nation committed to upholding international human rights principles and its commitment as a State Party to the *International Convention on the Elimination of all Forms of Racial Discrimination*. To meet these obligations, and to ensure racial equality, it is now critical that there be comprehensive consultation with the communities affected. Steps must be taken to ensure that they understand the new measures and have realistic opportunities to participate in the implementation of programs that are intended to improve their wellbeing. The commitment of government to ensure the success of the measures provides an historic opportunity to deal with the tragic

situation of Indigenous Australians. However, unless there is culturally appropriate and meaningful consultation, and respect given to the wishes of the communities affected, HREOC is concerned that the laudable object of the legislation will not be achieved. In the coming year HREOC will be closely following the progress of the 'Emergency Response', and seeking to offer assistance and advice on human rights issues that arise.

Through the many public submissions made during the reporting period HREOC has contributed to policy development and legislative review on a number of human rights issues. Through our Legal Section, we have intervened or appeared as *amicus curiae* in a number of significant matters before the courts. Through submissions and forums HREOC has continued to emphasise the need for counter-terrorism measures to be compatible with human rights standards and uphold the rule of law. We have also focused on the issue of giving assistance to overseas criminal investigation agencies where there is no guarantee in place that the assistance will not expose a person to the risk of the death penalty overseas.

Our Complaint Handling Section has again improved its figures for the reporting period, finalising 94 percent of complaints within 12 months, despite the fact that the number of complaints received increased from previous years.

Our education activities have advanced considerably over the last 12 months as we continue to develop curriculum-linked human rights education resources specifically for use in upper primary and secondary schools. The resources draw on students' own experiences to develop their awareness of human rights principles and have focused on issues that come within HREOC's statutory responsibility. Further details on this work are contained in Chapter 2.

Acknowledging its commitment to Reconciliation Australia's National Program of Action for Reconciliation, HREOC has developed a Reconciliation Action Plan (RAP). This was launched on 25 May 2007. The RAP identifies action to be taken by HREOC across the areas of: cultural recognition and awareness; education, promoting understanding and public discussion of Indigenous peoples rights; Indigenous employment with HREOC; human rights compliance; celebration and commemoration; and responsibility for implementing the RAP.

As the substance of this Annual Report attests, the principle focus of HREOC's work is on the protection and promotion of human rights within Australia. However, we also participated extensively in the activities of regional and international human rights mechanisms over the 2006–07 reporting period.

HREOC continues to engage with the Asia-Pacific Forum of National Human Rights Institutions (APF), and participates in meetings and workshops which focus on training, networking and resource sharing with other member institutions in the region. HREOC also continues its involvement with the International Coordinating Committee of National Human Rights Institutions (ICC), and attended its biennial conference in Bolivia in October 2006.

In the last year, the newly-established United Nations Human Rights Council, which is based in Geneva, completed its 'institution building' process. One of the contentious issues that arose in this process was the role that national human rights institutions

(NHRIs) should play in the work of the Council and the procedures that should govern their participation. It is pleasing to report that NHRIs were able to lobby effectively for their role in the Council to be recognised in the new Rules of Procedure adopted on 19 June 2007, and in fact expanded beyond the role previously recognised in the former Human Rights Commission. In June 2007 I travelled to Geneva to support these lobbying efforts and to participate in the discussions over the institution building text. More detail of HREOC's international activities is reported in Chapter 11.

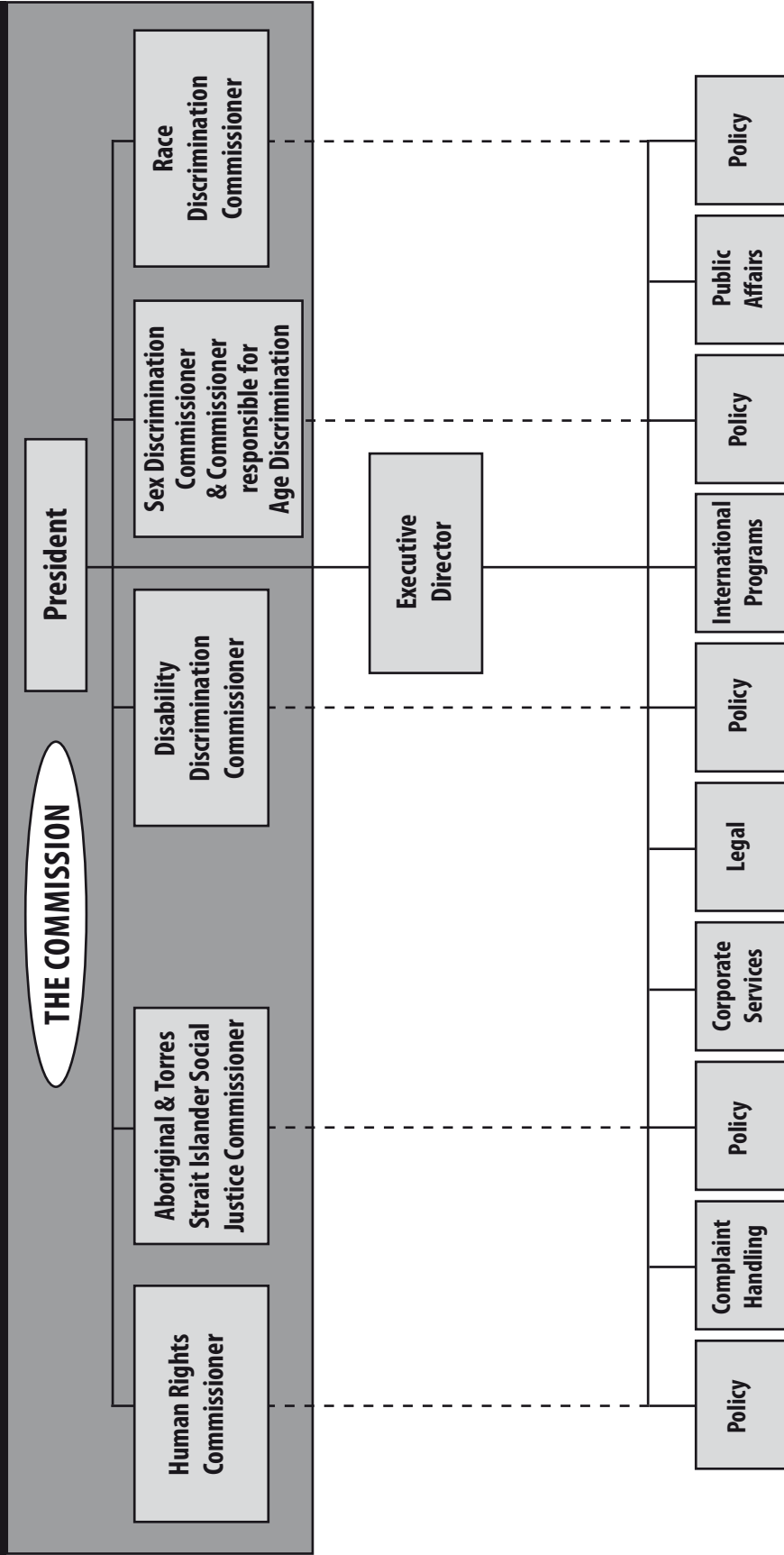
I conclude by again emphasising my appreciation for the staff at HREOC. I look forward to working with the Commissioners, their Units, and all HREOC's staff to build upon the excellent work undertaken over the last 12 months and to meet the challenges of the coming year.

I commend this Annual Report.

A handwritten signature in black ink, reading "John von Doussa". The signature is written in a cursive style with a large, looping initial "J".

John von Doussa QC

Human Rights and Equal Opportunity Commission Organisation Chart



Chapter 1: *The Commission*

VISION

An Australian society in which the human rights of all are respected, protected and promoted.

1.1 MISSION

To provide leadership on human rights through:

- building partnerships with others
- having a constructive relationship with government
- being responsive to the community
- promoting community ownership of human rights.

To ensure that Australians:

- have access to independent human rights complaint handling and public inquiries processes
- benefit from human rights education, promotion and monitoring and compliance activities.

As an effective organisation, we are committed to:

- unity of purpose
- valuing our diversity and creativity
- the pursuit of best practice.

1.2 STRUCTURE

HREOC is a national independent statutory body established under the *Human Rights and Equal Opportunity Commission Act 1986*. It has a President and five Commissioners. The five positions are currently held by three persons. Please refer to the organisational chart on page 12 for further information.

1.2.1 President – The Hon. John von Doussa, QC

The Hon. John von Doussa was appointed President of the Human Rights and Equal Opportunity Commission (HREOC) on 1 May 2003 for a five-year term.

At the time of his appointment he was a Judge of the Federal Court of Australia, an appointment he had held since 1988. He was also the President of the Australia Competition Tribunal, a Presidential Member of the Administrative Appeals Tribunal and an Additional Judge of the Supreme Court of the Australian Capital Territory. From 1992 until shortly before his appointment he was also a part-time Commissioner of the Australian Law Reform Commission. From 1986 to 1988 he was a Judge of the Supreme Court of South Australia.

Before his appointment as a Judge he was a Queen’s Counsel practising mainly in South Australia, and had served terms as the President of the Law Society of South Australia, and Vice-President of the Law Council of Australia.

In 1996 he was awarded an Honorary Doctorate of the University of South Australia in recognition of his close involvement in the organisation and provision of practical legal training for newly qualified graduates in law in South Australia.

Since 1997 he has been a member of the Court of Appeal of Vanuatu. In 2003 he was appointed a non-resident member of the Supreme Court of Fiji.

On 26 July 2004 Mr von Doussa was appointed Chancellor of the University of Adelaide.

Mr von Doussa presently represents HREOC as a member of the International Coordinating Committee of National Human Rights Institutions based in Geneva, and is Deputy Chair of the Asia Pacific Forum of National Human Rights Institutions.

Mr von Doussa was appointed Acting Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination on 4 November 2006; an appointment extended until 10 September 2007.

1.2.2 Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination – Ms Pru Goward (until – November 2006)

The Hon. John von Doussa, QC (November 2006 – June 2007)

Journalist, broadcaster and commentator Pru Goward was appointed Federal Sex Discrimination Commissioner for a five-year term from 30 July 2001, and her term was extended a further three years in 2006. However, in November 2006 she took leave of absence, and in March 2007 resigned following her election as a member of the New South Wales Parliament.

Ms Goward has worked closely on issues of women’s rights for several years, heading the Federal women’s policy advisory unit, the Office of the Status of Women, from 1997 to 1999. She was appointed First Assistant Secretary of the Office, which reports directly to the Office of Prime Minister and Cabinet, after working as a national affairs journalist and political commentator for 19 years.

At the Office of the Status of Women, Ms Goward presided over the introduction of the first national program for the prevention of domestic violence, the largest program run by OSW, with a budget of \$50 million. She also oversaw the introduction of reform to superannuation laws for divorced couples.

Ms Goward completed an Economics degree with Honours from the University of Adelaide while teaching high school in Adelaide during the 1970s. She later tutored at the University while conducting Masters research. Over the past 10 years she has also run her own media management company, was a freelance newspaper and magazine columnist and a part-time lecturer in Broadcast Journalism at the University of Canberra.

Just prior to taking up the role of Sex Discrimination Commissioner, she was National Director of the Australian Property Institute. Ms Goward is also on the board of the John Curtin School of Medical Research and the Neuroscience Institute for Schizophrenia and Allied Disorders. She is Official Patron of the ANU Australian Rules Football Club.

The Sex Discrimination Commissioner has been nominated by HREOC as the Commissioner responsible for Age Discrimination.

The President, the Hon John von Doussa QC, was appointed Acting Sex Discrimination Commissioner when Ms Goward took leave of absence.

1.2.3 Aboriginal and Torres Strait Islander Social Justice Commissioner and acting Race Discrimination Commissioner – Mr Tom Calma

Mr Tom Calma was appointed as the Aboriginal and Torres Strait Islander Social Justice Commissioner for a five-year term on 12 July 2004. He has been appointed Acting Race Discrimination Commissioner on an annual basis since this time.

Mr Calma is an Aboriginal elder from the Kungarakan tribal group and the Iwaidja tribal group whose traditional lands are south west of Darwin and on the Coburg Peninsula in the Northern Territory, respectively. He has been involved in Indigenous affairs at a local, community, state, national and international level and worked in the public sector for over 30 years.

Mr Calma has broad experience in public administration, particularly in Indigenous education programs and in developing employment and training programs for Indigenous people from both a national policy and program perspective.

He served three terms as a Director of Aboriginal Hostels Ltd and as a Company Director for a private tourism and hospitality venture in the Northern Territory.

Until his appointment as Commissioner, Mr Calma managed the Community Development and Education Branch at Aboriginal and Torres Strait Islander Services (ATSIS) where he worked with remote Indigenous communities to implement community-based and driven empowerment and participation programs. In 2003, he was Senior Adviser Indigenous Affairs to the Minister of Immigration, Multicultural and Indigenous Affairs.

From 1995–2002, he worked as a senior Australian diplomat in India and Vietnam representing Australia’s interests in education and training. During his time in India, he also oversaw the management of the Australian international education offices in Pakistan, Nepal and Sri Lanka.

He moved to Canberra in 1992 and undertook various assignments, including Executive Director to the Secretary and Senior Executive of the Department of Employment, Education, Training and Youth Affairs.

In the early 1980s, Mr Calma and Indigenous colleagues established the Aboriginal Task Force (ATF) at the Darwin Community College (which later became the Darwin Institute of Technology), which provided second chance education programs for Indigenous people. He became a senior lecturer and head of the ATF for six years.

Mr Calma is a White Ribbon Ambassador for 2005–07 and National Patron of Wakakirri, the National Story Festival, which is Australia’s largest multi arts event.

1.2.4 Human Rights Commissioner and acting Disability Discrimination Commissioner – Mr Graeme Innes, AM

Lawyer, mediator and company director Graeme Innes was appointed as Human Rights Commissioner on 15 December 2005 for a five-year term. He has been appointed Acting Disability Discrimination Commissioner on an annual basis since this time.

A human rights practitioner for over 25 years, Mr Innes has worked in equal opportunity in NSW, WA, and nationally. He was Deputy Disability Discrimination Commissioner with the Commonwealth Human Rights and Equal Opportunity Commission from 1999 to 2005.

He has been a Member of the NSW Administrative Decisions Tribunal; the NSW Consumer, Trader and Tenancy Tribunal; the Social Security Appeals Tribunal; and a Hearing Commissioner with the Human Rights and Equal Opportunity Commission.

Mr Innes has been active in the disability field for 30 years. He was Chair of the Disability Advisory Council of Australia for four-and-a-half years. He was the first blind President of the Royal Blind Society of NSW, and the first Chair of Vision Australia, Australia’s largest national blindness agency.

Mr Innes has been one of Australia’s delegates to the World Blind Union, and the President of that Union’s Asia-Pacific region. He was also a member of the Australian delegation to the UN which developed the Convention on the Rights of Persons with Disabilities.

Mr Innes has been a consultant on disability issues to organisations such as Westpac, Qantas, and Sydney Water, and was a Councillor on Ku-ring-gai local Council.

In 1995 Mr Innes was admitted as a Member of the Order of Australia (AM) for his contribution to the development of Commonwealth disability discrimination legislation. He was a finalist for Australian of the Year in 2003.

1.3 LEGISLATION

HREOC is responsible for administering the following Acts:

- *Human Rights and Equal Opportunity Commission Act 1986*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Disability Discrimination Act 1992*
- *Age Discrimination Act 2004.*

Functions performed under these Acts are vested in HREOC as a collegiate body, in the President or individual members of HREOC or in the federal Attorney-General.

Other legislation administered through HREOC includes functions under the *Native Title Act 1993* performed by the Aboriginal and Torres Strait Islander Social Justice Commissioner. The Sex Discrimination Commissioner has functions in relation to federal awards and equal pay under the *Workplace Relations Act 1996*.

1.3.1 Human Rights and Equal Opportunity Commission Act

The *Human Rights and Equal Opportunity Commission Act 1986* established HREOC and outlines HREOC's powers and functions. Human rights are strictly defined, and only relate to the international instruments scheduled to, or declared under, the Act. They are the:

- *International Covenant on Civil and Political Rights*
- *Convention on the Rights of the Child*
- *Declaration on the Rights of the Child*
- *Declaration on the Rights of Disabled Persons*
- *Declaration on the Rights of Mentally Retarded Persons*
- *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*
- *Convention Concerning Discrimination in Respect of Employment and Occupation.*

1.3.2 Racial Discrimination Act

The *Racial Discrimination Act 1975* gives effect to Australia's obligations under the *International Convention on the Elimination of All Forms of Racial Discrimination*.

Its main aims are to:

- promote equality before the law for all persons, regardless of their race, colour or national or ethnic origin
- make discrimination on the basis of race, colour, descent or national or ethnic origin, unlawful
- provide protection against racial hatred.

1.3.3 Sex Discrimination Act

The *Sex Discrimination Act 1984* gives effect to Australia's obligations under the *Convention on the Elimination of All Forms of Discrimination Against Women* and certain aspects of the *International Labour Organisation (ILO) Convention 156*.

Its main aims are to:

- promote equality between men and women
- eliminate discrimination on the basis of sex, marital status or pregnancy, and family responsibilities
- eliminate sexual harassment at work, in educational institutions, in the provision of goods and services, accommodation and in the delivery of Commonwealth programs.

1.3.4 Disability Discrimination Act

The objectives of the *Disability Discrimination Act 1992* are to:

- eliminate discrimination against people with disabilities as far as is possible
- promote community acceptance of the principle that people with disabilities have the same fundamental rights as all members of the community
- ensure as far as practicable that people with disabilities have the same rights to equality before the law as other people in the community.

1.3.5 Age Discrimination Act

The objectives of the *Age Discrimination Act 2004* are to:

- promote equality before the law for all persons regardless of their age
- eliminate discrimination against persons on the ground of age in many areas of public life such as employment, education and the provision of services or facilities
- change negative stereotypes about older people.

1.4 FUNCTIONS AND POWERS

HREOC's responsibilities fall within four main areas:

- public awareness and education
- unlawful discrimination and human rights complaints
- human rights compliance
- policy and legislative development.

In order to fulfil its obligations, HREOC:

- Fosters public discussion, and undertakes and coordinates research and educational programs to promote human rights and eliminate discrimination in relation to all Acts.
- Investigates complaints of alleged unlawful discrimination pursuant to the Racial Discrimination Act, the Sex Discrimination Act, Disability Discrimination Act and the Age Discrimination Act, and attempts to resolve these matters through conciliation where appropriate. The President may terminate a complaint of alleged unlawful race, sex, age or disability discrimination if, for example there is no reasonable prospect of settling the complaint by conciliation or the complaint is lacking in substance. If a complainant, whose complaint has been terminated, wants the complaint heard and determined by the Courts they must lodge an application to the Federal Court of Australia or the Federal Magistrates Court within 28 days of a Notice of Termination issued by the President.
- Investigates acts or practices that may be contrary to a human right or that may be discriminatory pursuant to the Human Rights and Equal Opportunity Commission Act. If the complaint is unable to be resolved through conciliation and is not discontinued for other reasons the President may report on the case and make particular recommendations. The Report is tabled in Federal Parliament.
- May advise on legislation relating to human rights and monitor its implementation; may review existing and proposed legislation for any inconsistency with human rights or for any discriminatory provision which impairs equality of opportunity or treatment in employment or occupation; may examine any new international instruments relevant to human rights and advise the federal government on their consistency with other international treaties or existing Australian law; and may propose laws or suggest actions the government may take on matters relating to human rights and discrimination.

In order to carry out these functions HREOC is empowered under all Acts (unless otherwise specified) to:

1. Refer individual complaints to the President for investigation and conciliation.
2. Report to the government on any matters arising in the course of its functions.
3. Establish advisory committees.
4. Formulate guidelines to assist in the compliance by organisations and individuals of the requirements of human rights and anti-discrimination legislation and conventions.
5. Intervene in court proceedings involving human rights matters with the permission of the Court.
6. Act as *amicus curiae* (friend of the court) in alleged unlawful discrimination cases that are before the Courts
7. Grant exemptions under certain conditions (Age, Sex and Disability Discrimination Acts).

8. Conduct inquiries into issues of major importance, either on its own initiative, or at the request of the Attorney-General.
9. Examine enactments.

1.5 SPECIFIC FUNCTIONS OF THE PRESIDENT AND COMMISSIONERS

In addition to the broad functions outlined above, the President, the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Sex Discrimination Commissioner have specific responsibilities.

1.5.1 President

The President is the Chief Executive Officer of HREOC, responsible for its financial and administrative affairs. The President is also responsible for the complaint handling function of HREOC.

1.5.2 Aboriginal and Torres Strait Islander Social Justice Commissioner

The Aboriginal and Torres Strait Islander Social Justice Commissioner, under the *Human Rights and Equal Opportunity Commission Act 1986*, prepares an annual report on behalf of HREOC on the exercise and enjoyment of human rights of Indigenous people, and undertakes social justice education and promotional activities.

The Commissioner also performs separate reporting functions under the *Native Title Act 1993*. This includes preparing an annual report on the operation of the Act and its effect on the exercise and enjoyment of human rights of Indigenous people. The Commissioner also reports, when requested by the Minister, on any other matter relating to the rights of Indigenous people under this Act.

1.5.3 Sex Discrimination Commissioner

The *Workplace Relations Act 1996* gives the Sex Discrimination Commissioner the power to initiate and refer equal pay cases to the Australian Industrial Relations Commission.

1.5.4 Amicus Curiae

Section 46PV of the Human Rights and Equal Opportunity Commission Act gives HREOC Commissioners an *amicus curiae* ('friend of the court') function. The role of an *amicus curiae* is to provide special assistance to the court in resolving issues raised by the case and to draw attention to aspects of the case that might otherwise have been overlooked.

Under this function, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Disability Discrimination Commissioner, the Human Rights Commissioner, the Race Discrimination Commissioner and the Sex Discrimination Commissioner, may seek the permission of the Federal Court or Federal Magistrates Court, to assist the court as *amicus curiae* in the hearing of unlawful discrimination applications.

1.6 THE MINISTER

The Attorney-General, the Honourable Philip Ruddock MP, is the Minister responsible in Parliament for HREOC. He has a number of powers under the *Human Rights and Equal Opportunity Commission Act 1986*.

The most significant are:

- to make, vary or revoke an arrangement with states or territories for the performance of functions relating to human rights or to discrimination in employment or occupation
- to declare, after consultation with the states, an international instrument to be one relating to human rights and freedoms for the purposes of the Act
- to establish an advisory committee (or committees) to advise HREOC in relation to the performance of its functions. HREOC will, at his request, report to him on Australia's compliance with *International Labour Organisation Convention 111* and advise him on national policies relating to equality of opportunity and treatment in employment and occupation.

1.7 OUTCOMES STRUCTURE

HREOC has one outcome:

An Australian society in which the human rights of all are respected, protected and promoted.

There is one output for HREOC's outcome:

Australians have access to independent human rights complaint handling and public inquiries processes and benefit from human rights education, promotion and monitoring and compliance activities.

1.7.1 Resources for outcomes

Outcome 1: An Australian society in which the human rights of all are respected, protected and promoted

	Budget 2006–07 \$'000	Actual Expenses 2006–07 \$'000	Budget 2007–08 \$'000
Total Administered Expenses	–	–	–
<i>Prices of Department Outputs</i>	<i>17 911</i>	<i>18 545</i>	<i>19 094</i>
Output Group 1.1 – Australians have access to independent human rights complaint handling and public inquiry processes and benefit from human rights education, promotion and monitoring and compliance activities.	17 911	18 545	19 094
<i>Subtotal Output Group 1.1</i>	<i>17 911</i>	<i>18 545</i>	<i>19 094</i>
Revenue from Government (Appropriation) for Departmental Outputs	14 820	14 820	15 500
Revenue from other sources	3 091	3 725	3 594
Total Price of Outputs	17 911	18 545	19 094
<i>Total for Outcome 1 (Total Price of Outputs and Administered Expenses)</i>	<i>17 911</i>	<i>18 545</i>	<i>19 094</i>

	Actual 2006–07	Estimated Actual 2007–08
Staff years (number)	104	114

Chapter 2:

Human Rights Education and Promotion

A central function of the Human Rights and Equal Opportunity Commission is to undertake education programs that increase public awareness and generate discussion of human rights and anti-discrimination issues within Australia.

HREOC's legislative responsibilities are:

1. To promote an understanding and acceptance of, and compliance with, the relevant Act:
 - ◊ Human Rights and Equal Opportunity Commission Act section 11(1)(g)
 - ◊ Racial Discrimination Act section 20(1)(b)
 - ◊ Sex Discrimination Act section 48(1)(d)
 - ◊ Disability Discrimination Act section 67(1)(g)
 - ◊ Age Discrimination Act section 53(aa)
2. To undertake research and education programs for the purpose of promoting the objects of the relevant Act:
 - ◊ Human Rights and Equal Opportunity Commission Act section 11(1)(h)
 - ◊ Racial Discrimination Act section 20(1)(c)
 - ◊ Sex Discrimination Act section 48(1)(e)
 - ◊ Disability Discrimination Act section 67(1)(h)
 - ◊ Age Discrimination Act section 53(ac)

Human rights education is also an international obligation which Australia has consistently supported. In the earliest international articulation of universal human rights, the Universal Declaration of Human Rights, the General Assembly proclaimed:

every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect of these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.

All work undertaken by HREOC has a human rights educative base, from the handling of individual complaints of discrimination or harassment to the conduct of National Inquiries which involve important human right issues.

2.1 EDUCATION AND COMMUNICATIONS STRATEGY

HREOC uses a range of strategies to communicate its key human rights messages to the community including:

- Regular media engagement by the President and Commissioners with metropolitan, regional and specialist press, radio and television outlets.
- The Commissioners and staff holding consultations with a range of NGOs (including peak bodies), community groups, parliamentarians, business and industry groups, academics and government officers.
- The development of an extensive and accessible website which includes human rights education materials for students, teachers, employers, government, community groups and interested individuals.
- Curriculum-linked human rights education materials for teachers and students.
- Preparation and distribution of plain English publications on human rights and discrimination, and translations of essential Commission information into 14 other languages.
- Organisation of promotional events such as the annual Human Rights Awards.

HREOC's Education Manager updates and revises the education modules and promotes these materials at education/teaching conferences, workshops and forums around the country. HREOC has also engaged education partners such as Dare to Lead and Wakakirri to further promote the resources.

HREOC has liaised with federal and state governments regarding the implementation of Australia's response to the World Programme on Human Rights Education. HREOC has also had practical involvement with the Department of Education, Science and Technology's Civics and Citizenship program.

Specific human rights educational and promotional programs conducted by individual Commissioners are detailed later in this Report.

2.2 MEDIA ENGAGEMENT

HREOC's communication strategies are predicated on the desire to target all Australians wherever they live and whatever their background, age or gender. HREOC uses the mainstream and specialist media to disseminate human rights messages and works with peak business and community groups in the development and delivery of informational and education material.

Engagement with the media is a crucial aspect of HREOC's public education function. Wherever possible, HREOC engages in public debate via the print and electronic media to provide information to the public via journalists and editors.

HREOC also uses community announcements and niche or specialist media such as ethnic and Indigenous radio and press, as well as country and regional media outlets, to provide general information on HREOC's work and work of the President and the Commissioners.

In 2006–07, HREOC issued 172 media releases and alerts and the President and Commissioners have had 18 opinion pieces published in major metropolitan newspapers throughout Australia and have conducted approximately 800 media interviews resulting in a significant range of press, radio and television coverage. Thousands of media enquiries were received.

Commissioners have contributed to public debate on human rights, equality and discrimination issues, including: federal laws that discriminate against same-sex couples in financial and work related entitlements and benefits; sex and age discrimination; Indigenous health; terrorism legislation; refugees and asylum seekers; racial vilification and discrimination; Indigenous social justice; native title; paid maternity leave; work and family balance; and disability discrimination.

The Commissioners and President also issued a joint statement on the government's planned Emergency Response measures in the Northern Territory.

HREOC promotes the Human Rights Medal and Awards, which includes categories to recognise the outstanding contribution to human rights through the print media, radio or television.

President von Doussa has engaged in public debate on a range of human rights issues including anti-terrorism laws, work and family balance, paid maternity leave, age discrimination, the impact of Workchoices, the death penalty and the federal government's 'Emergency Response' in the Northern Territory.

President von Doussa and Human Rights Commissioner Graeme Innes have given interviews about the *National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits*. A number of these were undertaken prior to the launch of the final report in Sydney and following launches held around the country.

In addition to multiple interviews about the *Same-Sex: Same Entitlements* Report, as Acting Disability Discrimination Commissioner, Mr Innes has commented on access issues in relation to transport and buildings, the UN Convention on the Rights of Persons with Disabilities, DVD captions, employment and the unlawfulness of guide dogs being denied access to taxis.

Prior to her departure in November 2006, then Sex Discrimination Commissioner Pru Goward engaged in media debate on issues related to the Sex Discrimination Unit's work/life balance project. She also spoke about sexual harassment, the 'glass ceiling' for women in work, gender pay issues and working women and their children. Following the release of *It's About Time: Women, men, work and family* the Acting Sex Discrimination Commissioner conducted forums around the country to promote the recommendations of the project, and engaged and gave media interviews in relation to those forums.

Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma's 2006 *Social Justice Report* and 2006 *Native Title Report* were tabled in federal Parliament on 14 June. Mr Calma also helped officially launch the *Close the Gap* Indigenous Health Campaign in April in Sydney with Olympic athletes Ian Thorpe and Catherine Freeman.



Commissioner Calma engaging with the media at a recent report launch.

Commissioner Calma contributed to much debate around the 40th anniversary of the 1967 Referendum and the 10th anniversary of the *Bringing them home* Report.

He has engaged in media debate about other significant issues such as administrative arrangements for Indigenous affairs, the United Nations Declaration on the Rights of Indigenous Peoples, alcohol management plans, the findings of the Inquest into the death of Mulrinji on Palm Island, Aboriginal home ownership and Native Title.

As acting Race Discrimination Commissioner, Tom Calma did a range of interviews about the *Voices of Australia* education module, the federal government's proposal for a Citizenship Test and provided opinions on cyber racism.

2.3 COMMUNITY CONSULTATIONS

Community consultations are an important part of HREOC's human rights education program and provide a valuable exchange of information. The President, Commissioners and their staff met with a very wide range of peak bodies, community groups, non-government organisations, parliamentarians, business and industry groups, academics and government officers during the year.

2.3.1 NGO consultations

HREOC held a series of community/NGO fora around Australia to coincide with Commission meetings in each State and Territory. The purpose of these meetings was to share with key community organisations HREOC's current work and to form networks that will enhance cooperation on national issues of human rights and equal opportunity.

Other consultations include:

- The **Acting Disability Discrimination Commissioner** and staff were involved in more than 80 meetings with community organisations, advocacy groups, academics, employers and employer groups, federal and state ministers, and other members of parliament.
- The **Sex and Age Discrimination Commissioner** Goward and Acting Commissioner von Doussa and the Sex and Age Discrimination Unit were involved in approximately 50 meetings and made over 70 speeches. These consultations have been with community organisations and activists, academics, employers and employer groups, unions, federal ministers and other members of parliament.

- The **Race Discrimination Commissioner** and staff held approximately 137 meetings, including 30 meetings with key organisations and individuals in Victoria, and 30 in New South Wales as part of the Muslim Women and Human Rights Forum. Also included was the *Unlocking Doors* Forum which was attended by various members of Victoria Police, the Islamic Council and NSW Police Commissioner, Ken Moroney. In addition, a member of staff attended the New Zealand National Diversity Forum and met with staff from the New Zealand Human Rights Commission and New Zealand Police Service to discuss issues of common concern, including those in relation to the Muslim community projects.
- The **Aboriginal and Torres Strait Islander and Social Justice Commissioner** and staff held approximately 100 meetings including meetings with key organisations and individuals in relation to Indigenous health issues and the related campaign, and meetings following the workshop on 'Women in corrections and post release issues project'. Also, meetings were held in relation to community-focused projects to mark the 10th Anniversary of the *Bringing them home* Report.
- The **Human Rights Commissioner** and staff held approximately 45 meetings, which included consultations with community forums attended by key organisations and individuals in all states as part of the Same Sex: Same Entitlements National Inquiry process.
- Over 100 organisations throughout all states and territories either attended information sessions on the law and the complaint process run by the **Complaint Handling Section** (CHS) or were visited by CHS staff. These organisations included community legal centres; professional associations and unions; Aboriginal legal centres; multicultural organisations; youth organisations and legal centres; neighbourhood centres and disability groups. Locations visited included: Perth and Kalgoorlie in Western Australia; Melbourne, Ballarat, Bendigo and Geelong in Victoria; Sydney, Taree, Lismore.

2.4 HREOC WEBSITE – WWW.HUMANRIGHTS.GOV.AU

The Human Rights and Equal Opportunity Commission's website is a major educative tool and is used widely by government, legal, community and employer organisations, the media, schools and individuals to obtain information about human rights and responsibilities, and anti-discrimination law and practice.

HREOC's website is maintained to ensure that the most up-to-date information is posted daily, and all reports, submissions, media releases and other Commission publications are available online.

Web resources include an online complaints form and information for complainants and respondents, a range of curriculum-linked human rights education resources for schools, information resources for employers, a legal section which provides full details of legislation and other legal issues, and information on the work of the President and Commissioners.

2.4.1 Major additions and improvements in 2006–07

- Online information sheets published including: *Work Out Your Rights, Guide to the RDA*.
- Updates and additions to curriculum-linked human rights education resources published online including:
 - ◊ *Voices of Australia*
 - ◊ *Youth Challenge: Human Rights and Responsibilities (2007 update)*.
- Online publication of Commission reports and publications including:
 - ◊ *Social Justice Report 2006*
 - ◊ *Native Title Report 2006*
 - ◊ *It's About Time: Women, men, work and family*
 - ◊ *Same-Sex: Same Entitlements*
 - ◊ *Get the facts, Know your rights*.
- Publication of speeches and other presentations by the President and Commissioners.
- *Human Rights Medal and Awards* website published to promote HREOC's annual Human Rights Awards competition.
- Publication of a range of legal submissions made to the Parliament and other bodies by HREOC.

2.4.2 Statistics

HREOC uses a web statistics system which tracks the number of visitors the site has and how visitors are using the site. This allows HREOC to identify materials that are particularly successful or popular and where we have room for improvement.

Usage of the site has increased significantly over the year with approximately 12 612 942 page views on the server during 2006–07. This equates to approximately 85 281 017 hits on the site in total. This is an increase of 50 percent on website usage since the previous financial year.

A summary of statistical information is provided below:

Section	Home/Index page views	Section page views
<i>HREOC Homepage</i> www.humanrights.gov.au	473 853	n/a
<i>Aboriginal and Torres Strait Islander Social Justice</i> www.humanrights.gov.au/social_justice/	99 926	901 278
<i>Complaints Information</i> www.humanrights.gov.au/complaints_information/	32 986	202 748
<i>Disability Rights Homepage</i> www.humanrights.gov.au/disability_rights/	111 140	1 705 260

Section	Home/Index page views	Section page views
<i>Human Rights Homepage</i> www.humanrights.gov.au/human_rights/	67 690	1 061 411
<i>Legal Information Homepage</i> www.humanrights.gov.au/legal/	26 507	231 137
<i>Racial Discrimination Homepage</i> www.humanrights.gov.au/racial_discrimination/	62 112	413 167
<i>Sex Discrimination Homepage</i> www.humanrights.gov.au/sex_discrimination/	229 351	723 756
<i>Information for Employers Homepage</i> www.humanrights.gov.au/info_for_employers/	30 823	215 584
<i>Publications Homepage</i> www.humanrights.gov.au/about/publications/	27 827	n/a
<i>Media Releases Index</i> www.humanrights.gov.au/about/media/	35 604	618 295
<i>Job Vacancies Homepage</i> www.humanrights.gov.au/about/jobs/	50 905	60 847
<i>Human Rights Education Resources</i> www.humanrights.gov.au/education/	n/a	1 140 587

2.4.3 Human rights education for teachers and students

HREOC has developed a range of human rights education modules specifically for use in upper primary and secondary schools. These modules were developed in consultation with education experts and are linked to the curriculum of each state and territory education system.

Philosophy

The philosophy that guides HREOC's approach to human rights education is based on a critical methodology which balances the learning needs of students with the curriculum requirements of relevant subject areas.

The modules that make up the human rights education program draw students into real-life situations relevant to their own experiences, which can then be explored in the context of Australian and international law.

Such programs have the capacity to develop values of respect and tolerance and encourage young people to consider ways in which they can take an active role to address intolerance and discrimination in the communities in which they live.

Human rights education is promoted through:

- a) *Knowledge*: provision of information about human rights and mechanisms for their protection;
- b) *Values, beliefs and attitudes*: development of values, beliefs and attitudes, which uphold human rights; and

- c) *Action*: encouragement to take action to defend human rights and prevent human rights abuses.

Outcomes

The broad goal of HREOC's human rights education program is to develop in students an awareness of their human rights and responsibilities as members of the community in which they live.

A central aim is to assist young people in their development as informed, active citizens and to encourage values of tolerance, respect and empathy.

Content

Each human rights education module developed by HREOC is linked to the curriculum framework that exists in each state and territory. These curriculum links are clearly outlined in the supporting documentation of each module.

Links have been established to subjects across a range of Key Learning Areas, including:

- Studies of Society and Environment (especially subjects such as History, Aboriginal Studies, Australian Studies, Civics and Citizenship);
- English;
- The Arts.

The education modules also include detailed teaching notes and resources to help teachers deliver an effective teaching and learning program on human rights.

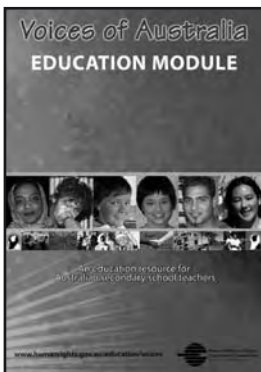
They also provide significant flexibility in how they are delivered – teachers can incorporate individual activities into an existing program or teach the module as a whole.

Resources

HREOC has developed a range of human rights education resources, which focus on issues included in HREOC's area of statutory responsibility. These include:

Voices of Australia: An education resource for Australian secondary school teachers

Voices of Australia: Education Module allows for the different stories of Australian people to be heard and celebrated in the classroom. Students will increase their awareness about experiences of diversity, discrimination, race relations, friendship, and respect.



Youth Challenge: Teaching Human Rights and Responsibilities

The Youth Challenge program comprises four units of study:

- *Human Rights in the Classroom* provides an accessible overview of human rights: what they are, how they have developed and where they apply.
- *Disability Discrimination – but what about Doug’s rights?* explores the issue of how competing rights can be resolved in a school community environment.
- *Young People in the Workforce* examines issues of race and sex discrimination, as well as the legal rights and responsibilities of employees and employers in Australia.
- *Tackling Sexual Harassment* addresses the issue of sexual harassment and how students can identify and address the issue, regardless of whether it happens to them or another student.



Bringing them home

This education module introduces students and teachers to some of the key issues in HREOC’s Report of the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. It gives students the opportunity to research issues and engage in debate in an informed way.



Face the Facts: Questions and Answers about Refugees, Migrants and Indigenous People

This education module provides teaching notes, student activities and worksheets, plus a range of recommended online resources and further reading, to research, analyse and debate the issues facing different groups in Australian society.

Paid Maternity Leave: Activities on Gender Equality in the Workplace

This education module draws on comprehension and oral/written composition skills to develop an understanding of gender and the workforce. It includes a fact sheet, a case study, teaching notes, structured activities and a student interview with the Commissioner.

In addition, HREOC’s website features links to a comprehensive collection of national and international human rights education resources.

Electronic mailing lists

HREOC maintains ongoing communication with teachers and education bodies through an electronic mailing list. HREOC provides regular updates about:

- the most recent set of human rights education activities;
- reviews and links to human rights education resources;
- reviews of particular sections of HREOC's website which are useful for educators;
- upcoming human rights education events.

Delivery

HREOC delivers information to teachers about human rights issues and resources nationally at conferences, forums and university pre-service lectures.

The modules are delivered direct to teachers via HREOC's website at www.humanrights.gov.au/education/

HREOC also advertises in teacher magazines and other education press to let teachers know about the resources. HREOC sends CD Roms/DVDs and other hard copy education materials to all schools together with order forms. All of these resources are provided free of charge.

We have also developed partnerships with educational groups/institutions who distribute information and resources to teachers and students (including Wakakirri, Dare to lead and Professional Teacher's Associations).

Information for Students Webpage

Information for Students is an online education resource for secondary school students to help them gain an awareness and understanding of human rights; their origin and history, the development of international human rights norms and contemporary human rights issues in Australia.

It is a multi-layered website that draws students through a range of human rights issues. It includes a 'plain English' guide to what human rights are; common questions and answers on human rights; an explanation of the Universal Declaration of Human Rights; and more detailed information on issues such as Indigenous social justice, 'stolen children', refugees and asylum seekers, children in immigration detention, sexual harassment and discrimination; and human rights in other countries.

Information for Students is also linked to other areas of HREOC's website that may interest students including:

- *Human Writes* essay competition and the national youth dialogue
- *Youth Challenge* modules
- *Voices of Australia*
- *The Face the Facts* publication
- *Bringing them home* module
- *Information for Employers* kit

The site can be found at www.humanrights.gov.au/info_for_students

Human Rights Explained

This is an online resource for tertiary students. It was first published in 1998 and remains one of HREOC's most accessed sections.

Usage of Online Education Resources

HREOC's online human rights education resources are widely used by educators, both nationally and internationally. During the 2006–2007 financial year, the resources received 1 140 587 page views. This is an increase of 25 percent on usage of the online education resources since the previous financial year.

Human Rights Education Resources	Page views
Voices of Australia	34 875
Youth Challenge Education Module	108 850
Bringing them home Education Module	269 192
Information for Teachers	207 951
Information for Students	125 140
Face the Facts Education Module	74 451
Face the Facts Publication	141 984
Human Rights Explained	131 802
A last resort? Teaching Resources	12 232
A last resort? Summary Guide	34 110

2.5 HREOC PUBLICATIONS

In addition to all HREOC publications being made available on HREOC's website, around 100 000 publications were dispatched in hard copy format during 2006–07.

The most popular publications were *Face the Facts*, *Voices of Australia* (magazine and CD), *Good Practice, Good Business* CD and *The Complaint Guide*.

A list of publications released during 2006–07 can be found at Appendix 2 of this Report.

2.5.1 HREOC DVD

HREOC produced a new DVD titled '*Respecting, Protecting and Promoting Human Rights*'. It was produced to highlight HREOC's main functions and powers and describe the role that it plays in resolving anti-discrimination complaints and breaches of human rights under federal law.



The DVD includes the following translations: English, French, Spanish, Arabic, Mandarin, Vietnamese and Laotian. It also features captions (English only) and audio description (menu only).

Copies of the DVD have been distributed to government departments, state equal opportunity commissions, Asia Pacific Forum members, foreign embassies in Australia and federal members of Parliament.

2.6 2006 HUMAN RIGHTS MEDAL AND AWARDS



The Human Rights Medal and Awards were established in 1987 to recognise individuals and organisations that have made a significant contribution to the promotion and protection of human rights and equal opportunity in Australia.

The 19th Human Rights Medal and Awards ceremony was held at Sydney's *Sheraton on the Park* hotel on Thursday, 7 December from midday to 3pm. The Human Rights Day address was delivered by Commission President, the Hon. John von Doussa QC, and Julie McCrossin was the MC.

A field of quality entries in the seven categories – Law, Community (Individual and Organisation), Arts Non-Fiction, Print Media, Television, Radio and the Human Rights Medal – showcased the tireless work undertaken by a range of individuals and organisations in the fields of disability and Indigenous rights, race discrimination, refugees and asylum seekers, gay rights, legal advocacy, young people, law reform and a range of community work.

The judges of the 2006 Human Rights Medal and Awards who gave their time and expertise on a voluntary basis included: Professor Christopher Newell, Bain Attwood, Professor Sally Morgan, David Vadeloo, Jody Broun, Jenny Earle, Voula Messimeri, Romlie Mokak, Maurice Corcoran, Kevin Cocks, Professor Larissa Behrendt, Ian Kiernan AO OAM, David Marr, Alan Kennedy, Patricia Karvelas, Tom Fayle, Cath Dywer, Stephen Crittenden, Peter Mares, Helen Grasswill, Ned Lander, Justice John Sulan, Justice Virginia Bell and Nicholas Cowdery QC.

HREOC congratulates all the winners, highly commended and shortlisted entries for their achievements, and thanks all of those who nominated for their support of the Awards, and their commitment and dedication to promoting human rights in Australia. The winners can be found below. Further details can be found on HREOC's website at: www.humanrights.gov.au/about/hr_awards/2006.html.

2.6.1 Human Rights Medal

The Human Rights Medal is awarded to an individual who has made an outstanding contribution to the advancement of human rights in Australia.

Joint Winner: Phillip Adams AO**Joint Winner: Father Chris Riley AM**

Mr Adams co-founded the sub-titling service that made television accessible to the hearing impaired, and has won international awards for his *'Break Down the Barriers'* campaign for the International Year of Disabled Persons and for the International Year of the Child with the *'Care of the Kids'* campaign. More recently he helped establish Australians for Just Refugee Programs, funding the venture with support from the readers of his newspaper columns. This organisation evolved into *A Just Australia* and Mr Adams is now Chair of *Rights Australia* – an organisation intended to tackle a wide range of human rights issues. For decades he has also focused on national and international human rights issues in his radio program *Late Night Live*.



2006 Human Rights Medal co-winner
Father Chris Riley AM

Father Riley has established a variety of programs to assist in breaking the cycle of poverty, disadvantage and marginalisation of young people. His Youth off the Street (YOTS) programs and services have helped over 60 000 young people since they were first established in 1991.

2.6.2 Law Award – sponsored by the Law Council of Australia**Winner: Peter Siedel**

Peter Siedel's efforts advising charitable, not-for-profit and Indigenous organisations have been recognised with the 2006 Human Rights Law Award.

Head of Arnold Bloch Leibler's public law practice, Peter Siedel works tirelessly with a range of organisations advising on elements critical to their viability, such as corporate governance.

A major player in social and environmental issues for Indigenous people, Peter has represented the Yorta Yorta people for more than 10 years in their native title claim before the Federal and High Courts. He also negotiated ground-breaking agreements between Indigenous groups and government bodies, such as the Yorta Yorta 2004 Co-operative Management Agreement with the Victorian Government.

2.6.3 Community Award**Community Award (Organisation) Winner: Edmund Rice Centre**

Edmund Rice Centre has a long history fighting for the rights of Indigenous people and those involved in the horror of people trafficking, but its work on the Asylum Seeker Returnees Program won them the 2006 Community (Organisation) Award.



Community (Organisations) Award winners Zeena Elton and Dr Ben Spies-Butcher from the Edmund Rice Centre being presented by HREOC President John von Doussa.

Community Award (Individual) Winner: Virginia Walker

Virginia Walker co-founded the *Bridge for Asylum Seekers* in 2003 by rustling together a group of friends when she realised those released from Villawood Detention Centre were cut adrift with no rights or access to Medicare services. Since then, Virginia has built up a network of friends and supporters who have raised and allocated more than \$500 000 to provide a basic living allowance to families in Australia on bridging visas.

2.6.4 Arts Non-fiction Award

Winner: Quentin Beresford's Rob Riley: An Aboriginal Leaders Quest for Justice

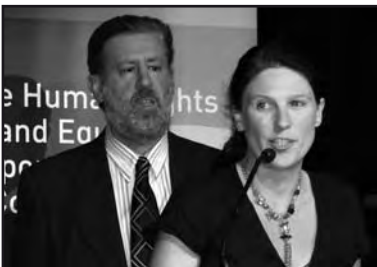
Rob Riley: An Aboriginal Leaders Quest for Justice, charts the journey for justice of a man who did much to confront two of Australia's most complex contemporary issues – the position of Indigenous Australians and refugees. Known for his humility, clarity, sense of humour, capacity for friendship and above all for his courage, Rob Riley's life as portrayed in the book is described by the judging panel as 'very moving' and one needed by the Australian community at this time. The book focuses on racism and social inequality and explores the way Rob Riley worked both within and outside government to raise and fight for key issues for Indigenous people.

2.6.5 Television Award

Winner: Central Australia Series by Suzanne Smith, Tony Jones, Brett Evans and Bronwen Reed from ABC TV's Lateline program

A series on the challenges and tragedies facing Indigenous people in Central Australia won this year's Human Rights Award for Television. The *Central Australia Series* exposed the heartbreaking incidence of child abuse and consequences of petrol sniffing and family violence in Central Australia.

2.6.6 Radio Award



Radio Award winner Kirsti Melville from ABC Radio National, Street Stories with Commissioner Innes in the background.

Winner: Being Deaf Pt 1: Time Lost and Pt 2: Deaf and Proud by Kirsti Melville, ABC Radio National, Street Stories

A radio series about the grief, challenges and complexities for hearing parents who are raising deaf children won this year's Human Rights Radio Award.

The series *Being Deaf Pt 1: Time Lost* and *Pt 2: Deaf and Proud* by Kirsti Melville of ABC Radio National's *Street Stories* program, focussed on the hurdles and highlights of deaf babies who are born to hearing parents throughout Australia every year. Offering a valuable insight into the politics of deaf culture, the series captured the grief of hearing parents who know nothing of deafness and are unprepared for the challenges ahead. Described by the judges as a 'very sophisticated and moving insight' into the deaf world, the series was original and thought-provoking radio that made listeners think about deafness in a different way.

2.6.7 Print Media Award

Winner: Australia's War Crimes Fiasco by Sydney Morning Herald journalists Debra Jopson and Lisa Pryor

Australia's War Crimes Fiasco by Sydney Morning Herald journalists Debra Jopson and Lisa Pryor, shocked readers by revealing that dozens of men suspected of horrific atrocities overseas were living freely in Australia courtesy of loopholes in the asylum seeker system – the very system set-up to protect the human rights of their victims.

Chapter 3:

Monitoring Human Rights

HREOC plays a significant role in monitoring legislation and policy in Australia to assess compliance with human rights principles. This monitoring role includes:

- the work of the individual Commissioners, who examine and report on issues of race, age, sex and disability discrimination and human rights; and
- the assessment by HREOC of legislative and policy proposals, resulting in submissions to governments, law reform bodies and parliamentary committees.

This chapter highlights HREOC's contribution to policy development and legislative review through the many submissions made during the reporting period. Many of these submissions identified breaches or potential breaches of human rights in proposed legislation.

HREOC's submissions play an important role in fostering public debate and an awareness of human rights principles. HREOC makes the submissions available on its website for reference by governments, politicians, lawyers, academics, journalists, students and other individuals who have an interest in human rights issues.

HREOC's submissions are prepared on behalf of HREOC by HREOC's Legal Section, Policy Units and the Complaint Handling Section.

A range of submissions made by HREOC during 2006–07 are summarised below. The summaries do not detail government actions or other responses to the submissions.

For further information about HREOC's submissions, refer to: www.humanrights.gov.au/legal/submissions/sj_submissions/alra_amendments_senate_subjuly2006.html. For further information about the process of relevant federal legislation, refer to the Parliament of Australia website: www.aph.gov.au.

3.1 SUBMISSIONS MADE BY HREOC AS PART OF ITS MONITORING ROLE IN RELATION TO HUMAN RIGHTS STANDARDS

3.1.1 Provisions of Aboriginal Land Rights (Northern Territory) Amendment Bill 2006

In July 2006 HREOC made a submission to the Legislative Committee of the Senate Committee on Community Affairs Inquiry into the Provision of Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 (Cth).

The submission outlined the following concerns:

- a lack of traditional owner participation in the development of the amendments;
- failure to inform traditional owners of the content of the proposed amendments;
- alienation of Indigenous lands for three generations or more under the proposed 99 years leases over townships;
- the use of the Aboriginal Benefits Account to pay the Northern Territory Government's rental on the 99 year leases;
- the potential loss of advocacy capacity under the proposed constitution of additional land councils; and
- poor processes for informing and seeking consent of traditional owners regarding agreements on land under section 19A of the proposed amendments.

A copy of HREOC's submission is available at:

www.humanrights.gov.au/social_justice/submissions/alra_amendments_senate_subjuly2006.html

The Legislation Committee of the Senate Committee on Community Affairs tabled its report in the Senate on 8 August 2006. A copy of the report is available at:

www.aph.gov.au/Senate/committee/clac_ctte/aborig_land_rights/report/index.htm

3.1.2 Unfinished Business – Indigenous Stolen Wages

In August 2006 HREOC made a submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into Indigenous Stolen Wages.

The submission brought to the attention of the Inquiry:

- the issue of underpayment of wages;
- relevant human rights principles relevant to the issue of stolen wages; and
- relevant developments in Queensland, including those cases under the Racial Discrimination Act (the *Palm Island Wages Case*, *Baird* and *Douglas*) in which HREOC was involved.

A copy of HREOC's submission is available at:

www.humanrights.gov.au/legal/submissions/2006/stolen_wages_2006.html

HREOC's Director of Legal Services and Director of the Social Justice Unit appeared before the Committee on 27 October 2006 to give oral evidence in support of HREOC's submission.

The Senate Standing Committee on Legal and Constitutional Affairs tabled its report in the Senate on 7 December 2006. A copy of the report is available at: www.aph.gov.au/Senate/committee/legcon_ctte/stolen_wages/report/index.htm

3.1.3 Crimes Amendment (Bail and Sentencing) Bill 2006

In September 2006 HREOC made a submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Crimes Amendment (Bail and Sentencing) Bill 2006 (Cth).

The Bill was a response by the Commonwealth Government to concerns about violence in Indigenous communities. It sought, amongst other things, to exclude 'cultural background' as a specific relevant factor in sentencing and prevent a court from taking into account 'customary law or cultural practice' in sentencing.

HREOC's submissions opposed these changes as being an inappropriate response to the issue of Indigenous violence and potentially counter-productive. HREOC argued that the Bill undermined customary authority that may otherwise be important in improving Indigenous community governance and addressing problems of violence.

A copy of HREOC's submission is available at: www.humanrights.gov.au/legal/submissions/crimes_amendment.html

Aboriginal and Torres Strait Islander Social Justice Commissioner and Director of Legal Services gave oral evidence before the Committee on 29 September 2006 in support of HREOC's submission.

The Senate Standing Committee on Legal and Constitutional Affairs tabled its report in the Senate on 16 October 2006. A copy of the report is available at: www.aph.gov.au/Senate/committee/legcon_ctte/crimes_bail_sentencing/report/index.htm

3.1.4 Australian Citizenship: much more than just a ceremony Discussion Paper

In November 2006 HREOC made a submission to the Department of Immigration and Citizenship (DIAC) in response to its Discussion Paper on the introduction of formal citizenship testing titled *Australian Citizenship: much more than just a ceremony*.

HREOC's submission recommended that testing for citizenship should not be introduced. The submission argued that there was no adequate justification for the introduction of formal testing and there was a prospect that such a test may have a discriminatory impact on the ground of national or social origin and/or birth.

However, the submission did recommend that if testing were to be introduced, the government should carefully consider the format, content and implementation of the test and provide a number of safeguards and exemptions to avoid any discriminatory impact.

A copy of HREOC's submission is available at:

www.humanrights.gov.au/racial_discrimination/report/citizenship_paper_2006.html

DIAC prepared a Summary Report on the outcomes of its public consultation. A copy of this report is available at:

www.minister.immi.gov.au/media/responses/citizenship-test/summary_report_citizen_test_paper.pdf

3.1.5 Anti-Money Laundering and Counter-Terrorism Financing Bill 2006

In November 2006 HREOC made a submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 (Cth) and the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006 (Cth).

HREOC's submission expressed concern that the Bills did not do enough to ensure that financial institutions adopt non-discriminatory criteria when determining the 'money laundering/terrorism financing risk' of providing a designated service to a customer. This is primarily because the Bills:

- failed to provide any objective criteria for financial institutions to use in determining 'risk' and gave them a broad discretion; and
- exempted financial institutions from liability under discrimination laws for conduct done in good faith and in compliance or purported compliance with the regime.

A copy of HREOC's submission is available at:

www.humanrights.gov.au/legal/submissions/anti_money_laundering_counter_terrorism.html

The Senate Standing Committee on Legal and Constitutional Affairs tabled its report in the Senate on 28 November 2006. A copy of the report is available at:

www.aph.gov.au/Senate/committee/legcon_ctte/aml_ctf06/report/index.htm

3.1.6 A Charter of Rights for Tasmania Discussion Paper

In December 2006 HREOC made a submission to the Tasmania Law Reform Institute in response to its Discussion paper titled *A Charter of Rights for Tasmania?*

HREOC's submission stated that a statutory Charter of Rights could, depending on its form and content, significantly improve human rights protection in Tasmania. The submission recommended that a Tasmanian Charter of Rights should refer to a number of key elements. A summary of these key elements is given below.

- Protect the rights set out in the *International Covenant on Civil and Political Rights* (ICCPR) and take steps to achieve the progressive realisation of rights set out in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).
- Protect the rights of every person in Tasmania's jurisdiction, regardless of immigration status.

- Create a culture of human rights compliance in law and policy making by providing that:
 - ◊ bills must be accompanied by a human rights compatibility statement; and
 - ◊ submissions to Cabinet with a direct or significant impact on human rights be accompanied by a human rights impact statement.
- Give courts the power to:
 - ◊ interpret legislation consistently with the Charter;
 - ◊ make a declaration of incompatibility if legislation is incompatible with the Charter; and
 - ◊ hear and determine actions brought against public authorities for acting unlawfully under the Charter.
- Establish an independent Tasmanian Human Rights Commission to monitor human rights protection under the Charter, advise the government on Charter compliance, and promote public understanding and awareness of the Charter.

A copy of HREOC's submission is available at:
www.humanrights.gov.au/legal/submissions/Tas_charter_rights.html

At 30 June, the Tasmania Law Reform Institute is in the process of preparing its report on the outcomes of its public consultation.

3.1.7 Older People and the Law

In December 2006 HREOC made a submission to the House of Representatives Legal and Constitutional Affairs Committee's Inquiry into Older People and the Law.

The Committee is investigating and reporting on the adequacy of current legislative regimes in addressing the legal needs of older Australians (65 years and over) in the following areas: fraud; financial abuse; general and enduring 'power of attorney' provisions; family agreements; barriers to older Australians accessing legal services; and discrimination. The Committee is also considering the relevant experience of overseas jurisdictions.

HREOC's submission provided a range of background material, including statistics about age discrimination complaints. It also made submissions on HREOC's concerns about the coverage of the Age Discrimination Act, consistent with previous submissions concerning the Act when it was before parliament as a Bill.

A copy of HREOC's submission is available at:
www.humanrights.gov.au/legal/submissions/2006/ADA_200612/older_people_and_the_law_dec06.html

HREOC President, Director of Legal Services and Director of the Sex Discrimination Unit appeared before the Committee to give oral evidence in support of HREOC's submission on 15 May 2007.

The House of Representatives Standing Committee on Legal and Constitutional Affairs will table its report in parliament later this year.

3.1.8 Migration Amendment (Review Provisions) Bill 2006

In January 2007 HREOC made a submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Migration Amendment (Review Provisions) Bill 2006.

HREOC's submission expressed concern that the Bill created an unfair process for determining refugee and migration cases which may breach the human rights of applicants by:

- denying applicants a fair hearing; and/or
- leading to incorrect decisions which increases the likelihood of 'refoulement' of asylum seekers.

HREOC also submitted that, while the Bill may give the tribunals greater flexibility, this may not necessarily improve their efficiency. In any event, improved efficiency is not justified if it comes at the expense of applicants' human rights.

A copy of HREOC's submission is available at:

www.humanrights.gov.au/legal/submissions/2007/migration_amendment_bill_06.htm

The Human Rights Commissioner, Director of Human Rights Unit and a HREOC lawyer appeared before the Committee to give oral evidence in support of HREOC's submission on 31 January 2007.

The Senate Standing Committee on Legal and Constitutional Affairs tabled its report in the Senate on 26 February 2007. A copy of the report is available at: www.aph.gov.au/Senate/committee/legcon_ctte/mig_review_provisions/report/index.htm

3.1.9 Inquiry into the Terrorist Organisation Listing Provisions of the Criminal Code Act 1995

In February 2007 HREOC made a submission to the Parliamentary Joint Committee on Intelligence and Security on its review of the power to proscribe terrorist organisations under the *Criminal Code Act 1995* (Cth).

The submission expressed HREOC's concern that the Attorney-General's power to proscribe or de-list a terrorist organisation does not satisfy the international human rights law requirement that any interference with ICCPR rights (in this case, the right to freedom of association and freedom of expression) must be prescribed by law and be proportionate and necessary to achieve a legitimate end.

The submission argued that inadequate safeguards in the current proscription process create the potential for arbitrary and disproportionate decision making. HREOC's key concerns were:

- the absence of criteria for the exercise of the Attorney-General's discretion to proscribe or de-list a terrorist organisation;
- the lack of opportunities for organisations or individuals to oppose the proposed proscription of an organisation; and
- the absence of merits review of the Attorney-General's decision to proscribe an organisation as a terrorist organisation.

HREOC's submission endorsed the Security Legislation Review Committee's recommendations to create a more transparent proscription process. The fact that, as a result of proscription, a person associated with an organisation may be charged and convicted of serious criminal offences reinforces the need for a fairer proscription process.

HREOC recommended that the proscription process be a judicial rather than executive process. In the event that a judicial proscription process is not adopted, HREOC recommended existing proscription provisions should be amended to include the criteria to be taken into account by the Attorney-General in determining whether to proscribe or de-list a terrorist organisation. HREOC also recommended that the provisions should allow merits review of the Attorney-General's decision to proscribe an organisation.

A copy of HREOC's submission is available at:
www.humanrights.gov.au/legal/submissions/2007/proscription_powers_terrorist_org_feb2007.html

HREOC President and his Associate appeared before the Committee to give oral evidence in support of HREOC's submission on 4 April 2007.

The Report of the Parliamentary Joint Committee on Intelligence and Security will be tabled in Parliament later this year.

3.1.10 Human Services (Enhanced Delivery) Bill 2007

In March 2007 HREOC made a submission to the Senate Finance and Public Administration Committee's Inquiry into the Human Services (Enhanced Delivery) Bill 2007 (Cth). The Bill sought to introduce an 'access card' to replace some 13 other cards that are required to access federal benefits.

HREOC's submission drew the Committee's attention to how the access card might impact upon Indigenous Australians and made related recommendations. In particular, HREOC observed:

- as a result of their disadvantaged socio economic status, most Indigenous Australians will be required to register for the access card in order to gain or maintain access to social welfare payments, Medicare services, and the Pharmaceutical Benefits Scheme;
- a potentially significant number of Indigenous people will have difficulty providing the documents required to establish their 'legal name';

- a potentially significant number of Indigenous people will have difficulty meeting one or more of the requirements of the registration process for the access card as a result of cultural reasons or their disadvantaged socio-economic status. Special consideration should be given to their circumstances and appropriate exemptions granted or special arrangements made; and
- to ensure that the registration requirements for the access card do not unnecessarily disadvantage Indigenous Australians, it is important that they are consulted about the development of guidelines and other mechanisms that will determine eligibility.

A copy of HREOC's submission is available at:
www.humanrights.gov.au/legal/submissions/sj_submissions/human_services_bill_accesscards_Mar07.html

The Senate Committee on Finance and Public Administration tabled its report in the Senate on 20 March 2007. A copy of the report is available at:
www.aph.gov.au/Senate/committee/fapa_ctte/access_card/report/index.htm

3.1.11 Other Submissions

Other submissions were made to:

- the Australian Fair Pay Commission for consideration in determining the first national wage decision;
- the Joint Standing Committee on Treaties Inquiry into the Extradition and Mutual Assistance Treaties between Australian and Malaysia;
- the Attorney-General's Department second exposure draft of the Anti-Terrorism and Counter-Terrorism Financing Bill 2006;
- the Attorney-General's Department Discussion Paper *A better mutual assistance system: a review of Australia's mutual assistance law and practice*;
- the Attorney-General's Department draft model Children with Intellectual Disabilities (Regulation and Sterilisation) Bill 2006;
- the Attorney-General's Department Discussion Paper Two: *Technical amendments to the Native Title Act 1993*;
- the Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the Native Title (Amendment) Bill 2006;
- the Senate Committee on Employment, Workplace Relations and Education Inquiry into the Radioactive Waste Management Legislation Amendment Bill 2006;
- the Attorney-General's Department draft of Australia's Common Core Document for use before international treaty monitoring bodies;
- the Senate Standing Committee on Finance and Public Administration Inquiry into the Electoral and Referendum Legislation Amendment Bill 2006;

- the Parliamentary Joint Committee on the Australian Crime Commission Inquiry into the future impact of serious and organised crime on Australian society;
- the Department of Families, Community Services and Indigenous Affairs Discussion Paper *Access to Aboriginal Land under the Northern Territory Land Rights Act*;
- the Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the Native Title Amendment (technical amendments) Bill 2007;
- the Australian Law Reform Commission Discussion Paper on Legal Professional Privilege;
- the Attorney-General's Department Discussion Paper *Material that Advocates Terrorist Acts*;
- the Joint Standing Committee on Migration Inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas; and
- the Queensland Industrial Relations Commission Inquiry into Pay Equity.

For further information about HREOC's submissions, refer to:
www.humanrights.gov.au/legal/submissions/.

Chapter 4:

Complaint Handling Section

4.1 OVERVIEW OF THE WORK OF THE COMPLAINT HANDLING SECTION

The President of the Human Rights and Equal Opportunity Commission (HREOC) is responsible for the investigation and conciliation of complaints lodged under federal anti-discrimination and human rights law. Staff of HREOC's Complaint Handling Section (CHS) assist the President to investigate and resolve complaints. The CHS also provides information to the public about the law and the complaint process through the Complaint Information Service and a range of community education and training activities.

Complaint Information Officers within the CHS deal with telephone, TTY, post, e-mail and in-person enquiries from around Australia. Enquirers are often seeking information about whether they can lodge a complaint in relation to a particular situation they have experienced. Where the issue raised appears to be a matter that HREOC can deal with, the enquirer is provided with a complaint form or information about how to lodge a complaint via HREOC's on-line complaint facility. Where the issue appears to be outside HREOC's jurisdiction, enquirers are provided with contact details for other organisations that may be able to assist them. Over the past four reporting years HREOC has received, on average, around 10 100 enquiries each year. In 2006–07, 16 606 enquiries were dealt with by the Complaint Information Service.

Investigation/Conciliation Officers within the CHS manage complaints that have been accepted by HREOC. Over the past four reporting years HREOC has received, on average, around 1 250 complaints each year. In 2006–07 HREOC received 1 779 complaints. The CHS aims to handle all complaints in a timely and effective manner. In this reporting year, as in recent years, the CHS exceeded all its stated performance standards. Ongoing actions by the CHS to ensure access to HREOC's complaint process and enable ongoing improvement in service delivery are outlined later in this chapter.

In many cases, the investigation of a complaint involves the President writing to the person or organisation being complained about to obtain their version of events. Where it is considered appropriate, complaints will then proceed to conciliation. In many cases conciliation involves the Investigation/Conciliation Officer facilitating a face-to-face meeting of the parties. Officers travel to various locations throughout Australia, including regional and remote areas, to hold these meetings. Conciliation may also be conducted by other means. For example, officers may have

telephone discussions with the parties and convey messages between them or hold a teleconference. If a matter can be satisfactorily resolved between the parties the complaint is withdrawn and closed.

Where a complaint of unlawful race, sex, disability or age discrimination cannot be resolved through a conciliation process, the complaint is terminated. Complaints may also be terminated where the President is satisfied that an inquiry into the complaint should not be undertaken or continued because, for example, the complaint is lacking in substance or better dealt with by another organisation. Both parties to a complaint are advised in writing of the President's decision regarding a complaint. After a complaint is terminated, the complainant may apply to have the matter heard and determined by the Federal Court of Australia or the Federal Magistrates Court.

Complaints which allege a breach of human rights or discrimination under the *Human Rights and Equal Opportunity Commission Act 1986* cannot be taken to court for determination. Where complaints under this Act have not been declined or resolved and the President is of the view that the subject matter of the complaint constitutes discrimination or a breach of human rights, the President will report the findings to the Attorney-General for tabling in federal Parliament. Information on reports to the Attorney-General is available on HREOC's website at www.humanrights.gov.au/legal/reports_hreoca.html

A diagram of the complaint handling process is provided at Appendix 4.

In summary, in 2006–07:

- 1 779 complaints were received by the CHS;
- 1 656 complaints were finalised by the CHS;
- 38 percent of finalised complaints were conciliated;
- 94 percent of complaints were finalised within 12 months of lodgement; and
- the average time from lodgement to finalisation of a complaint was seven months.

4.1.1 Key performance indicators and standards

The CHS has developed key performance indicators and standards which provide the basis for ongoing assessment of complaint handling performance. These are summarised below.

- *Timeliness* – the section's stated performance standard is for 80 percent of complaints to be finalised within 12 months of receipt. While there was an increase in the number of complaints received in this reporting year, the CHS finalised 94 percent of matters within 12 months. This is a slight improvement on figures for the previous reporting year. A detailed breakdown of timeliness statistics by jurisdiction is provided in Table 12.
- *Conciliation rate* – the section's stated performance standard is for 30 percent of finalised complaints to be conciliated. In 2006–07, the CHS achieved a 38 percent conciliation rate which is consistent with the conciliation rate for the previous three reporting years.

- *Customer satisfaction* – the section’s stated performance standard is for 80 percent of parties to be satisfied with the complaint handling process. Data for the past year indicates that 92 percent of parties were satisfied with the service they received and 55 percent rated the service they received as ‘very good’ or ‘excellent’. Further details of survey results for this reporting year are provided below.

4.1.2 Customer satisfaction survey

The CHS asks for feedback on the complaint process from people lodging complaints (complainants) and people responding to complaints (respondents). This feedback is obtained by means of a customer satisfaction survey which is usually conducted by telephone interview. In 2006–07, 62 percent of those who could be contacted (194 complainants and 236 respondents) agreed to participate in the survey. Survey results for this reporting year are summarised below:

- Ninety-two (92) percent of complainants and 95 percent of respondents felt that staff explained things in a way that was easy for them to understand;
- Ninety-three (93) percent of complainants and 94 percent of respondents felt that forms and correspondence from HREOC were easy to understand;
- Sixty-three (63) percent of complainants and 83 percent of respondents felt that HREOC dealt with the complaint in a timely manner; and
- Ninety (90) percent of complainants and 94 percent of respondents did not consider staff to be biased.

These results are generally equal to or above average results obtained over the past four years.

4.1.3 Service Charter

The CHS Charter of Service provides a clear and accountable commitment to service. It also provides an avenue through which complainants and respondents can understand the nature and standard of service they can expect and contribute to service improvement. All complainants are provided with a copy of the charter when their complaint is accepted by HREOC and respondents receive a copy when notified of a complaint. The Charter of Service can also be downloaded from the CHS page of HREOC’s website at: www.humanrights.gov.au/complaints_information/charter_of_services/index.html

The Commission received two complaints about its service through this mechanism in the last reporting year.

4.1.4 Access to complaint services

The CHS aims to facilitate broad community access to information and services through the following measures:

- **Complaint Information Service.** The Complaint Info line (1300 656 419 – local call charge), which is open Monday – Friday between 9.00 am and 5.00 pm, allows people to call and discuss allegations of discrimination. They can also e-mail: complaintsinfo@humanrights.gov.au
- **CHS webpage:** www.humanrights.gov.au/complaints_information/. The webpage provides information about HREOC’s complaint handling service and the complaint process. It includes information about how to lodge a complaint, answers to frequently asked questions and examples of complaints. The website also provides a conciliation register that contains de-identified information about the outcomes of conciliated complaints. The CHS webpage received 202 748 page views during this reporting year.
- **Publications in community languages.** The CHS has a Concise Complaint Guide and an information poster available in 14 community languages. These publications can be ordered from the Complaint Information Service or downloaded from the CHS webpage at www.humanrights.gov.au/languages/index.html and www.humanrights.gov.au/pdf/complaints/translations_poster_A3.pdf
- **Interpreter and translation services.** In the past reporting year the CHS utilised a range of interpretation and translation services. The main language groups assisted in 2006–07 were Mandarin, Spanish, Polish, Cantonese, Vietnamese and Serbian. Auslan interpreters were used on 10 occasions.
- **Service provision in states and territories.** HREOC has formal arrangements with the Victorian Equal Opportunity and Human Rights Commission, the Queensland Anti-Discrimination Commission, the South Australian Equal Opportunity Commission, the Northern Territory Anti-Discrimination Commission and the Western Australia Equal Opportunity Commission whereby CHS publications are displayed by these agencies and CHS staff use agency facilities for conciliation conferences and community education presentations. HREOC has similar informal arrangements with the Tasmanian Anti-Discrimination Commission and the Australian Capital Territory Human Rights Office.
- **DVD on conciliation.** The audio-visual resource, *Pathways to Resolution*, was developed to provide information about conciliation to the general public and those who may be involved in the complaint process. This captioned DVD explains how conciliation is conducted as part of the complaint process, outlines how to prepare for conciliation and demonstrates positive approaches to discussing issues and negotiating resolution outcomes. This resource can be obtained from the Complaints Information Service and sections of the DVD can also be viewed on HREOC’s webpage at www.humanrights.gov.au/pathways_to_resolution/index.html
- **Conciliation circuits.** Conciliation officers travel throughout Australia to conduct face-to-face conciliation conferences. Along with conferences conducted in the greater Sydney area, CHS officers conducted 25 conferences in regional NSW (including Wollongong, Newcastle, Orange, Dubbo, Bathurst, Coffs Harbour, Lismore, Ballina, Albury, Taree, Merimbula and Wagga Wagga);

87 in Victoria (including Melbourne, Ballarat, Bendigo, Bairnsdale and Geelong); 70 in Adelaide; 40 in Queensland (including Brisbane, Cairns, Gladstone, the Sunshine Coast and Airlie Beach); 16 in Western Australia (including Kalgoorlie and Albany) and 13 in Canberra.

4.1.5 Community education

The CHS contributes to HREOC's function of promoting an understanding and acceptance of human rights through its community education activities.

In this reporting year, over 100 organisations throughout all states and territories either attended information sessions on the law and the complaint process run by CHS staff or were visited by CHS staff. These organisations included: community legal centres; professional associations and unions; Aboriginal legal centres; multicultural organisations; youth organisations and legal centres; neighbourhood centres and disability groups. Locations visited included: Perth and Kalgoorlie in Western Australia; Melbourne, Ballarat, Bendigo and Geelong in Victoria; Sydney, Taree, Lismore, Bathurst and Wollongong in New South Wales; and Brisbane, Darwin, Adelaide and Canberra.

In 2006–07, information kits about the law and the complaint process were also sent to more than 1 000 organisations around Australia.

4.1.6 Training

HREOC has two specialised training programs which provide knowledge and skills in complaint investigation and resolution. All complaint handling staff are required to undertake these courses. The CHS also provides investigation and conciliation training for other organisations on a fee for service basis.

During 2006–07, the investigation training course was run for HREOC staff on two occasions and a three-day conciliation training course was held for HREOC staff and staff of the Office of the Privacy Commissioner.

In October 2006 CHS staff conducted a two-day investigation training course in Hobart for staff of a Tasmanian state government department. Also in October 2006, CHS staff ran a two-day advanced conciliation training workshop in Sydney for staff of the Office of the Privacy Commissioner.

In this reporting year, HREOC's CHS worked in partnership with the Australian Public Service Commission to provide a two-day investigation training course for federal public servants. Seven such courses were held in various locations around Australia including Brisbane, Sydney, Canberra, Darwin, Townsville and Perth.

During 2006–07, staff of the CHS attended various seminars and training courses relating to their work. These included seminars on employment law conducted by the University of Sydney, Australian Government Solicitor Law Group seminars, the National Conciliators and Legal Officers Conference, the National Investigations Symposium, the National Conference on Women and Industrial Relations, the National Community Legal Centres Conference and the Commonwealth Conference of National Human Rights Institutions. During the year staff in the CHS also attended training in

leadership and management skills run by the Australian Public Service Commission. In November 2006 all CHS staff attended an in-house plain English writing skills course. Additionally, in February 2007 an in-house presentation skills training course was run for CHS staff.

4.1.7 National conference and conference presentations

In September 2006 HREOC hosted the National Conciliators and Legal Officers Conference, *Recognising Difference: Realising Rights* in Sydney. The conference was attended by conciliators and legal officers from HREOC and state and territory equal opportunity/anti-discrimination commissions. Participants also included staff from Human Rights Commissions in New Zealand, Malaysia, Nepal, Fiji, Mongolia, Thailand and South Korea. Five CHS staff presented papers at this conference.

In this reporting year CHS staff also presented papers at the following national and international conferences: the National Conference on Women and Industrial Relations held in Brisbane in July 2006; the Queensland Safety Forum in Brisbane; the National Community Legal Centres Conference in Wollongong in September 2006; the National Investigations Symposium in Sydney in November 2006; and the Commonwealth Conference of National Human Rights Institutions in London in February 2007.

4.1.8 International training and consultation

In 2006–07 HREOC was awarded a tender by the Asia Pacific Forum of National Human Rights Institutions to provide training for staff of the National Human Rights Commission of Malaysia (SUHAKAM). This project involved staff of the CHS developing and presenting a three-day training course in human rights investigation. The training took place in Kuala Lumpur from 15–17 November 2006 and 23 staff from SUHAKAM attended the program.

In early 2007 a CHS staff member participated in a two-week staff exchange program with the National Human Rights Commission of India. This program provided a unique opportunity to share knowledge and skills regarding the management of complaints lodged under human rights law.

The CHS is often called upon to provide placements for staff from overseas human rights institutions and to provide information about HREOC's complaint handling work to visiting delegations. During this reporting year CHS staff provided information to representatives of human rights institutions and government departments visiting from Hong Kong, China, Pakistan and India.

4.2 CONCILIATION CASE STUDIES¹

4.2.1 Racial Discrimination Act

In this reporting year, HREOC received 250 complaints under the Racial Discrimination Act. The majority of these complaints related to employment (42%), the provision of goods and services (26%) and racial hatred (15%). The CHS finalised 269 complaints under this Act and 22 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Racial Discrimination Act are provided later in this chapter.

1. Complaint of race discrimination and racial hatred in employment

The complainant, who is Indigenous, stated that during his employment as a labourer with the respondent engineering company he was regularly harassed and vilified because of his race. He claimed that co-workers would call him names such as “black”, “dark”, “half cast” and “coon”. He said the company did not have policies in place to deal with racial abuse and claimed he was not given adequate support to resolve the issues in the workplace.

In reply, the engineering company said that the first time they became aware of the complainant’s concerns was when he walked out of the premises and abandoned his employment. The company advised that it has anti-discrimination policies in place and is of the view that these are adequate. The company provided statements from its employees who agreed that they had referred to the complainant as “black” or “dark”, but said that the comments were made in jest and the complainant had laughed when the comments were made.

The complaint was resolved by the respondent agreeing to review and improve its anti-discrimination and harassment policies. This included nominating harassment contact officers and holding regular team meetings in which discrimination issues could be raised. The respondent also agreed to pay the complainant \$7 400 in general damages.

2. Alleged race discrimination and racial hatred in the provision of accommodation

The complainant, who is Kenyan, rented a unit from a company through a real estate agency. The complainant claimed that the real estate agent told him that the company wanted him to vacate the property. The complainant said that even though he had negotiated a date on which he would vacate the premises, the company changed the locks on the unit without telling him. The complainant said that as he had nowhere else to go, he had to sleep in a nearby park. The complainant alleged that the next week when he went to the unit to collect his property, he was racially abused by the company director’s son who said comments such as “Go back to your country you black bastard” and “f*** off you black c***”. The complainant also claimed that his bed and some of his furniture was missing from the unit.

The company agreed that it had changed the locks on the unit but said that it only did this because the complainant’s rent was in arrears. The company director’s son denied racially abusing the complainant.

¹ Complaints are generally resolved at conciliation on the basis of ‘no admission of liability’ by the respondent.

The complaint resolved through a conciliation process with the individual respondent agreeing to pay the complainant \$4 500 in compensation and attend anti-discrimination training.

3. Complaint of race discrimination in employment

The complainant had immigrated to Australia from Zimbabwe four years ago. The complainant alleged discrimination because of his race during employment as a tradesperson with the respondent car repair company. He alleged that two of his co-workers made unwelcome remarks about his skin colour and general appearance. He said they referred to him as a “burnt chop” and said white girls were just after him for his “big black c**k”. He also alleged that his work colleagues made an object that resembled a black male penis and placed this object in his toolbox.

In response to the allegations, the owner of the company advised HREOC that he had taken steps to rectify the situation. In particular, he stated that the staff members responsible were informed that if remarks or behaviour of this nature continued, they would face the prospect of dismissal. He also provided the complainant with a letter of acknowledgement which outlined that he understood the seriousness of the complaint.

The complainant advised HREOC that the actions taken by the respondent resolved his complaint.

4. Allegation of race discrimination, racial hatred and sexual harassment in employment

The complainant, who is of Lebanese background, claimed that she resigned from her employment as a receptionist with the respondent management services company because she had been discriminated against on the basis of her race and subjected to racial hatred and sexual harassment. She alleged that the director of the company sexually harassed her by touching her, propositioning her and making sexually suggestive comments. She also claimed that another manager made negative comments about people from Lebanese or Arabic backgrounds such as “If it was up to me, I would not have hired you. I hate Arabs, I always have” and “I hate Lebanese and I hate Arabs”. She also said that this manager made disparaging remarks about the Lebanese food she ate for lunch. The complainant also claimed that soon after the Cronulla riots, an e-mail was circulated to all company employees vilifying people of Lebanese background. She said that she complained about these events to her employer but no sufficient action was taken to address her concerns.

The company advised that the complainant made a written complaint about sexual harassment which was investigated. The company said the director denied the sexual harassment allegations but agreed to have no further contact with the complainant. The company confirmed that the complainant had also raised concerns about race discrimination by another manager but claimed the complainant resigned before the company could investigate the matter. The manager alleged to have racially discriminated against the complainant denied the allegations.

The parties resolved the complaint through a conciliation process with an agreement that the respondent company would pay the complainant \$21 000 compensation.

4.2.2 Sex Discrimination Act

In this reporting year HREOC received 472 complaints under the Sex Discrimination Act. The majority of complaints related to employment (81%). Nineteen percent of complaints alleged sexual harassment and 17 percent of complaints alleged pregnancy discrimination. The CHS finalised 452 complaints under this Act and 46 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Sex Discrimination Act are provided later in this chapter.

1. Alleged sexual harassment in employment

The complainant, who was employed as a receptionist with the respondent real estate company, alleged that she was sexually harassed by the general manager of the company. She claimed that the general manager would send her pornographic and sexually suggestive e-mails and make comments of a sexual nature. The complainant also claimed that the general manager put his hand up her skirt and touched her thighs, kissed her and exposed his penis to her.

The general manager denied the allegations. However, he acknowledged that he had sent the complainant e-mails. He claimed that the e-mails were not unwelcome as she was flirtatious in some of her replies. The company claimed that the complainant did not raise any allegations during her employment. The company advised that it has a sexual harassment policy in place and that the policy is discussed at monthly staff meetings.

A conciliation conference was held and the complaint was resolved with the respondent agreeing to pay the complainant \$18 000 compensation.

2. Complaint of discrimination in employment after return from maternity leave

The complainant was employed as a planning manager in an advertising agency. She claimed that while she was on maternity leave, there was a restructure of management positions and when she returned to work, she was advised that her former position had been filled on a permanent basis. The complainant said she was offered a new position in the same department which was fundamentally different from, and not comparable to, the position she held prior to going on leave. She alleged that while she kept her job title, she did not maintain any of her management responsibilities. She claimed that this amounted to sex and pregnancy discrimination and constructive dismissal and she advised that she subsequently accepted a position with another employer. The complainant also alleged that the work environment at the respondent agency was hostile to working mothers.

The respondent agency denied that it had discriminated against the complainant on the basis of her sex and/or pregnancy and claimed that the work role the complainant returned to after her maternity leave was essentially the same as the role she held before going on leave. The agency also denied that the work environment was hostile to working mothers.

The parties agreed to resolve the complaint at a conciliation conference with the respondent agreeing to pay the complainant \$15 000 general damages and \$20 000 as a termination payment.

3. Allegation of sex discrimination on the basis of breastfeeding

The complainant was breastfeeding her baby while in a court room watching proceedings. The complainant claimed that a staff member of the respondent government department asked her to leave the courtroom because she was breastfeeding.

The respondent department confirmed that the complainant was asked to leave the courtroom because she was breastfeeding. The department advised that this was an error and the individual staff member concerned had been counselled. The department apologised to the complainant in writing and offered to meet with the complainant to apologise in person.

The complaint was resolved by the department providing a personal apology to the complainant. The department also agreed to display a "Breastfeeding welcome here", sticker at the courthouse.

4. Complaint of sex and family responsibilities discrimination in casual employment

The complainant worked in a winery as a food and beverage attendant. The complainant was employed on a casual basis and worked both weekday and weekend shifts. The complainant's family responsibilities changed and she advised the company that while she could still work weekday shifts, she could only work every second weekend. The complainant claimed that the number of shifts she was allocated was then reduced and she was ultimately dismissed. She said that when she was dismissed, her employer told her that her unavailability to work weekends meant that she was unsuitable to work in the hospitality industry.

In reply, the respondent company denied the allegations and advised that the hours worked by casual employees are at its discretion. The company stated that its inability to offer continuing work to the complainant was due to its financial position.

The complaint was resolved through a conciliation process. The company agreed to develop and implement an anti-discrimination policy and train managers in this policy. It also agreed to provide the complainant with a letter of apology and \$6 000 compensation.

5. Alleged sex, pregnancy and family responsibilities discrimination in employment

The complainant was employed on a permanent basis as a pre-school teacher at a private school. The complainant said there was an agreement that she would return to work part-time in her former position after taking 12 months maternity leave. The complainant claimed she returned to work part-time for one term on a temporary basis but was advised that her position would not be available on a part-time basis in the following school year.

As the parties were in a continuing employment relationship, conciliation was attempted within a few days of HREOC receiving the complaint. The complaint resolved at a conciliation conference. The respondent school agreed that the complainant would return to a comparable position on a permanent part-time basis. The complainant was able to return to work in the 2007 school year and retain her leave and other entitlements.

4.2.3 Disability Discrimination Act

In this reporting year, HREOC received 802 complaints under the Disability Discrimination Act. The majority of these complaints concerned employment (46%) and the provision of goods, services and facilities (29%). The CHS finalised 682 complaints under this Act and 44 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Disability Discrimination Act are provided later in this chapter.

1. Complaint of disability discrimination in recruitment

The complainant applied for a customer service position with a Commonwealth Government department through a private recruitment agency. The complainant has a slight hearing loss in one ear and underwent a pre-employment medical examination. The complainant said that the recruitment agency subsequently advised her that she did not meet the medical standard for employment and she would not be able to do telephone work which was an inherent requirement of the job. The complainant was not employed in the customer service role and alleged disability discrimination.

When HREOC advised the Commonwealth department of the complaint, the department expressed a desire to attempt conciliation.

The complaint was resolved by the department offering the complainant a customer service position with a three-month probationary period.

2. Allegation of disability discrimination in secondary education

The complainant's daughter is in year 12 at a public secondary school and has a physical disability which is characterised by chronic pain. The complainant alleged that her daughter was not provided with reasonable adjustment in the form of an extension for a specific assignment. The complainant further alleged that her daughter had been verbally harassed on the basis of her disability by a teacher and the principal of the school had failed to respond appropriately to complaints about the harassment.

The teacher and school stated that reasonable adjustment had been provided to accommodate the effects of the student's disability. The teacher denied that she had harassed the student and said that any comments she made were in the context of providing advice and guidance to the student. The principal denied responding inappropriately to complaints regarding lack of provision of reasonable adjustment and/or harassment.

The complaint was resolved through conciliation, with the school agreeing to pay the complainant's daughter the sum of \$5 000 in general damages, brief staff on the needs of the student, provide reasonable adjustment for future assessments and issue the student and her family with an apology.

3. Complaint of disability discrimination in the provision of goods and services

The complainant has tetraplegia and uses a customised electric wheelchair. The complainant advised that she has previously travelled on the respondent airline when

needing to go from her regional community to the city for medical treatment. The complainant alleged that two weeks before she was due to travel to the city again, the airline told her that her wheelchair did not comply with their new policy and they would not carry her wheelchair. The complainant claimed that due to her disability she cannot travel without her own wheelchair.

The airline advised HREOC that the complainant's wheelchair was too large for staff to place in the aircraft hold in accordance with its new occupational health and safety (OH and S) policy.

The matter was resolved through a conciliation process. The complainant agreed to have her wheelchair modified so that it could be loaded onto the aircraft in accordance with the airline's OH and S policy. The airline agreed to organise extra staff to load the wheelchair onto the aircraft for the trip to the city so that the modification of the wheelchair could occur.

4. Alleged disability discrimination in employment

The complainant was employed in a senior management position with a wholesale company. The complainant was diagnosed with cancer and applied for, and was granted, leave for surgery. The complainant subsequently advised the company that he would require four days off per month for further treatment and recovery. The complainant claimed he was demoted to a management position with fewer responsibilities and a lower salary, and then dismissed because of his disability.

The respondent company agreed that the complainant was offered a lesser management role because of his disability. The company said that the complainant was offered a different position to accommodate the effects of his disability and to place him in a position where his disability did not impair his ability to perform the inherent requirements of the position. The respondent claimed that the complainant's employment was terminated because of poor performance.

The complaint was resolved through conciliation with the respondent agreeing to pay the complainant \$45 000 in general damages.

5. Complaint of disability discrimination in the administration of Commonwealth laws and programs

The complainant, who is deaf, claimed that the respondent Commonwealth agency funds the development of Australian films but does not require them to be captioned. The complainant claimed that he wanted to watch two specific Australian films but these films were not captioned.

The respondent agency advised HREOC that it currently did not require the films it funds to be captioned. The agency said that it regretted that the complainant could not enjoy the two films. However, it denied that this constituted unlawful disability discrimination.

The matter resolved through a conciliation process with the agency agreeing that from 1 July 2007 it will require all feature films it finances to be captioned for cinema and DVD release. It was agreed that the agency will pay for the cost of captioning

each feature film and will quarantine the cost from the film's budget. The agency will also require feature film producers to use their best endeavours to ensure that all Australian distribution agreements include access for the hearing impaired via captioning for cinema and DVD.

6. Alleged discrimination in employment due to psychiatric disability

The complainant had worked as a property manager for the respondent property management company for two years. The complainant became unwell and required hospital treatment for bi-polar disorder. The complainant's case manager contacted the respondent company to advise that the complainant would require two weeks sick leave. The complainant claimed that the company then finalised his employment and provided him with an ex-gratia payment of \$15 000.

The respondent company advised HREOC that the complainant's employment was finalised due to unsatisfactory work performance.

A conciliation conference was convened and the parties resolved the complaint with the respondent agreeing to pay the complainant general damages in the sum of \$6 500.

4.2.4 Age Discrimination Act

In this reporting year, HREOC received 106 complaints under the Age Discrimination Act. The majority of these complaints concerned employment (68%). The CHS finalised 115 complaints under this Act and 32 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Age Discrimination Act are provided later in this chapter.

1. Complaint of age discrimination in the provision of services by a nightclub

The complainant, who is 19 years of age, said that he was told by a nightclub and entertainment complex that only people 20 years of age and over are allowed to enter the premises. He claimed this was also stated on the nightclub's website and that because of this rule he could not enter the nightclub.

The nightclub confirmed that it only allowed people who were 20 years of age or over to enter the club and advised that this was for commercial reasons.

The complaint was resolved after the nightclub agreed to change its rule and allow people who are 18 years of age or over to enter the club and to update its website information to reflect this.

2. Alleged age discrimination in recruitment

The complainant was 40 years of age and had worked at a community-based welfare centre as a volunteer for a two-year period when she applied for the position of centre co-ordinator. She claimed that her application was not successful because of her age. She alleged that the chairman of the centre's management committee said, *"It's really that we are looking for a young fresh face and the lass who got the job already knows everything about it."*

The respondent welfare centre advised HREOC that the successful applicant was selected on the basis of merit. The centre claimed that in comparison with the complainant, the successful applicant had broader experience which included staff supervision and relevant qualifications, and also gave better answers to questions at interview. The centre said that age was not a selection criterion and was not mentioned or discussed during the interview. The centre also provided a statement signed by all members of the selection panel indicating that all interviewees were asked the same questions, that the decision was unanimous and that age was not a consideration at any stage of the recruitment process.

The parties attended a conciliation conference and the complaint was resolved by the respondent agreeing to pay the complainant \$680.

3. Alleged termination of employment on the basis of age

The complainant, who is 54 years of age, was employed by a small retail company as a full-time sales assistant. She alleged that she was dismissed when the business was taken over by a new owner and she claimed that the new owner told her this was because she was too expensive to retain. The complainant claimed that at the same time, the business advertised for a full-time junior sales assistant. The complainant alleged her employment was terminated because she was too old.

The respondent company denied that it dismissed the complainant because of her age. The company claimed that it urgently needed to employ another staff member in a production role. However, as it is a small business it could not afford to employ both a new person in production and a full-time senior sales assistant.

The complaint was resolved through telephone discussions with the parties. The business agreed to pay the complainant financial compensation representing three weeks wages.

4. Complaint of age discrimination in termination of employment

The complainant was 65 years of age and the general manager of an export company with a parent company in Kuwait. The complainant claimed that the company told him he must retire on turning 65 year of age as the law in Kuwait requires that people over 65 do not remain in employment. The complainant said that he told his employer that he did not want to retire. However, the company proceeded to terminate his employment.

The company advised HREOC that the complainant's employment was not terminated because of his age but because the company wanted new blood and new vision.

The complaint was resolved between the parties through a conciliation process. The respondent agreed to pay the complainant \$150 000 in compensation.

4.2.5 Human Rights and Equal Opportunity Commission Act

In this reporting year, HREOC received 149 complaints under the Human Rights and Equal Opportunity Commission Act. The majority of these complaints concerned discrimination in employment based on criminal record (34%) and alleged breaches of the International Covenant on Civil and Political Rights (21%). The CHS finalised 138 complaints under this Act and 20 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Human Rights and Equal Opportunity Commission Act are provided later in this chapter.

1. Complaint of criminal record discrimination in employment

The complainant worked as a casual locum caseworker at a youth justice service run by a state government department. He said that when he commenced employment he disclosed his criminal record and gave information about the circumstances surrounding his conviction. He stated that he subsequently applied for a permanent caseworker position but was told that due to his criminal record, and in particular, a conviction for supplying heroin 16 years ago, he would not be appointed to the position. He claimed that he was also told that he could no longer have one-on-one contact with clients of the service and his employment was terminated due to his criminal record.

The respondent department advised that the complainant's criminal record meant that he was unable to perform the inherent requirements of the caseworker position and could not meet departmental standards. The department submitted that it has a duty of care to its clients who are aged between 10 and 17 years and usually vulnerable because of their personal circumstances.

The complaint was resolved at a conciliation conference with the respondent agreeing to pay the complainant \$10 000 in general damages.

2. Alleged discrimination on the ground of sexual preference in casual employment

The complainant was employed by the respondent cleaning company as a casual cleaner. She stated that her supervisor terminated her employment about one week after new management took over the company. She said that no reason was given for her dismissal and the correct procedures were not followed. The complainant alleged that a few days prior to her dismissal she had a conversation with her supervisor in which she disclosed she was in a same-sex relationship. The complainant claimed that after this conversation, the supervisor's attitude towards her changed. She claimed that she was dismissed because of her sexual preference.

The respondent company denied that the complainant had been discriminated against because of her sexual preference. The company said it was aware of the complainant's sexual preference prior to the conversation referred to in the complaint. The company claimed that the complainant was dismissed because of the quality of her work during the probationary period.

The complaint was resolved through a conciliation process. As a result of this process, the company agreed to pay the complainant \$1 000 compensation and provide her with a statement of service and an apology.

3. Complaint of trade union discrimination in employment

The complainant was employed as an administrative assistant in a public hospital and was a union delegate. She claimed that when she approached her manager to pass on a message from the union regarding the change of a meeting time, her manager shouted abuse at her, shook her finger at her and said words to the effect '*you people do not want to get the dispute resolved*'.

As the complainant was still employed by the respondent hospital, the parties agreed to attend a conciliation conference prior to any investigation being undertaken by HREOC. The complaint was resolved to the satisfaction of both parties. The respondent agreed to: provide the complainant with a written apology and allow her to show the apology to her co-workers who allegedly overheard the comment; provide the complainant with a reference; clarify the role of union delegates at the next all-staff meeting; and re-credit the complainant's sick leave entitlements for leave taken subsequent to the incident.

4. Alleged criminal record discrimination in employment

The complainant was employed as a casual teacher's aide in a public primary school. She alleged that from the time she commenced employment with the school until she made the complaint to HREOC, she was provided with less work than other teacher's aides who were employed at the same time as her or after her. The complainant claimed that she was treated this way because during the recruitment process, the school principal became aware of her criminal record. The complainant claimed that her criminal record was not relevant to the position as she had obtained the 'working with children' clearance that was required in order to be employed as a teacher's aide.

In response, the school denied that it had discriminated against the complainant because of her criminal record. The school claimed that the complainant had been provided with work in accordance with her ranking on an order of merit list.

Both parties agreed to resolve this complaint at a conciliation conference. The school agreed to provide the complainant with a statement of regret and a letter clarifying the process for appointing permanent part-time staff. The respondent also agreed to pay the complainant \$3 600 in general damages.

4.3 COMPLAINT HANDLING STATISTICS

4.3.1 Preliminary comments

The following statistical data provides information on enquiries handled by HREOC this reporting year, an overview of complaints received and finalised and specific details on complaints received and finalised under each of the Acts administered by HREOC.

When comparing complaint data between different agencies and across reporting years, it is important to consider that there may be variations in the way the data is counted and collected. Some additional information explaining HREOC's approach to statistical reporting is footnoted. Further clarification about complaint statistics can be obtained by contacting the CHS.

4.3.2 Summary

(i) Enquiries received and complaints received and finalised

Over the previous four reporting years, HREOC received an average of approximately 10 100 enquiries per year. In the 2006–07 reporting year HREOC received 16 606 enquiries which represents a 64 percent increase on the previous average number received. In the previous four reporting years on average, 18 percent of the issues raised by enquirers related to employment. In 2006–07, 32 percent of issues raised by enquirers related to employment.

Over the previous four reporting years, HREOC received an average of approximately 1 250 complaints per year. In the 2006–07 reporting year, HREOC received 1 779 complaints which represents a 42 percent increase in comparison with the previous average number received. In the 2006–07 reporting year 45 percent of complaints received were lodged under the Disability Discrimination Act, 27 percent under the Sex Discrimination Act, 14 percent under the Racial Discrimination Act, eight percent under the Human Rights and Equal Opportunity Commission Act and six percent under the Age Discrimination Act. For the past four reporting years, the majority of complaints received have been lodged under the Disability Discrimination Act and the Sex Discrimination Act.

As in previous years, employment was the main area of complaint under all federal anti-discrimination legislation. In 2006–07 complaints regarding employment constituted: 42 percent of complaints under the Racial Discrimination Act; 81 percent of complaints under the Sex Discrimination Act; 46 percent of complaints under the Disability Discrimination Act; and 68 percent of complaints under the Age Discrimination Act.

The majority of complaints received under the Human Rights and Equal Opportunity Commission Act related to discrimination in employment on the ground of criminal record and alleged breaches of the International Covenant on Civil and Political Rights. These have been the main subject areas of complaint for the past four years.

(ii) Conciliation of complaints

Of the complaints finalised in 2006–07, 38 percent were conciliated. This is consistent with the conciliation rate for the previous three reporting years. Of those matters where conciliation was attempted in 2006–07, 69 percent were able to be resolved. This represents a two percent increase in the conciliation success rate in comparison with the previous reporting year. The conciliation success rate has consistently increased over the past four reporting years.

Complaints under the Sex Discrimination Act had the highest conciliation rate (46%) and a conciliation success rate of 69 percent. Complaints under the Disability Discrimination Act had the second highest conciliation rate (44%) and a conciliation success rate of 71 percent. Complaints under the Age Discrimination Act had a conciliation rate of 32 percent and a high conciliation success rate of 76 percent, while complaints under the Racial Discrimination Act had a conciliation rate of 22 percent and a conciliation success rate of 52 percent. In this reporting year, 20 percent of finalised complaints under the Human Rights and Equal Opportunity Commission Act were successfully resolved and these complaints had the highest conciliation success rate (87.5%).

(iii) Demographic data

Information on the geographical location and ethnicity of complainants is provided in Tables 7, 9 and 10 below.

Demographic data obtained during the complaint process indicates that 54 percent of complaints were lodged by individual females, 45 percent by individual males and one percent by other categories, for example, multiple complainants.

Forty-eight percent of complainants reported that they knew about HREOC prior to lodging their complaint. The main sources of information for others were legal centres and lawyers (10%) and family members, friends or support people (8%).

The majority of complainants (52%) indicated that their main source of income at the time of the alleged act was from full, part-time or casual employment.

Approximately 33 percent of complainants were represented in the complaint process. Of this group, 40 percent were represented by privately funded solicitors. Other forms of representation were other advocate groups such as working women's centres or disability advocacy services (20%), community legal centres such as Indigenous or disability legal services (16%), family members or friends (14%) and trade unions or professional associations (10%).

Data collected on respondent categories indicates that in the last reporting year approximately 46 percent of complaints were against private enterprise, 12 percent were against Commonwealth departments/statutory authorities and 11 percent were against state departments/statutory authorities. These have been the main respondent organisation categories for the last four reporting years. Complete information on respondent categories is provided in Table 11.

4.3.3 Complaint Information Service

Table 1: Website enquiries	
Complaint Handling Section webpage views	202 748

Table 2: Telephone, TTY, e-mail, in-person and written enquiries received	
<i>Enquiry type</i>	<i>Total</i>
Telephone	14 078
TTY	16
E-mail	1 653
In-person	104
Written	755
Total	16 606

Table 3: Enquiries received by issue	
<i>Issue</i>	<i>Total</i>
Race	1 725
Race – racial hatred	587
Sex – direct	696
Sexual harassment	762
Sex – marital status, family responsibilities, parental status, carers responsibilities, breast feeding	384
Sex – pregnancy	635
Sexual preference, transgender, homosexuality, lawful sexual activity	157
Disability – impairment	2 438
Disability – HIV/AIDS/Hepatitis	44
Disability – workers compensation	189
Disability – mental health	658
Disability – intellectual/learning disability	201
Disability – maltreatment/negligence	37
Disability – physical feature	101
Age – too young	163
Age – too old	496

Table 3: Enquiries received by issue (con't)	
Age – compulsory retirement	21
Criminal record/conviction	302
Political opinion	24
Religion/religious organisations	231
Employment – personality conflicts/favouritism	279
Employment – union/industrial activity	119
Employment – unfair dismissal/other industrial issues	6 367
Employment – workplace bullying	1 097
Human rights – children	177
Human rights – civil, political, economic, social	737
Immigration – detention centres	102
Immigration – visas	207
Prisons/prisoners	192
Police	205
Court – family court	198
Court – other law matters	291
Privacy – data protection	134
Neighbourhood disputes	60
Advertising	44
Local government – administration	103
State government – administration	416
Federal government – administration	451
Other	3 207
Total*	24 237

* One enquiry may have multiple issues.

<i>State of origin</i>	<i>Total</i>	<i>Percentage (%)</i>
New South Wales	6 389	38
Victoria	3 429	21
South Australia	1 315	8
Western Australia	969	6
Queensland	2 608	16
Australian Capital Territory	366	2
Tasmania	329	2
Northern Territory	335	2
Unknown/overseas	866	5
<i>Total</i>	<i>16 606</i>	<i>100</i>

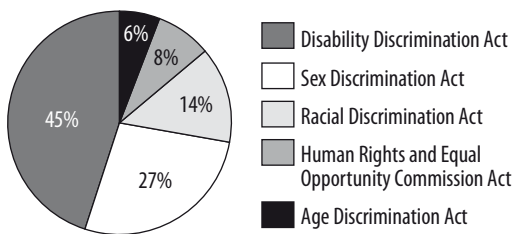
4.3.4 Complaints Overview

Table 5: National complaints received and finalised over the past four years				
	<i>2003–04</i>	<i>2004–05</i>	<i>2005–06</i>	<i>2006–07</i>
Received	1 113	1 241	1 397	1 779
Finalised	1 229	1 233	1 205	1 656

Table 6: Outcomes of national complaints finalised over the past four years				
	<i>2003–04 (percent)</i>	<i>2004–05 (percent)</i>	<i>2005–06 (percent)</i>	<i>2006–07 (percent)</i>
Terminated/declined	51	46	44	48
Conciliated	38	38	39	38
Withdrawn	10	16	16	14
Reported (HREOCA only)	1	–	1	–

Table 7: State of origin of complainant at time of lodgement		
<i>State of origin</i>	<i>Total</i>	<i>Percentage (%)</i>
New South Wales	767	43
Victoria	356	20
South Australia	204	12
Western Australia	114	6
Queensland	256	14
Australian Capital Territory	37	2
Tasmania	12	1
Northern Territory	26	2
Unknown/overseas	7	–
Total	1 779	100

<i>Act</i>	<i>Received</i>	<i>Finalised</i>
Racial Discrimination Act (RDA)	250	269
Sex Discrimination Act (SDA)	472	452
Disability Discrimination Act (DDA)	802	682
Age Discrimination Act (ADA)	106	115
Human Rights and Equal Opportunity Commission Act (HREOCA)	149	138
Total	1 779	1 656

Chart 1: Complaints received by Act

	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Total (%)</i>
Born in Australia	31	57	55	40	43	50
Born outside of Australia	60	12	15	33	27	24
Unknown	9	31	30	27	30	26

	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Total (%)</i>
Aboriginal	23	3	3	2	1	6
Torres Strait Islander	2	–	–	–	–	–
None of the above	75	97	97	98	99	94

	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Total (%)</i>
Individual male	18	23	9	8	16	15
Individual female	9	10	8	5	4	8
Private enterprise	43	46	48	55	35	46
Commonwealth government department / statutory authority	8	10	12	15	23	12
State government department / statutory authority	13	4	15	5	12	11
Local government	1	–	3	1.5	2	2
Government Business Enterprise	1	1	1	3	1.5	1
Educational institution	2	2	1	2	2	2
Trade union / professional association	1	–	–	1.5	1	–
Not for profit organisation / non government	2	2	1	1.5	1	1
Clubs/incorporated associations	1	1	1	1	1	1
Other	1	1	1	1.5	1.5	1

	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Cumulative Total (%)</i>
0 – 3 months	21	20	17	25	17	19
3 – 6 months	38	35	36	27	18	53
6 – 9 months	24	25	29	33	23	80
9 – 12 months	12	15	13	9	22	94
More than 12 months	4	5	5	6	17	100
More than 24 months	1	–	–	–	3	–

4.3.5 Racial Discrimination Act

Table 13: Racial Discrimination Act – complaints received and finalised	
	<i>Total</i>
Received	250
Finalised	269

Table 14: Racial Discrimination Act – complaints received by ground		
<i>Racial Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Colour	25	7
National origin/extraction	70	18
Ethnic origin	47	12
Descent	6	2
Race	172	45
Victimisation	3	1
Racial hatred	51	13
Aids, permits or instructs	–	–
Association	9	2
Total*	383	100

* One complaint may have multiple grounds.

Table 15: Racial Discrimination Act – complaints received by area		
<i>Racial Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Rights to equality before the law	5	1
Access to places and facilities	12	3
Land, housing, other accommodation	8	2
Provision of goods and services	97	26
Right to join trade unions	–	–
Employment	160	42
Advertisements	–	–
Education	5	1
Incitement to unlawful acts	1	–
Other – section 9	39	10
Racial hatred	56	15
Total*	383	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

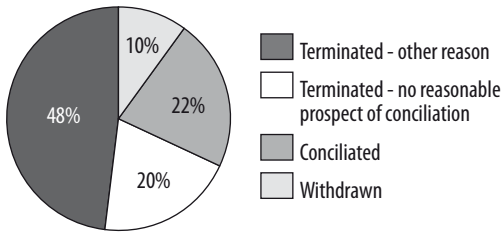
Table 16: Racial hatred complaints received by sub-area		
<i>Racial Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Media – press/TV/radio	2	5
Disputes between neighbours	5	11
Personal conflict	8	18
Employment	14	32
Racist propaganda	–	–
Internet – e-mail/webpage/chat room	8	18
Entertainment	–	–
Sport	1	2
Public debate	–	–
Provision of goods and services	6	14
Total*	44	100

* One sub-area is recorded for each racial hatred complaint received.

Table 17: Racial Discrimination Act – outcomes of finalised complaints	
<i>Racial Discrimination Act</i>	<i>Total</i>
Terminated	176
At complainants request – section 46PE	–
Not unlawful	7
More than 12 months old	6
Trivial, vexatious, frivolous, misconceived, lacking in substance	107
Adequately dealt with already	2
More appropriate remedy available	2
Subject matter of public importance	–
No reasonable prospect of conciliation	52
Withdrawn	25
Withdrawn, does not wish to pursue, advised the Commission	24
Withdrawn, does not wish to pursue, settled outside the Commission	1
Conciliated	56
Administrative closure*	12
Total	269

* Not an aggrieved party, state complaint previously lodged.

Chart 2: Racial Discrimination Act – outcomes of finalised complaints



4.3.6 Sex Discrimination Act

Table 18: Sex Discrimination Act – complaints received and finalised	
<i>Sex Discrimination Act</i>	<i>Total</i>
Received	472
Finalised	452

Table 19: Sex Discrimination Act – complaints received by sex of complainant		
<i>Sex Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Female	412	87
Male	60	13
Joint/multiple	–	–
Total	472	100

Table 20: Sex Discrimination Act – complaints received by ground		
<i>Sex Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Sex discrimination	449	45
Marital status	30	3
Pregnancy	170	17
Sexual harassment	186	19
Parental status/family responsibility	39	4
Victimisation	118	12
Aids, permits, instructs – s. 105	3	–
Total*	995	100

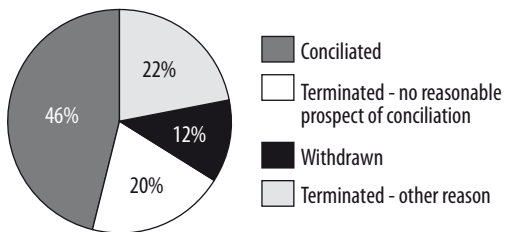
* One complaint may have multiple grounds.

Table 21: Sex Discrimination Act – complaints received by area		
<i>Sex Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Employment	805	81
Goods, services and facilities	95	9
Land	–	–
Accommodation	11	1
Superannuation, insurance	6	1
Education	6	1
Clubs	–	–
Administration of Commonwealth laws and programs	72	7
Application forms etc.	–	–
Trade unions, accrediting bodies	–	–
Total*	995	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

Table 22: Sex Discrimination Act – outcomes of finalised complaints	
<i>Sex Discrimination Act</i>	<i>Total</i>
Terminated	181
At complainants request – section 46PE	–
Not unlawful	2
More than 12 months old	5
Trivial, vexatious, frivolous, misconceived, lacking in substance	82
Adequately dealt with already	2
More appropriate remedy available	2
Subject matter of public importance	–
No reasonable prospect of conciliation	88
Withdrawn	52
Withdrawn, does not wish to pursue, advised the Commission	48
Withdrawn, does not wish to pursue, settled outside the Commission	4
Conciliated	197
Administrative closure*	22
Total	452

* Not an aggrieved party, state complaint previously lodged.

Chart 3: Sex Discrimination Act – outcomes of finalised complaints

4.3.7 Disability Discrimination Act

Table 23: Disability Discrimination Act – complaints received and finalised

<i>Disability Discrimination Act</i>	<i>Total</i>
Received	802
Finalised	682

Table 24: Nature of complainant's disability

<i>Disability Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Physical disability	176	21
A mobility aid is used (e.g. walking frame or wheelchair)	86	10
Physical disfigurement	13	2
Presence in the body of organisms causing disease (e.g. HIV/AIDS)	21	2
Presence in the body of organisms causing disease (other)	8	1
Psychiatric disability	134	16
Neurological disability (e.g. epilepsy)	50	6
Intellectual disability	24	3
Learning disability	25	3
Sensory disability (hearing impaired)	30	4
Sensory disability (deaf)	20	2
Sensory disability (vision impaired)	37	4
Sensory disability (blind)	31	4
Work related injury	62	7
Medical condition (e.g. diabetes)	74	9
Other	49	6
Total*	840	100

* One complainant may have multiple disabilities.

Table 25: Disability Discrimination Act – complaints received by ground		
<i>Disability Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Disability of person(s) aggrieved	1 692	88
Associate	37	2
Disability – person assisted by trained animal	34	2
Disability – accompanied by assistant	9	–
Disability – use of appliance	8	–
Harassment	10	1
Victimisation	133	7
Aids, permits or instructs	8	–
Total*	1 931	100

* One complaint may have multiple grounds.

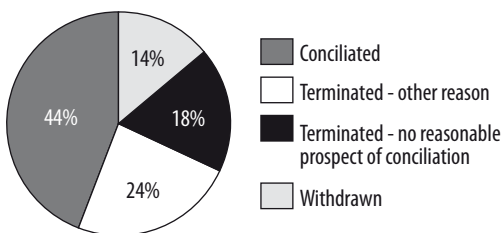
Table 26: Disability Discrimination Act – complaints received by area		
<i>Disability Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Employment	888	46
Goods, services and facilities	561	29
Access to premises	68	4
Land	2	–
Accommodation	44	2
Incitement to unlawful acts or offences	–	–
Advertisements	–	–
Superannuation, insurance	22	1
Education	137	7
Clubs, incorporated associations	13	1
Administration of Commonwealth laws and programs	144	8
Sport	6	–
Application forms, requests for information	6	–
Trade unions, registered organisations	–	–
Unlawful to contravene Disability Standard	40	2
Total*	1 931	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

Table 27: Disability Discrimination Act – outcomes of finalised complaints	
<i>Disability Discrimination Act</i>	<i>Total</i>
Terminated	285
At complainants request – section 46PE	–
Not unlawful	13
More than 12 months old	2
Trivial, vexatious, frivolous, misconceived, lacking in substance	141
Adequately dealt with already	3
More appropriate remedy available	5
Subject matter of public importance	–
No reasonable prospect of conciliation	121
Withdrawn	91
Withdrawn, does not wish to pursue, advised the Commission	86
Withdrawn, does not wish to pursue, settled outside the Commission	5
Conciliated	295
Administrative closure*	11
Total	682

* Not an aggrieved party, state complaint previously lodged.

Chart 4: Disability Discrimination Act – outcomes of finalised complaints



4.3.8 Age Discrimination Act

Table 28: Age Discrimination Act – complaints received and finalised	
<i>Age Discrimination Act</i>	<i>Total</i>
Received	106
Finalised	115

Table 29: Age Discrimination Act – complaints received by age group of complainant		
<i>Age Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
0 – 14 years	2	2
15 – 24 years	10	9
25 – 34 years	5	5
35 – 44 years	13	12
45 – 54 years	18	17
55 – 64 years	31	29
> 65 years	21	20
Unknown	6	6
Total	106	100

Table 30: Age Discrimination Act – complaints received by area		
<i>Age Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Employment	135	68
Goods, services and facilities	37	19
Access to premises	–	–
Land	–	–
Accommodation	13	6
Incitement to unlawful acts or offences	–	–
Advertisements	4	2
Superannuation, insurance	4	2
Education	–	–
Clubs, incorporated associations	–	–
Administration of Commonwealth laws and programs	6	3

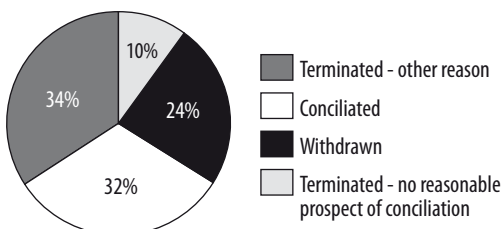
Area	Count	Total
Sport	–	–
Application forms, requests for information	–	–
Trade unions, registered organisations	–	–
Total*	199	100

* One complaint may have multiple and different areas.

Age Discrimination Act	Total
Terminated	48
At complainants request – section 46PE	–
Not unlawful	3
More than 12 months old	1
Trivial, vexatious, frivolous, misconceived, lacking in substance	33
Adequately dealt with already	–
More appropriate remedy available	–
Subject matter of public importance	–
No reasonable prospect of conciliation	11
Withdrawn	27
Withdrawn, does not wish to pursue, advised the Commission	25
Withdrawn, does not wish to pursue, settled outside the Commission	2
Conciliated	35
Administrative closure*	5
Total	115

* Not an aggrieved party, state complaint previously lodged.

Chart 5: Age Discrimination Act – outcomes of finalised complaints



4.3.9 Human Rights and Equal Opportunity Commission Act

Table 32: HREOCA – complaints received and finalised	
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>
Received	149
Finalised	138

Table 33: HREOCA – complaints received by ground		
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Race (ILO 111)	–	–
Colour (ILO 111)	–	–
Sex (ILO 111)	–	–
Religion (ILO 111)	20	13
Political opinion (ILO 111)	5	3
National extraction (ILO 111)	–	–
Social origin (ILO 111)	–	–
Age (ILO 111)	2	1
Medical record (ILO 111)	2	1
Criminal record (ILO 111)	54	34
Impairment (including HIV/AIDS status) (ILO 111)	–	–
Marital status (ILO 111)	–	–
Disability (ILO 111)	–	–
Nationality (ILO 111)	1	1
Sexual preference (ILO 111)	17	11
Trade union activity (ILO 111)	16	10
International Covenant on Civil and Political Rights	34	21
Declaration on the Rights of the Child	4	3
Declaration on the Rights of Mentally Retarded Persons	–	–
Declaration on the Rights of Disabled Persons	–	–
Convention on the Rights of the Child	–	–
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	2	1
Not a ground within jurisdiction	–	–
Not a human right as defined by the Act	1	1
Total*	158	100

*One complaint may have multiple grounds.

Table 34: HREOCA – complaints received by area		
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Acts or practices of the Commonwealth	37	23
Employment	115	73
Not act or practice of the Commonwealth (not employment cases)	6	4
Total*	158	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

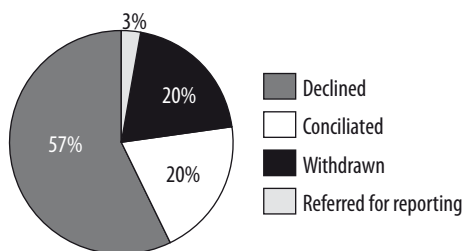
Table 35: HREOCA – non-employment complaints received by sub-area		
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Prisons, prisoner	4	9
Religious institutions	–	–
Family court matters	–	–
Other law court matters	5	12
Immigration	30	70
Law enforcement agency	–	–
State agency	1	2
Other service provider (private sector)	–	–
Local government	–	–
Education systems	1	2
Welfare systems	–	–
Personal or neighbourhood conflict	–	–
Health system	–	–
Other	2	5
Total	43	100

Table 36: HREOCA – Outcomes of finalised complaints	
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>
Declined	106
Does not constitute discrimination	14
Human rights breach, not inconsistent or contrary to any human right	8
More than 12 months old	2
Trivial, vexatious, frivolous, misconceived, lacking in substance	50
Adequately dealt with already	1
More appropriate remedy available	4
Withdrawn, does not wish to pursue, advised the Commission	27
Withdrawn, does not wish to pursue, settled outside the Commission	–
Withdrawn or lost contact	–
Conciliated	28
Referred for reporting*	4
Administrative closure**	–
Total	138

* Complaints in this category were not conciliable and therefore transferred from HREOC's Complaint Handling Section to Legal Services for further inquiry and possible report.

** Not an aggrieved party, state complaint previously lodged.

Chart 6: Human Rights and Equal Opportunity Commission Act – outcomes of finalised complaints



Chapter 5

Legal Services

5.1 RESPONSIBILITIES AND OVERVIEW

The Legal Section provides legal advice and representation to HREOC, the President and Commissioners. Its work includes:

- Advising on human rights, discrimination and other laws relevant to the work of HREOC;
- Preparing notices and reports under the Human Rights and Equal Opportunity Commission Act (HREOCA) concerning complaints of breaches of human rights or discrimination in employment;
- Representing HREOC in proceedings in which it intervenes to make submissions about human rights issues;
- Representing Commissioners as *amicus curiae* in unlawful discrimination proceedings;
- Legal education and promoting awareness of developments in human rights and discrimination law;
- Representing HREOC in external litigation such as review proceedings under the *Administrative Decisions (Judicial Review) Act 1977* (Cth);
- Preparing and advising on submissions to government and law reform bodies concerning the human rights implications of changes or proposed changes to the law. (A list of these submissions can be found in Chapter 3 of this report, Monitoring Human Rights.)
- Assisting HREOC to consider applications for exemptions under the Sex Discrimination Act and Age Discrimination Act;
- Responding on behalf of HREOC to applications for access to information under the *Freedom of Information Act 1982* (Cth); and
- Assisting in international technical assistance work undertaken by HREOC.

5.2 REPORTS CONCERNING BREACHES OF HUMAN RIGHTS OR DISCRIMINATION IN EMPLOYMENT MADE UNDER THE HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION ACT

The Human Rights and Equal Opportunity Commission Act gives HREOC the function of inquiring into complaints concerning breaches of human rights or discrimination in employment. HREOC attempts to resolve such complaints through conciliation where appropriate. If the matter is not resolved through conciliation and the President is satisfied that a breach of human rights or an act of discrimination has occurred, the President reports on the matter to the federal Attorney-General. The President can make recommendations to compensate for loss or injury suffered by the complainant, but these are not legally enforceable.

Between 1 July 2006 and 30 June 2007, the President reported to the Attorney-General on one matter.

5.2.1 HREOC Report No. 36

Breach of Ms CD's human rights at the Curtin Immigration Reception and Processing Centre

In this case, the President found that the Commonwealth had acted in breach of the human rights of Ms CD, a person detained at the Curtin Immigration Reception and Processing Centre (IRPC). Amnesty International Australia brought the complaint on behalf of Ms CD.

The President found that the Commonwealth continued to accommodate Ms CD in the Charlie Compound of the Curtin IRPC despite being informed of her complaints that she was being harassed by other detainees since approximately September 2001. In particular, on 19 June 2002 the Commonwealth was informed of Ms CD's allegation that another detainee attempted to sexually assault her and on 28 July 2002 the Commonwealth was informed of Ms CD's allegation that another (different) detainee had physically assaulted her. Ms CD was eventually transferred out of the Curtin IRPC on 7 September 2002.

The President also found that from at least 5 June 2002 until 7 September 2002, Ms CD and her daughter were the only females detained in Charlie Compound amongst a large group of male detainees. Ms CD and her daughter were also members of a religious minority amongst that larger group.

The President concluded that the Commonwealth failed to provide Ms CD with a safe place of detention and that this failure constituted a breach of her human right to be treated with humanity and respect for her inherent dignity while in detention (Article 10.1 of the International Covenant on Civil and Political Rights).

The President recommended that the Commonwealth pay Ms CD compensation of \$15 000. He also recommended that, in addition to the general efforts made by the then Department of Immigration and Multicultural Affairs (DIMA) to ensure that all detainees are treated in a culturally sensitive way, DIMA should have particular regard to circumstances in which there may be a history of hostility between certain groups of people, whether for national, cultural, religious or ethnic reasons. The President

held that appropriate action should be taken in such cases, for example, by providing separate accommodation for those detainees. In particular, a detainee should not be accommodated with groups who are related to the detainee's claims of persecution.

The Commonwealth paid the recommended compensation to Ms CD. DIMA also indicated that they will take the recommendations into consideration in developing their new client placement model and review of their operational procedures. DIMA will also ensure that the President's findings are widely circulated to facility managers and the detention services contractor GSL.

The report is available online at: www.humanrights.gov.au/legal/HREOCA_reports/hrc_report_36.html

5.3 INTERVENTIONS

HREOC has a statutory function of intervening, with the leave of the Court, in proceedings that involve issues of human rights, equal opportunity in employment and age, race, sex, marital status, pregnancy and disability discrimination.²

HREOC's intervention functions are contained in:

- sections 11(1)(o) and 31(j) of the Human Rights and Equal Opportunity Commission Act;
- section 20(1)(e) of the Racial Discrimination Act;
- section 48(1)(gb) of the Sex Discrimination Act;
- section 67(1)(l) of the Disability Discrimination Act; and
- section 53(1)(g) of the Age Discrimination Act.

In deciding whether to seek leave to intervene, HREOC considers whether the human rights or discrimination issues are significant and central to the proceedings and whether these issues are being addressed adequately by the parties to the proceedings.

The guidelines that HREOC uses to determine if it will seek leave to intervene in a matter are publicly available on HREOC's website at www.humanrights.gov.au/legal/submissions_court/

Through its interventions, HREOC seeks to promote human rights principles and encourage the development of Australian law in line with human rights standards. The intervention functions also serve an important educative purpose, by bringing a human rights perspective to the attention of courts and the parties to litigation. HREOC seeks to further pursue this educative purpose by placing all of its submissions on its website. These are available at: www.humanrights.gov.au/legal/submissions_court/intervention/intervention_info.html

In 2006–07, HREOC considered nine potential intervention matters.

² HREOC's Commissioners also have a function to appear as 'amicus curiae' in unlawful discrimination proceedings. The exercise of this function is considered in section 5.5 below.

- In two of these cases, HREOC was requested by one of the parties to consider intervention. In the remaining seven cases, HREOC considered the matters of its own motion.
- HREOC made an application to intervene in two matters, detailed below.

5.3.1 Oceania Judo Union Inc v Clarke

Mr Anthony Clarke claimed that he was discriminated against on the basis of his disability by the Oceania Judo Union (OJU) which had excluded him from a judo tournament held in Queensland because he is blind. Before the Federal Magistrates Court, OJU argued that the appropriate jurisdiction to hear the matter was New Zealand, where OJU is incorporated and where the relevant decision to exclude Mr Clarke from the competition was made.

Federal Magistrate Raphael rejected the argument of OJU and held that the Court had jurisdiction to hear the matter: *Clarke v Oceania Judo Union* [2007] FMCA 292. OJU appealed from that decision.

The Acting Disability Discrimination Commissioner appeared as *amicus curiae* before the Federal Magistrates Court (see section 5.5.3 below) and HREOC sought leave to intervene in the appeal before the Federal Court.

Before HREOC's application for leave to intervene was decided, the matter settled at mediation. As a result, the appeal and Mr Clarke's substantive application were discontinued. The settlement agreed between the parties is confidential.

5.3.2 Qantas Airlines Ltd v Gama

HREOC has applied to intervene in this matter, which is an appeal by Qantas Airways Ltd (Qantas) and cross appeal by Mr Gama from a decision of Raphael FM: *Gama v Qantas Airways Ltd (No.2)* [2006] FMCA 1767.

Raphael FM found that Mr Gama had been discriminated against by Qantas on the basis of his race and disability. His Honour did not, however, find in favour of Mr Gama in relation to all of his allegations of discrimination.

HREOC has sought leave to intervene to address the following four issues arising in the appeal:

1. The application of the test in *Briginshaw v Briginshaw* (1938) 60 CLR 336 concerning the standard of evidence required to satisfy the burden of proof in civil cases;
2. The proper approach to drawing inferences of discrimination;
3. The application of the *Limitations Act 1969* (NSW) to proceedings brought under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth); and
4. The application of *Forbes v Australian Federal Police (Commonwealth of Australia)* [2004] FCAFC 95 to issues of disability discrimination.

At 30 June 2007, HREOC's application for leave had not yet been heard by the Court and the appeal had not yet been set down for hearing.

5.4 INTERVENTION MATTERS COMMENCED BEFORE 2006–07

5.4.1 Proceedings in the Family Court of Australia concerning medical treatment for a child

The applicants in this matter seek an order from the Family Court that they may lawfully authorise the medical treatment of their child in respect of the condition of transsexualism without an order of a court. Such treatment is proposed to include both reversible and irreversible treatment of a hormonal nature. The proceedings will therefore raise issues that include the scope of parental power to consent to such treatment. In the alternative, the parents seek an order that the court authorise such treatment and empower them to provide the authorities and consents that are necessary for the treatment to proceed.

HREOC is of the view that the matter raises important issues of human rights, especially in relation to those rights recognised in the *Convention on the Rights of the Child*. HREOC was granted leave to intervene on 7 March 2006. The matter was ongoing on 30 June 2007.

Note that pursuant to section 121 of the *Family Law Act 1975* (Cth), HREOC is unable to disclose any details that may disclose the identities of the parties to the proceedings.

5.4.2 Inquest into the death of Mulrunji

HREOC played an active role in the Inquest conducted by the Queensland Deputy State Coroner into the death in custody of Mulrunji on Palm Island in November 2004. HREOC was involved in the proceedings from the outset and cross-examined witnesses and made submissions on a wide range of human rights issues.

In particular, HREOC raised human rights concerns relating to the policing, arrest and detention of Indigenous people. HREOC's submissions particularly focused on the implementation of the recommendations of the 'Royal Commission into Aboriginal Deaths in Custody' and encouraged the Deputy State Coroner to make comments pursuant to her functions under the *Coroners Act 2003* (Qld) that may assist to prevent further deaths. HREOC's final submissions listed 40 recommendations on systemic issues that were designed to protect human rights.

On 27 September 2006 the Deputy State Coroner delivered her findings. The Coroner adopted all of HREOC's 40 recommendations. The Coroner sent her comments to the Queensland Attorney-General, the Director-General and the Minister of government with responsibility for police and to the Commissioner for Police.

The Queensland Government responded to the Coroner's comments on 2 November 2006. The response indicated that the Government accepted almost all of the Coroner's comments. While many of the responses reflected only an 'in principle' agreement, many others indicated concrete action being taken as a result of the recommendations.

HREOC's submissions to the Mulrunji inquest are available online as follows:

- *Submissions seeking leave and on the scope of the inquest:*
www.humanrights.gov.au/legal/submissions_court/intervention/mulrunji_matters_for_argument.html
- *Submissions on the powers of the Coroner to make comment:*
www.humanrights.gov.au/legal/submissions_court/intervention/mulrunji_power.html
- *Final submissions:*
www.humanrights.gov.au/legal/submissions_court/intervention/mulrunji.html

The findings of the Deputy State Coroner are available online at:
www.justice.qld.gov.au/courts/coroner/findings/mulrunji270906.doc

5.5 AMICUS CURIAE

Section 46PV of the Human Rights and Equal Opportunity Commission Act gives HREOC Commissioners an *amicus curiae* ('friend of the court') function. The role of an *amicus curiae* is to provide special assistance to the court in resolving issues raised by the case and to draw attention to aspects of the case that might otherwise have been overlooked.

Under this function, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Disability Discrimination Commissioner, the Human Rights Commissioner, the Race Discrimination Commissioner and the Sex Discrimination Commissioner, may seek the permission of the Federal Court or Federal Magistrates Court, to assist the court as *amicus curiae* in the hearing of unlawful discrimination applications.

Guidelines for the exercise of this function are publicly available on HREOC's website at www.humanrights.gov.au/legal/submissions_court/

As with HREOC's intervention functions, the Commissioners attempt to enhance the educative role of their *amicus curiae* function by placing all submissions on HREOC's website.

During 2006–07, Commissioners were granted leave to appear as *amicus curiae* in five matters, which are summarised below.

5.5.1 Vickers v NSW Ambulance Service

This matter concerned an application by Mr Vickers for employment with the NSW Ambulance Service as a trainee ambulance officer. Mr Vickers' employment application was rejected because he has insulin dependant diabetes.

On the evidence, Raphael FM found that there was not a real risk to the safety or health of Mr Vickers or others arising from his diabetes. This was because Mr Vickers was able to effectively manage his diabetes and the risk of hypoglycaemic incident was very low. The manner in which Mr Vickers managed his diabetes would not interfere with his ability to perform the inherent requirements of the job. Accordingly, his Honour found that the respondent had unlawfully discriminated against Mr Vickers,

contrary to section 15(1)(b) of the *Disability Discrimination Act 1992* (Cth), and had failed to make out an 'inherent requirements' defence under section 15(4).

Mr Vickers had also alleged that he was discriminated against in the arrangements made for assessing his application, in breach of section 15(1)(a). The Court rejected this claim. Raphael FM found that Mr Vickers' individual circumstances were considered and there was no evidence of a policy to exclude people with diabetes. Rather, the doctors involved genuinely and independently held the view that Mr Vickers was not suitable for the job.

The Court made the following orders:

- \$5 000 in general damages. This was the sum sought by the applicant and his Honour indicated that he would have awarded more for the discrimination if the assessment 'had been left at large';
- That Mr Vickers' application proceed to the next stage of selection, namely probity screening; and.
- Costs of \$5 000 (a sum agreed prior to the hearing).

The Acting Disability Discrimination Commissioner was granted leave to make submissions as *amicus curiae* in the proceedings. A copy of the Commissioner's submissions is available online at:

www.humanrights.gov.au/legal/submissions_court/amicus/damien_vickers.html

The Court's decision is available online at:

www.austlii.edu.au/au/cases/cth/FMCA/2006/1232.html

5.5.2 Access for All Alliance v Hervey Bay City Council

This matter involved an application by Access for All Alliance (Hervey Bay) Inc (AAA) alleging that a number of bus stops within the Hervey Bay City Council (the Council) area did not comply with the Disability Standards for Accessible Public Transport (DSAPT).

On 2 May 2007, Collier J summarily dismissed the proceedings, accepting the Council's submission that AAA lacked standing to bring the claim. Her Honour concluded that AAA was not a 'person aggrieved' for the purposes of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth), primarily because the alleged breach of the DSAPT affected AAA's members, but not AAA itself.

The Acting Disability Discrimination Commissioner was granted leave to make submissions as *amicus curiae* in the proceedings. A copy of the Commissioner's submissions is available online at:

www.humanrights.gov.au/legal/submissions_court/amicus/hervey_bay.html

The Court's decision is available online at:

www.austlii.edu.au/au/cases/cth/federal_ct/2007/615.html

5.5.3 Clarke v Oceania Judo Union Inc

Mr Anthony Clarke claimed that he was discriminated against on the basis of his disability by the Oceania Judo Union (OJU) which had excluded him from a judo tournament held in Queensland because he was blind. OJU made an interlocutory application objecting to the Court's jurisdiction. OJU argued that the appropriate jurisdiction to hear the matter was New Zealand, where OJU is incorporated and where the relevant decision to exclude Mr Clarke from the competition was made.

Raphael FM dismissed the respondent's application, holding that where relevant act/s of discrimination occurred within Australia, it is irrelevant where the actual decision to do that act/those acts was made. In reaching this finding, the Court agreed with the submissions of the Acting Disability Discrimination Commissioner, who appeared at the interlocutory hearing as *amicus curiae*.

The substantive matter was subsequently resolved at mediation.

The Commissioner's submissions are available online at:
www.humanrights.gov.au/legal/submissions_court/amicus/anthony_clarke.html

The Court's decision is available at:
www.austlii.edu.au/au/cases/cth/FMCA/2007/292.html

5.5.4 Smith v Tower Australia Ltd

The applicant in this matter claims that he has been discriminated against on the basis of current and non-ongoing disabilities by the respondent's refusal to provide him with income protection insurance. The applicant also claims that he was refused income protection insurance even with his disabilities excluded from the policy.

The respondent denies it has discriminated against the applicant and relies on sections 46(1)(f) and 46(1)(g) of the *Disability Discrimination Act 1992* (the DDA). These subsections provide that it is not unlawful for a person to discriminate against another on the grounds of their disability in the provision of insurance (amongst other things) if:

- the discrimination is reasonably based on actuarial or statistical data and other relevant factors; or, where there is no such data,
- the discrimination is reasonable having regard to any other relevant factors.

The Acting Disability Discrimination Commissioner has been granted leave to appear as *amicus curiae* in the proceedings before the Federal Magistrates Court. The Commissioner intends to make submissions on the interpretation of sections 46(1)(f) and 46(1)(g) of the DDA and, in particular, the circumstances in which it may be reasonable for an insurer to rely on actuarial or statistical data to refuse an insurance policy on the grounds of disability.

At 30 June 2007, the matter has yet to be listed for hearing.

5.5.5 Webb v Child Support Agency

In this matter, the applicant claims to have been discriminated against on the basis of his disability by the Child Support Agency (the CSA). The applicant has mobility impairment and uses a manual wheelchair.

While the applicant has made a number of claims of discrimination, the Acting Disability Discrimination Commissioner made submissions as *amicus curiae* only on that aspect of the claim concerning access to premises.

The applicant claims that he was unable to gain access to the CSA's premises via its main street entrance. The main entrance of the building in which CSA has its offices requires a person to use the stairs which lead from the street to the front entrance. Mr Webb claims that this constitutes indirect discrimination.

The respondent denies it has discriminated against the applicant in relation to access to premises and claims that ramp access is available to the building. The respondent also claims that as lessee of premises with the building, it cannot be held liable for accessibility problems with the building over which it has no control.

The matter was heard before the Federal Magistrates Court on 12–14 June 2007.

A report from an expert on disability access was obtained by the Commissioner and tendered at the hearing. This report concluded that the building in which CSA's premises are located is not compliant with the Building Code of Australia or the Australian Standards, being documents which provide technical specifications for buildings. The Commissioner submitted that these documents are useful tools in determining whether discrimination has occurred, though they are not determinative of the issue.

At 30 June 2007 the Court had reserved its decision.

HREOC's submissions are available online at:
www.humanrights.gov.au/legal/submissions_court/amicus/webb20070521.html

5.6 AMICUS CURIAE MATTERS COMMENCED BEFORE 2006–07

Prior to July 2006, Commissioners had been granted leave to appear as *amicus curiae* in a number of matters that continued into the 2006–07 period.

5.6.1 AB v Registrar of Births, Deaths and Marriages

The Sex Discrimination Commissioner was granted leave to appear as *amicus curiae* in these proceedings on 2 May 2006.

The applicant claimed marital status discrimination in the provision of goods and services. The applicant is a post-operative transsexual who applied to alter the record of her sex on her birth registration. The *Births, Deaths and Marriages Registration Act 1996* (Vic) provides that the Registrar cannot make the alteration to the birth registration if the applicant is married. The applicant is married. The Registrar refused the applicant's application.

The submissions of the Sex Discrimination Commissioner addressed a number of issues, including the coverage of marital status discrimination under the Sex Discrimination Act and whether the process of altering the record of sex on a birth registration amounted to the provision of a service under the Sex Discrimination Act.

Heerey J dismissed the application. Although his Honour found that the respondent had refused to provide a service to the applicant, this refusal did not breach the Sex Discrimination Act. This was because the Convention on the Elimination of all forms of Discrimination Against Women, upon which the Sex Discrimination Act is based, deals with marital status discrimination as a form of discrimination against women. The Sex Discrimination Act therefore does not prohibit marital status discrimination per se – it only does so where such discrimination has the effect of denying the equality of women with men.

Heerey J held that the action of the Registrar in refusing to alter the applicant's birth certificate had nothing to do with the applicant being a woman. Had the applicant been a man, the result would have been the same.

HREOC's submissions are available online at:
www.humanrights.gov.au/legal/submissions_court/amicus/ab.html

The Court's decision is available online at:
www.austlii.edu.au/au/cases/cth/federal_ct/2006/1071.html

5.6.2 Douglas and Others v Queensland and Others

The Aboriginal and Torres Strait Islander and Social Justice Commissioner and Acting Race Discrimination Commissioner (the Social Justice Commissioner) was granted leave on 9 May 2006 to appear as *amicus curiae* in three related cases before the Federal Court. The applicant in each of the matters claims that they were discriminated against on the basis of their race contrary to the *Racial Discrimination Act 1975* (Cth) while employed on missions in Queensland from 1975 until the mid-1980s.

The first of the three cases, *Douglas & Ors v Queensland & Ors*, settled between the parties. Whilst the other two proceedings remain on foot, the hearing dates have been vacated to enable mediation between the parties to continue.

As the hearing was likely to involve a number of Aboriginal witnesses, particularly witnesses who were elderly and from remote parts of Queensland, the Social Justice Commissioner filed submissions on common difficulties faced by Aboriginal witnesses.

A copy of those submissions is available online at:
www.humanrights.gov.au/legal/submissions_court/amicus/giblet_aboriginalwitnesses20mar07.html

5.6.3 Forest v Queensland (Queensland Health)

The applicant has a psychiatric disability and claims that he relies on his two dogs as assistance animals (within the meaning of the DDA) to alleviate his psychological difficulties. The applicant claimed that the respondent discriminated against him in

late 2004 and early 2005 by refusing to provide him access and services at Cairns Base Hospital, and also at Smithfield Community Health Centre while he was accompanied by one or both of his dogs.

The Acting Disability Discrimination Commissioner (the Commissioner) was granted leave by the Federal Court, Queensland, to appear in this matter as *amicus curiae*.

Collier J found that:

- The respondent discriminated against the applicant within the meaning of sections 6 (indirect discrimination) and 9(1)(f) (guide dogs/assistance animals) of the DDA; and
- The respondent's conduct was unlawful within the meaning of sections 23(1)(a), 23(1)(b) (access to premises) and 24(1)(a) and 24(1)(b) (goods, services and facilities) of the DDA.

In reaching her conclusions, Collier J accepted the Commissioner's submissions on a number of points, including in relation to the meaning of 'assistance animal' under section 9(1)(f) the DDA.

The Court in this case commented on the need for reform of the assistance animals provision of the DDA to provide greater certainty and clarity both for users of assistance animals and for other relevant parties. These comments are consistent with advice which HREOC has previously provided to Government.

The Commissioner's submissions are available online at:
www.humanrights.gov.au/legal/submissions_court/amicus/forest.html

The Court's decision can be accessed at:
www.austlii.edu.au/au/cases/cth/federal_ct/2007/936.html

5.7 REVIEW OF ADMINISTRATIVE DECISIONS MADE BY HREOC

People affected by administrative decisions made by HREOC may be entitled to seek a review of those decisions before a court or tribunal. HREOC staff are also sometimes party to such proceedings.

5.7.1 Judicial review

Judicial review of HREOC decisions generally involves an application to the Federal Court or the Federal Magistrates Court pursuant to the *Administrative Decisions (Judicial Review) Act 1977* (Cth).

In accordance with established legal principle, HREOC (as decision maker) usually does not play an active role in those proceedings. Instead, HREOC agrees to be bound by the decision of Court and leaves the substantive parties (usually the complainant and respondent to a complaint that was before HREOC) to argue the matter in Court.

HREOC was a respondent to 10 applications brought under the Administrative Decisions (Judicial Review) Act in 2006–07.

5.7.2 Merits review

Some decisions of HREOC or HREOC staff (acting under instruments of delegation) are subject to merits review by the Administrative Appeals Tribunal. These include decisions made under the *Freedom of Information Act 1982* (Cth), and decisions on applications for temporary exemptions under section 44 of the Sex Discrimination Act, section 55 of the Disability Discrimination Act and section 44 of the Age Discrimination Act.

During the reporting period, there were three applications for merits review of HREOC decisions under the Freedom of Information Act.

5.8 INTERNATIONAL TECHNICAL ASSISTANCE WORK

5.8.1 China-Australia Human Rights Technical Cooperation Program

Two activities conducted by HREOC in China as part of the China-Australia Human Rights Technical Cooperation Program (HRTCP) were assisted by participation of a senior lawyer from HREOC. The HRTCP is reported on in Chapter 11. The activities were the seminar in October 2006 in Urumqi, Xinjiang Autonomous Region, on Economic, Social and Cultural Rights, and the Woman Law Workshop in March 2007 in Haikou City, Hainan Province.

5.9 EDUCATION AND PROMOTION

The Legal Section plays a significant role in human rights legal education and the promotion of human rights principles. This is done in a number of ways, including through publishing regular journal articles, presenting seminar papers and speaking as guest lecturers to university students on discrimination and human rights law issues.

Two of the Legal Section's significant ongoing human rights education projects are summarised below.

5.9.1 Federal Discrimination Law 2005

On 12 May 2005, HREOC launched its publication *Federal Discrimination Law 2005*. The publication was produced by the Legal Section and provides a comprehensive overview of the case law that has been decided in the field of federal unlawful discrimination law. In addition to detailed analysis of discrimination law jurisprudence, the publication also covers issues of practical concern for litigants and practitioners, with chapters on procedural issues, damages, remedies, and costs.

The publication is accessible online via HREOC's website and can be downloaded free of charge. Printed copies of the publication are also available for sale. For details, see www.humanrights.gov.au/legal/FDL/fed_discrimination_law_05/

Throughout 2006–07, the Legal Section published supplements to *Federal Discrimination Law 2005* to take account of recent developments. These supplements are also available as a free download from HREOC's website.

5.9.2 Human Rights Law Bulletin and associated seminars

The Legal Section has also continued to publish its *Human Rights Law Bulletin*, providing an update on domestic and international human rights law. The *Human Rights Law Bulletin* is published on HREOC's website and distributed through the Legal Section's email list (see www.humanrights.gov.au/legal/ mailing.html to subscribe).

In connection with each new edition of the *Human Rights Law Bulletin*, the Legal Section organises a seminar on a topic of current interest in domestic or international human rights law. The seminars and speakers for 2006–07 were as follows:

13 November 2006: All under control? Recent issues in Australia's legal response to terrorism

This seminar focused on developments in Australia's anti-terrorism laws and the human rights impacts of these laws. The panel of three speakers comprised the Hon. Philip Ruddock MP, Commonwealth Attorney-General, the Hon. John von Doussa QC, HREOC President, and Professor George Williams, Director of the Gilbert + Tobin Centre of Public Law, University of New South Wales (UNSW). The seminar was chaired by Mr Jonathon Hunyor, Director of Legal Services, HREOC.



Professor George Williams, Director of the Gilbert + Tobin Centre of Public Law, University of New South Wales (UNSW) speaking at the Legal Section's seminar 'All under control? Recent issues in Australia's legal response to terrorism'.

9 March 2007: Stolen Wages – the way forward

This seminar focused on the issue of Indigenous Stolen Wages and advancements in the mechanisms for repayment. The panel of three speakers comprised Senator Russell Trood, member of the Senate Standing Committee on Legal and Constitutional Affairs Inquiry into Stolen Wages, Ms Robynne Quiggin, panel member of the NSW Aboriginal Trust Fund Repayment Scheme, and Mr Jonathon Hunyor, Director of Legal Services, HREOC. The seminar was chaired by the Hon. John von Doussa QC, HREOC President.

4 June 2007: Native Title – developments in case law and practice

This seminar looked at recent developments in case law and practice in the area of Native Title law. The panel of two speakers comprised Mr Sean Brennan, Project Director of the Indigenous Rights, Land and Governance Project at the Gilbert + Tobin Centre of Public Law, UNSW, and Mr Kevin Smith, Queensland State Manager of the National Native Title Tribunal. The seminar was chaired by Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner.

Chapter 6:

Aboriginal and Torres Strait Islander Social Justice

6.1 STATEMENT FROM THE COMMISSIONER

I have spent a lot of time this past year convincing people from all walks of life that the challenges facing Indigenous peoples in this country are not insurmountable.

In my earlier *Social Justice Report 2005*, I had set forth a 25-year plan to achieve health equality for Indigenous peoples within a generation. This is a vision that is evidence-based and grounded in a human rights-based approach. This is a vision shared by just about every peak health organisation in the country, as well as the non-government and community sectors, and reconciliation organisations.



Mr Tom Calma
*Aboriginal and Torres Strait
Islander Social Justice
Commissioner*

This year I co-hosted a historic meeting of Indigenous health peak bodies, professional associations and health experts to advance this ambition for health equality; and phrases like 'close the gap' have entered the national lexicon. Change can and does happen.

My 25-year vision is that of an optimist. My vision is for a country where the current state of Indigenous disadvantage will be as incomprehensible to future Australians as the 'White Australia policy' is to the present generation. My optimism is, however, matched by realism.

The *Social Justice Report 2006* and *Native Title Report 2006*, tabled in federal Parliament in June 2007, reveal significant problems in the way the Australian Government is administering Indigenous affairs in the period since the abolition of ATSIC. The development of these 'new arrangements' – as they have been called – has been tracked through the past four *Social Justice Reports*.

I have intentionally focused the *Social Justice Report 2006* on the whole-of-government approach adopted through these new arrangements. This approach is fundamental in determining the ability of the government to respond to a host of issues in a holistic manner.

The report identifies critical issues that must be addressed if we are to move forward without repeating or exacerbating existing policy errors.

And this makes this report and its predecessors of direct relevance to the current situation in the Northern Territory.

One thing that I was immediately struck by with the announcements of the government intervention in the Northern Territory was the similarity with the government's announcements in 2004 to abolish the Aboriginal and Torres Strait Islander Commission and introduce the new arrangements.

The commitments made at the time were also sweeping in their scope. What my reports have shown is that to date the government still hasn't been able to bed down a system that can deliver on those commitments.

What the government does in the coming months and years could, as the Prime Minister conceives, have 'painful consequences' and result in 'mistakes'. These must be minimised through eliminating policy error.

How can this be done? By ensuring that there is continuity between the mechanisms that will be relied upon to implement these recent announcements and the existing service delivery model of the 'new arrangements' – the so-called 'bold experiment' that has come about in the place of the ATSIC era. It will also require that new policy is based on sound evidence of what works in Indigenous communities both here and internationally so that we can correct the shortcomings in the current policy approach.

The *Social Justice Report 2006* identifies significant concerns that have the capacity to derail the efforts in the Northern Territory if left unchecked. And the report highlights that these concerns – the current, existing errors in the policy settings – are entirely avoidable.

A duty of care requires the government to initiate open and sustained engagement with Indigenous communities, other governments, Indigenous organisations and the community sector in addressing this enormous challenge before us all. After all, it is a challenge for everyone – we will either succeed jointly or fail individually.

Following the Australian Government's announcements of the proposed measures for the Northern Territory, I joined with my fellow Commissioners and the President of HREOC in urging the government to adopt an approach that is consistent with Australia's international human rights obligations.

Overall, Australia's human rights obligations set out a framework of measures ranging from:

- proactive measures to prevent human rights violations from occurring in the first place and to address the underlying factors that can contribute to violations;
- an accountability framework including the setting of benchmarks, and monitoring systems, to ensure that governments remain focussed on the ultimate outcomes of policy and are able to be held accountable for their rate of progress in addressing significant human rights breaches where they exist;
- processes for ensuring the effective participation and real engagement with stakeholders and affected peoples in designing policy and delivering services; and

- measures to respond to and address violations of rights whenever they occur.

Being the optimist that I am, I see the government's commitment as providing a potential pathway for the recognition of the human rights of Indigenous peoples in the Northern Territory (NT).

Overall, the announcements and the commitments made by the federal government for the NT raise a number of important and complex issues. Each of these issues in some way comes back to the capacity of the government to deliver on its commitments. And it is, of course, the capacity of the government through the new arrangements that has been the focus of successive *Social Justice Reports*.

The *Social Justice Report 2006* identifies the warning signs where the current federal system for Indigenous affairs is not capable of addressing these core issues due to significant policy errors.

The most significant problem with the new arrangements identified by the report is the lack of capacity for engagement and participation of Indigenous peoples. This manifests as a lack of connection between the local and regional level, up to the state and national level; and as a disconnect between the making of policy and its implementation.

The greatest irony of this is that it fosters a passive system of policy development and service delivery while at the same time the government is criticising Indigenous peoples for being passive recipients of government services.

People who are affected by policy have a right to be involved in its development – that is no more than a statement of the primary rationale for democracy. And, people who are affected by policy also have a responsibility to be involved in its development.

These are complex matters. They need robust debate. The need for such debate should not lead to inertia or inaction. But it should lead to a commitment to principled engagement with Indigenous peoples so that we are recognised as active participants and agents of change for our own futures and for those of our children.

This is a key challenge if we are to succeed in the Northern Territory, and in addressing the issues of violence and child abuse in every other state in Australia. These are the challenges that I detail in this year's *Social Justice Report* and *Native Title Report*.

Another important part of my role is to work with governments, Indigenous organisations and communities and many other groups on practical research and consultation projects.

Over the coming 12 months HREOC will:

- continue to build partnerships and identify practical steps to 'close the gap' on Indigenous health inequality;
- work with Indigenous communities and organisations to provide human rights education on issues such as customary law and family violence;
- develop options for remote Indigenous education, now and into the future, in partnership with key groups;

- complete a second stage of research into Indigenous young people with cognitive (brain function) disability and the links to the health, education and juvenile justice systems;
- review the National Indigenous Legal Advocacy Courses;
- support an Indigenous Peoples Organisations Network to coordinate input into United Nations activities and share information about international developments that impact on Indigenous human rights with Indigenous peoples in Australia; and
- follow up on the issues and recommendations in this year's *Social Justice and Native Title Reports*.

6.2 MONITORING AND REPORTING

The Social Justice Commissioner produces two reports annually on the human rights situation faced by Aboriginal and Torres Strait Islander peoples: the *Social Justice Report* and *Native Title Report*. These provide an annual state-of-the-nation review of progress on Indigenous policy and human rights compliance.

6.2.1 Social Justice Report 2006



Under section 46C(1)(a) of the *Human Rights and Equal Opportunity Commission Act 1986* (Cth), the Commissioner on behalf of HREOC is required to submit a report annually to the Attorney-General on the exercise and enjoyment of human rights by Aboriginal persons and Torres Strait Islanders (the *Social Justice Report*).

This report analyses the major changes and challenges in Indigenous affairs over the past year. It also includes recommendations to government that promote and protect the rights of Indigenous Australians.

The *Social Justice Report 2006* was transmitted to the Attorney-General on 5 April 2007 and tabled in Parliament on 14 June 2007. The report was officially launched on 3 July 2007 in Sydney at an event open to the media and the general community.

The *Social Justice Report 2006* report asks: what makes good Indigenous policy? It sets out how Indigenous peoples are able to engage with the government on a variety of levels: from the individual and community level up to regional, state and national levels. It analyses progress in improving the accessibility of mainstream services to Indigenous people. It provides an overview of the key issues for tackling family violence and child abuse in Indigenous communities. It also reviews international developments in Indigenous human rights over the past four years.

It is the fourth successive *Social Justice Report* to substantially focus on the federal government's policy settings for Indigenous affairs. This report considers progress two years into the 'new arrangements' and builds on the analysis of the previous three reports.

The introduction to this year's report states:

This continuity of focus... provides a vital record of the policy making process for Indigenous affairs at the federal level... After four years..., it is clear that there are significant problems with... Indigenous affairs at the federal level.

Primarily, this is due to an 'implementation gap' between the rhetoric of government and its actual activities. Perhaps most concerning, is that the problems with the current policy settings are well known... The government has largely acknowledged their existence and has made extensive commitments to address them. And yet, the problems continue and are exacerbated year by year.

There were two major problems identified in the *Social Justice Report 2006*.

First, the federal government has consistently emphasised that engagement with Indigenous peoples is a central requirement for the new arrangements to work. But in practice, the new arrangements are essentially a top-down imposition – with policy set centrally and unilaterally by government and then applied to Indigenous peoples. The government's intervention plan in the Northern Territory is the latest example of this approach.

There has been no discernible progress in advancing mechanisms for Indigenous people to participate at the regional level, despite it being stated government policy for regional engagement mechanisms to exist.

The second main problem identified in the report was that while the government was increasingly emphasising the importance of increasing access to mainstream services for Indigenous peoples there has been little progress in achieving this.

As the Commissioner states in the report:

There is no overarching framework of benchmarks and indicators for how the government will improve access to mainstream services. Processes adopted through the existing whole-of-government approach are also unclear. This is even the case in urban areas where regional coordination offices have been operating since 2004.

The government is moving towards mainstream service delivery with changes to the Community Development Employment Program (CDEP) and Indigenous housing, for example, but without a clear path to ensure that these services are more accessible. This Social Justice Report reveals significant problems with the system as it currently operates and its transparency. As a result, I am concerned that current changes could reduce government accountability and further disenfranchise Indigenous people.

The report indicates that the Shared Responsibility Agreement (SRA) process provided some glimmers of hope for the government. In a survey of communities that have entered into these agreements, which was conducted for this report, most people were generally positive about the process and voiced improvements in their relationships with government.

However, community confidence and satisfaction in the SRA process was limited by the short-term nature of the funding, disproportionate accountability requirements, lack of flexibility once the agreement was signed and unrealistic expectations of the community party of the SRA.

Many communities saw the SRA process as a way to change the relationship with government to one that is based on addressing their needs and building their capacity to address ongoing problems. However, many communities have been left disappointed with the government not matching the expectations generated by the SRA process to date.

The *Social Justice Report 2006*, a community guide, a media kit and other information are available online at www.humanrights.gov.au/social_justice/sjreport06/

6.2.2 Native Title Report 2006



Under section 209 of the *Native Title Act 1993* (Cth), the Commissioner is required to submit a report annually to the Attorney-General on the operation of the Native Title Act and the effect of the Act on the exercise and enjoyment of human rights of Aboriginal peoples and Torres Strait Islanders (the *Native Title Report*).

The *Native Title Report 2006* was transmitted to the Attorney-General on 5 April 2007 and tabled in Parliament on 14 June 2007.

This year's report continues the theme from the previous three *Native Title Reports* by focusing on land tenure and economic reform on Indigenous communal lands. It specifically focuses on the capacity of the native title system to deliver economic benefits for Indigenous people and showcases best practice examples of Indigenous community led development and in agreement making processes.

There is no doubt that sustainable economic development is essential for the wellbeing of remote Indigenous communities, now and into the future. This is not just the view of the Social Justice Commissioner; it is the view of the majority of Indigenous people who responded to the national survey contained in the *Native Title Report 2006* to determine the aspirations and priorities of traditional owners for their land. It is also the view of the Australian Government whose ambitious economic reform agenda during 2005 and 2006 is designed to stimulate economic activity on Indigenous owned land.

The survey found that although custodial responsibilities and land care were their first priority, nearly all respondents strongly supported economic development. It revealed that traditional owners on resource-rich land were likely to have good governance structures in place because they had been supported by industry and government to negotiate mining and other land-use agreements. However, land owners on marginal land often had very limited interaction with business and government and therefore lacked the structures and skills to access government support. As such, some land owners are in a position to initiate projects while others are completely locked out of the process.

The *Native Title Report 2006* also examined the Australian Government's economic reform agenda for Indigenous land, specifically the 99-year lease scheme that aims to provide home ownership opportunities on Indigenous land.

The Commissioner states in the report:

The problem with this scheme is that Indigenous land owners have to give up their land rights if they want to access new homes and low interest mortgages.

Ultimately the lease and home ownership initiative is more a debt creation scheme – one which threatens our hard fought-for land rights. Unfortunately, the majority of remote Indigenous Australians can't currently get mortgages because they are either unemployed, or they are recipients of benefits or precarious income that does not support mortgage repayments.

My report does prove however, that much is possible when governments and industry work with Indigenous people to achieve joint economic aspirations.

This very forward looking report shows that economic development can and does happen on Indigenous land, and when the preconditions are right, Indigenous Australians can and do achieve great things on their land.

The report contains 14 recommendations and showcases five successful case studies that stand in stark contrast to the majority of media coverage and public commentary that we see on Indigenous issues. The case studies document Indigenous agreements and enterprises that support community development as well as economic development on communal lands. Each case study was selected because it describes a participatory model of Indigenous enterprise and economic development that is generating benefits for the Indigenous communities concerned.

The case studies in this report are a small sample of some of the good practices across Australia that maintain Indigenous control of the policies and processes that affect them. They demonstrate that it is possible and desirable to involve Indigenous people at all levels of policy development and implementation and agreement-making. They also demonstrate that the best outcomes for Indigenous people are achieved when policy and agreements are informed by principles and practices that support Indigenous self determination and ways of doing business.

The report reinforces that the preservation of Indigenous rights to land and an emphasis on Indigenous participation in policy development should be the central points of all future government activity to support economic development on Indigenous land.

The Commissioner states in the report:

I am in support of economic development on communal lands. Moreover, I support home ownership and enterprise development for Indigenous Australians who are in a position to achieve these goals. My concerns are not with the intention of the Australian Government policy. My concerns are with diminution of Indigenous autonomy and active participation in achieving these objectives.



The *Native Title Report 2006*, chapter summaries, fact sheets and media release are available online at www.humanrights.gov.au/social_justice/ntrreport06/

6.2.3 Community Guide and CD-Rom

There were 35 000 Community Guides for the *Native Title Report* and *Social Justice Report* printed. Some 25 000 of these were distributed through the National Indigenous Times and the Koori Mail in June 2007.

The reports, community guide, media summaries and other materials, have also been made available on a CD-Rom.

6.3 RESEARCH AND POLICY

The Social Justice Commissioner advocates for the recognition of the rights of Indigenous Australians and seeks to promote respect and understanding of these rights among the broader Australian community.

6.3.1 Indigenous young people, cognitive disabilities and/or mental health problems and the criminal justice system

This project is in final draft stage and will be submitted to the Attorney-General's Department once completed.

In addition to a thorough literature review and collation of government responses, case studies and consultations were also conducted with community members, experts and practitioners. These focus on instances of promising practice aimed at early intervention or diversion of Indigenous young people from the criminal justice system. The project makes recommendations about further areas for investigation, the need for greater awareness of, and education on, the needs of Indigenous young people with cognitive disabilities and mental health issues, and provision of appropriate services.

6.3.2 Indigenous Community Legal Education and Human Rights project

This project commenced on 5 June 2007. It is a joint project with the Indigenous Law and Justice Branch of the Attorney-General's Department. The project aim is to achieve one of the goals of the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities of July 2006 and the COAG Communiqué of June 2004 – the goal of implementing the National Framework of Principles for preventing family violence and child abuse in Indigenous communities.

HREOC will coordinate and deliver training to 15 people who will be employed by the Attorney-General's Department as Community Legal Education Workers in regional and remote Family Violence Prevention Legal Services. The 15 people will have responsibility to educate remote Indigenous communities about the relationship between Australian law, customary law and human rights.

A draft training module has been completed by HREOC and has been submitted and approved by the Attorney-General's Department. The training is mapped against competency elements of the National Indigenous Legal Advocacy Course (NILAC). The training is therefore accredited, and those completing it will have credit towards one of the following: Certificate III NILAC, Certificate IV NILAC, or the Diploma NILAC.

HREOC staff have met with the Family Violence Prevention Legal Services at Darwin and Cairns to discuss the proposed training and to obtain feedback about the way in which the Community Legal Education Workers will operate in the context of other positions within each service.

6.3.3 Women in corrections and post-release issues project

On 20–21 July 2006, the Social Justice Commissioner hosted a two-day national workshop with approximately 70 government and non-government stakeholders working with Indigenous women both pre- and post-release from prison. The workshop directly implements recommendations made in the *2004 Social Justice Report*. This report identified a lack of targeted and culturally appropriate support services for Indigenous women exiting prison, and concluded that new approaches to develop these services are needed to reduce Indigenous women's over-representation in the criminal justice system.

Participants at the workshop sought to identify some of the critical gaps in service delivery for Indigenous women exiting prison, as well as how these gaps could be addressed. The main topic areas addressed by the workshop were housing and access to emergency accommodation; the difficulties associated with reconnecting with family and community after prison; the need for healing programs to address grief and loss and trauma; and the importance of alternative sentencing options to divert women from prison. Through discussion, the workshop sought to identify better practice examples in each of these areas, as well as the solutions or actions required to promote the availability of best practice services.

A national roundtable has been proposed as a second stage to follow up on the workshop outcomes and recommendations.

6.4 EDUCATION AND PROMOTION

6.4.1 Community forum at the launch of *Social Justice* and *Native Title Reports 2006*

The *Social Justice* and *Native Title Reports* were launched at Ultimo College (NSW TAFE) on 3 July 2007.

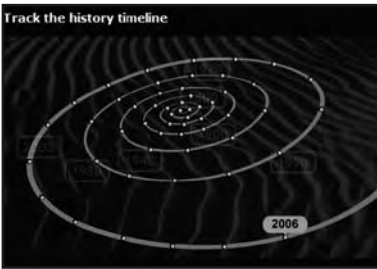
The launch was followed by an open community forum. This was initially intended as an opportunity to discuss the issues covered in the reports, but as a result of the federal government's emergency response to child abuse in the NT the previous week, the focus shifted. The forum provided one of the first opportunities for a public interactive discussion with Indigenous experts about the government's emergency response.



Co-author of the 'Little Children are Sacred' report Pat Anderson, at the launch of the Social Justice Report 2006.

The panellists included: Mick Gooda (MC and CEO of the Cooperative Research Centre for Aboriginal Health), Tom Calma (Aboriginal and Torres Strait Islander Social Justice Commissioner), Rob Welsh (Chairperson Metro Land Council), Pat Anderson (Co-author of the *Little Children are Sacred* report), Dr Mark Wenitong (President, Australian Indigenous Doctors Assoc), Assoc Prof. Sue Green (Nura Gili, UNSW), Marcia Ella-Duncan (Chairperson, NSW Aboriginal Child Sexual Assault Taskforce) and Jackie Huggins (Co-Chair of Reconciliation Australia).

6.4.2 Bringing them home 10th anniversary

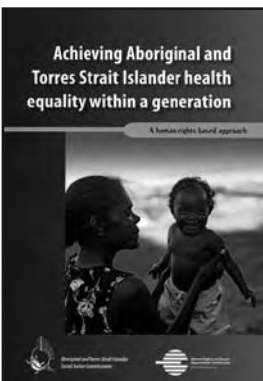


HREOC has undertaken a number of projects to commemorate the 10th Anniversary of the *Bringing them home* report, which coincides with the commemoration of the 40th Anniversary of the 1967 Referendum.

A new page on our website (www.humanrights.gov.au/bth) provides information about events around Australia commemorating the 10th Anniversary and an interactive timeline that details the history of forcible removal of Indigenous children from their families. It invites contributions for the Indigenous Law Centre (UNSW) to mark the 10th Anniversary.

HREOC has also reviewed and updated our educational materials on the *Bringing them home* report which are distributed nationally. All primary and secondary schools have been sent a copy of the timeline poster that details the history of forcible removal of Indigenous children from their families.

6.4.3 Indigenous health issues



In early December 2006, an open letter was published in *The Australian* newspaper calling for an end to the health inequality experienced by Indigenous Australians. The letter was co-signed by 35 organisations nationally, and builds on the recommendation in the *Social Justice Report 2005*, namely that all Australian governments commit to closing the health gap between Indigenous and non-Indigenous Australians within 25 years.

On 4 April 2007, Commissioner Calma participated in the launch of the Indigenous health equality campaign alongside the National Aboriginal Community Controlled Health Organisation (NACCHO) and Olympians Catherine Freeman and Ian Thorpe. This event also launched the Virtual Sea of Hands for Australians for Native Title and Reconciliation (ANTaR) – the focus of which includes an ability to direct targeted letters to federal

and state politicians about Indigenous health equality. In the same week, NACCHO and Oxfam also released a report titled '*Close the Gap*' providing an overview of current research and evidence on the needs to close the life expectancy gap, and containing international comparisons.

This campaign is being run as a partnership with the Social Justice Commissioner. A program of events has been agreed, with project partners conducting events and releasing documents in a staged and strategic manner to build momentum and public debate on these issues. Other related activities the Commissioner has participated in include:

- numerous speeches, including to the Future Summit in Melbourne, QCOSS, and various conferences on policy development;
- submission of a case study and presentation at the International Symposium on Indigenous peoples and the social determinants of health in Adelaide. The Symposium was co-hosted by Flinders University and the Cooperative Research Centre on Aboriginal Health, as a preparatory meeting for the World Health Organisation's (WHO) World Commission on Social Determinants. The case study and presentation highlighted a rights based approach to health;
- commentary on the federal budget's implications for Indigenous health equality (including joint releases by project partners); and
- producing a publication: *Achieving Aboriginal and Torres Strait Islander health equality within a generation – A human rights approach*.

On 2 July 2007, Commissioner Calma co-hosted a historic meeting in Sydney of state, territory and national Indigenous peak health bodies (Aboriginal community controlled health services and Indigenous medical professional organisations). The first meeting of its kind, it helped to foster consensus by a range of organisations on strategic questions about how these organisations will work amongst themselves, as well as how they will collaborate with the coalition of more than 40 organisations that are progressing the current national campaign to improve Indigenous health equality within a generation.

6.5 LEGISLATIVE DEVELOPMENT

6.5.1 Local Government Reforms – Queensland

On 30 April 2007, the Local Government Reform Commission called for suggestions on the formation of the State's new local government boundaries.

The Social Justice Commissioner provided comments on the Local Government Reforms taking place in Queensland. These reforms will affect all local councils with the amalgamation of the smaller, less economically viable councils with larger councils. The Social Justice Commissioner provided comments specific only to the 17 Aboriginal Shire Councils and the 17 Torres Strait Island Councils.

6.5.2 Draft Guidelines for the Support of Prescribed Bodies Corporate

On 17 May 2007, the Land Branch of the Department of Families, Community Services and Indigenous Affairs invited comment on the draft 'Guidelines for the Support of Prescribed Bodies Corporate (PBC)'.



Commissioner Calma at the launch of the 'Close the Gap' campaign.

These guidelines related specifically to amendments to the general terms and conditions relating to Native Title Program Funding Agreements. These agreements enable Native Title Representative Bodies (NTRBs) and Native Title Service Providers (NTSPs) to assist PBCs with their day-to-day operations. The draft guidelines include the following conditions:

- Funding applications and the funding assessment process;
- Funding applications and applications from NTRBs/NTSPs; and
- Applications direct from PBCs.

The Social Justice Commissioner provided 10 recommendations regarding the draft guidelines.

6.5.3 Native Title Mediation discussion paper

The Social Justice Commissioner was asked to provide some initial comments on the Exposure Draft of Best Practice Guidelines for parties and representatives in National Native Title Tribunal (NNTT) mediation. The Draft Guidelines have been prepared in accordance with the Government's acceptance of recommendations put forward by the Senate Legal and Constitutional Committee, relevant to the *Native Title Amendment (Provisions) Bill 2006*. The recommendation provides that the *Native Title Act 1993* be amended to require parties to mediate in good faith, and a code of conduct for parties involved in native title mediation be developed.

On 4 May 2007, Commissioner Calma met with the Attorney-General's Department providing comment on the initial draft guidelines. The Attorney-General's Department advised that a consultation process is to be conducted in the future on the revised draft guidelines.

6.6 INTERNATIONAL ACTIVITIES

6.6.1 IPO Network Meeting and Public Forum on 2007 UN Permanent Forum on Indigenous Issues (PFII)

The Indigenous Peoples Organisations (IPO) Network is a loose coalition of peak Indigenous organisations from around Australia which are working on Indigenous rights at the national and international level. It is a follow-up action in the *Social Justice Report 2006* that the Commissioner will work with the IPO Network to identify sustainable options for establishing a national Indigenous representative body.

The Commissioner hosted a meeting of the IPO Network in Sydney to allow delegates that had attended the 6th session of the PFII in May 2007 to report back to the Network. Initial discussions about research and preparation for participation in the 7th session of the PFII also commenced. The theme for the 7th session will be climate change, and a half-day of the agenda will be devoted to Indigenous Peoples in the Pacific.

To coincide with the IPO Network meeting, the Commissioner hosted two other meetings involving Network members. The first was a public forum to allow a report-

back by representatives of some of the Indigenous organisations which HREOC had funded to participate in the May session of the UNPFII. The second was a meeting for members of the IPO Network with representatives of the Attorney-General's Department, the Department of Foreign Affairs and Trade and the Office of Indigenous Policy Coordination. This meeting provided an opportunity to discuss the outcomes of the May PFII meeting, as well as key developments at the international level in relation to the rights of Indigenous peoples.

6.6.2 International Law Association publication

From 2003–2005, HREOC entered a partnership with the International Law Association, Australian Division (ILA) to convene a series of workshops on international law issues affecting Indigenous peoples. The outcomes of these workshops have been collated by the ILA for publication in their Martin Place papers series.

HREOC has co-sponsored publication of the papers, hosts the papers on the HREOC website, and makes copies of the papers available to the public.

6.6.3 Declaration on the Rights of Indigenous Peoples

In June 2006, the Chairman's text for the Draft Declaration on the Rights of Indigenous Peoples (DDRIP) was considered by the new United Nations Human Rights Council. By overwhelming majority the Council adopted the Declaration and recommended to the United Nations General Assembly that it do so as well. It was anticipated that the Declaration would be considered for final adoption by the General Assembly in November 2006.

However, the United Nations General Assembly decided on 28 November to delay consideration of the Declaration for up to 12 months. The decision, made by the Third Committee of the General Assembly on 28 November, states that the General Assembly will 'defer consideration and action on the United Nations Declaration on the Rights of Indigenous Peoples to allow time for further consultations'. Furthermore, it also decided that the General Assembly would 'conclude consideration of the Declaration before the end of (the General Assembly's) sixty-first session' which is in mid-September 2007.

This comes after 24 years of consensus-style negotiations on the Declaration, including a working group of governments and indigenous representatives for the past 11 years.

The Social Justice Commissioner called on all governments, especially Australia, to ensure that any further discussions on the Declaration are conducted with the full participation of indigenous peoples.

For further information on the decision of the General Assembly see: www.un.org/News/Press/docs/2006/gashc3878.doc.htm

In addition to the above, the Social Justice and Native Title Units also contribute to legislative development by making written and oral submission to Parliamentary and other inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.

6.7 SPEECHES

A selection of public addresses made by the Social Justice Commissioner during 2006–07 is listed below. Speeches can also be accessed on HREOC's website at: www.humanrights.gov.au/speeches/social_justice/index.html

Advanced Indigenous Business, launch speech at Cairns Convention Centre, 7 June, 2007.

National Sorry Day Committee event: Stolen generations track home, speech to Parliament House in Canberra, 21 May, 2007.

Securing the rights of Indigenous Territorians, speech delivered at the Forum: Securing Territorian's Rights – Statehood and a Bill of Rights? Charles Darwin University, Darwin, 10 May, 2007.

What makes good Indigenous Policy – Good, Better, Best – Policy Making for Indigenous Australians, address to the IQPC 6th annual conference – Collaborative Indigenous Policy Development, 1 May, 2007.

Maximising economic and community development opportunities through native title and other forms of agreement-making, speech to the National Native Title Conference, Cairns Convention Centre, 6–8 June, 2007.

Addressing Indigenous health inequality within a generation – a call to action, speech at media launch, Telstra Stadium in Sydney, 4 April, 2007.

Customary law in sentencing and changes to tenure arrangements on communally owned land, address to the Indigenous Legal Issues Forum 35th Annual Legal Convention, 24 March, 2007.

Lessons Learned from the Scrutiny of Indigenous Affairs, address to the Australian Public Service Commission's 2007 Government Business Conference in Sydney, 23 February, 2007.

Investing in Indigenous research and researchers to address Indigenous disadvantage, speech at the Indigenous Education Advisory Council Conference in Melbourne, 21 February, 2007.

Addressing family violence and child sexual assault in Indigenous communities – A human rights perspective, speech at the Aboriginal Child Sexual Assault Forum, NSW Parliament House, 5 December, 2006.

Human Rights and Indigenous Education 'Success, celebration and the way forward', speech at the Making the Difference Conference, Adelaide, 16 November, 2006.

Diabetes in Indigenous Communities, speech at A symptom of society International Diabetes Forum in Victoria, 13 November, 2006.

The Integration of Customary Law into the Australian legal system, speech at the Globalisation, law and justice seminar, University of Western Australia, 27 October, 2006.

Launch of the Western Australian Law Reform Commission Report into Aboriginal Customary Laws, speech, Perth, 27 October, 2006.

A Level Mining Field: The Path to Achieving Outcomes for Indigenous and Non-Indigenous Stakeholders in Mining, opening statement at Sustainable Development Conference, Sheraton Perth Hotel, WA, 26 October, 2006

Declaration on the Rights of Indigenous Peoples Parliamentary Briefing, opening statement to Parliament House, Canberra, 12 October, 2006.

The Integration of Customary Law into the Australian Legal System, speech at the National Indigenous Legal Conference, NSW, 23 September, 2006.

Challenges for Aboriginal and Torres Strait Islander law and justice agencies, speech at the National Aboriginal Justice Advisory Committee (NAJAC) Colloquium, 13 September, 2006.

Garma festival presentation, speech at Gulkala in North East Arnhem Land, 5 August, 2006.

Chapter 7: Disability Rights

7.1 STATEMENT FROM THE COMMISSIONER

In December 2006, HREOC welcomed the adoption of the Convention on the Rights of Persons with Disabilities by the United Nations General Assembly. This followed an 8th and final drafting session in August 2006 in which I was again honoured to be included as a member of the Australian delegation. I congratulate the Australian Government as well as Australian disability organisations on their contribution to the development of the Convention.



Mr Graeme Innes, AM
*Acting Disability
Discrimination Commissioner*

On 30 March 2007, we applauded the Australian Government for being among the first countries to sign the Convention on the day of its opening for signature. We are now working towards early ratification of the Convention.

This Convention is hugely important in recognising beyond doubt that 650 million of the world's people with disability are entitled to the full range of human rights. The Convention also plays a critical role in explaining to governments and societies what measures are needed to make those rights a reality – if not in every practical detail then at least in more detail than we have had in earlier human rights instruments. I believe the Convention also offers historic opportunities here in Australia to improve how our governments and other institutions deliver on human rights and equal opportunity for people with disability and their families. In particular, I believe it will provide the focus we need to start looking at those areas often described as 'unmet needs' in a new way, where we see them as rights denied or inadequately protected.

This report presents what I believe is an impressive range of work and an encouraging roll call of results from what is after all, a small human rights agency. For HREOC, as for many areas of government, the Convention provides an important reference point on how many issues remain to be addressed in promoting equal access and opportunity for people with disability.

As made clear in this report, while the Disability Discrimination Act (DDA) has enabled us to achieve much in advancing the rights of people with disability, through the processes provided by the Disability Discrimination Act, there are several areas where progress has been frustratingly slow.

In the coming year I will be dedicating major efforts, both to promoting completion of long-running processes, and to ensuring that HREOC explores all avenues for more widespread and timely progress towards an Australian society which truly does include, and fully benefits from the participation of, people with disability as equals.

7.2 RESEARCH AND POLICY

7.2.1 Employment and Disability Inquiry

HREOC has continued to follow up on its *National Inquiry into Employment and Disability* Report which was tabled by the Attorney-General in federal Parliament in February 2006.

The federal government responded positively in 2006–07 to the Inquiry's recommendations, including the launch in August 2006 of the *JobAccess* one-stop-shop information service on employment and disability. Other welcomed initiatives include reforms to the *Workplace Modifications Scheme*, and in January 2007, the commencement of an insurance cover scheme for work trials. Other recommendations, including adoption by the federal government of an accessible procurement policy, remain under discussion.

HREOC continued to convene working groups on a number of areas identified by the Inquiry, including ongoing employment supports and the relationship between occupational health and safety legislation and equal opportunity laws. HREOC has welcomed substantial work being done by the Office of the Australian Safety and Compensation Council (OASCC) to address one of the main obstacles to the employment of people with disability in the open workplace – the perception by employers that there is an increased exposure to legal and financial risks related to occupational health and safety. HREOC and OASCC issued a joint media release on 27 June 2007 launching OASCC's research report, which highlighted the lack of increased occupational health and safety risk for workers with disabilities.

HREOC also had discussions with The Hon. Joe Hockey MP, (then) federal Minister for Human Services, and the Department of Human Services, regarding accessibility of premises and services, and helped to produce an accessibility checklist for contracted service providers. With the Department's agreement, HREOC has further developed this material for use by service providers and building owners more generally.

Preparatory work was also conducted on projects related to mental health and employment and related issues, which will be pursued in 2007–08.

7.2.2 Access to electronic commerce

On 3 December 2006 the Australian Bankers' Association (ABA) released *Accessibility of Electronic Banking: Progress Report 2006*. This was the second progress report issued by the ABA since the 2002 introduction of voluntary industry standards on Automatic Teller Machines (ATMs), Electronic Funds Transfer at Point of Sale (EFTPOS), telephone and internet banking. HREOC congratulated the ABA and its members on considerable progress made in improving access to these services. On the same

day, the ABA released draft guidelines developed in consultation with HREOC to help banks and other financial institutions design and implement authentication systems to protect against fraud in ways that do not exclude customers with disabilities or older people.

7.2.3 Captioning

Cinema captioning

After discussions with HREOC, the Film Finance Corporation (FFC) announced in May 2007 that as from 1 July 2007 producers seeking funding from the FFC would have access to funds to ensure their films were captioned for both cinema release and later DVD release.

HREOC continues to discuss with industry and disability community representatives, possibilities for increasing access to the number of cinemas capable of displaying captioned movies.

Television captioning

Subscription television

An agreement reached in 2004 between HREOC, the Australian Subscription Television and Radio Association (ASTRA) and disability organisations, aimed for an initial 20 channels to caption five percent of programs in year one, increasing by five percent each year for five years to reach 25 per cent captioned. A further 20 channels were to start adding captions within two years.

In July 2006, HREOC was able to congratulate ASTRA on a report which indicated that average captioning levels already exceeded the 25 percent required by the end of the five-year agreement.

ASTRA is due, under the terms of the temporary exemption granted to ASTRA's members, to conduct a review of possibilities for further increases in captioning on subscription television during 2007–08 and to present a further plan for captioning to HREOC in June 2008.

Free to air television

Under an agreement reached in 2003 between HREOC, Free TV Australia (FTVA) and disability organisations, FTVA was required to implement staged increases in captioning levels (reaching 70 percent of programming between 6am and midnight by December 2007). FTVA was also required during 2006 to commence a review of possibilities for further increases in captioning when the current exemption granted in 2003 expires in 2008. FTVA has advised that the review has started and they expect to be in a position to consult with disability community organisations on a proposal in the latter half of 2007.

DVD captioning

Early in 2007, HREOC hosted a *DVD Access Roundtable* which has established working groups to improve the availability of captioning and audio description on DVDs.

Agreement has been reached with the DVD industry body, the Australian Visual Software Distributors Association (AVSDA), over access feature information that will be placed on the DVD covers to ensure consistency among AVSDA members. AVSDA has also agreed to prepare an industry protocol setting out expectations that their members would use their best endeavours to locate and make available access features on DVDs where they were available or technically able to be included. It is encouraging that some AVSDA members have already initiated improvements in their products as a result of the discussions taking place.

7.2.4 Accessible consumer electronics products

In June 2007 HREOC commenced work towards a discussion paper on access issues affecting people with disability in using a range of consumer electronics products as well as identifying possibilities for addressing these issues.

7.2.5 Electoral access

Following discussions between HREOC, the federal government, the Australian Electoral Commission and representatives of people with disabilities, federal Cabinet approved a trial of electronically assisted voting in August 2006. HREOC continued to help develop the details of the trial, with locations due to be announced in July 2007.

HREOC also reminded political parties and candidates that it was important in the lead-up to a federal election for them to ensure their information was accessible and that disability issues were taken into account in their policies.

7.2.6 Health access

Following discussions involving HREOC, the Minister for Health and Ageing, the Royal Australian College of General Practitioners (RACGP) and disability representatives, HREOC was able to welcome in February 2007 changes to Medicare rebates to facilitate longer consultations for people with intellectual disabilities. This was a particularly important development as it addresses one severe disparity between health outcomes for people with intellectual disability and other members of the Australian community. HREOC will continue to work for progress on other aspects of equal access to health services and information for people with disability.

HREOC has continued to work with the RACGP and disability advocacy organisations to improve the availability of height-adjustable examination beds and improve information for health care addition by the RACGP of a new criterion to its *Standards for General Practices*, which includes an advisory reference to adjustable-height examination beds. HREOC will continue to work with the disability sector and the RACGP to encourage general practices to provide adjustable-height examination beds and will continue to advocate for these to become mandatory under the *Standards for General Practices*.

7.2.7 Telecommunications

HREOC participated in the development of a code, registered in October 2006 by the Australian Communications and Media Authority (ACMA), to require the manufacturers or importers of all phones to advise telecommunications companies of the disability access features of their products.

HREOC also worked with the telecommunications industry body, the Communications Alliance, to develop an industry voluntary guideline for payphone accessibility. This was released in December 2006.

7.2.8 Web access

Website accessibility continues to be a significant concern for various groups of people with disabilities. The World Wide Web Consortium continues to work on revising its *Web Content Accessibility Guidelines, Version 1.0*. HREOC refers to these guidelines as the accepted international benchmark in *Web Accessibility Advisory Notes* which offer guidance on the level of accessibility required for compliance with the DDA. HREOC is continuing to discuss the proposed version 2.0 of the guidelines with the developers.

7.3 EDUCATION AND PROMOTION

Most of HREOC's awareness and compliance promotion work in the disability area is connected to policy work and legislative development and is reported on under those headings accordingly.

The Commissioner has worked successfully during 2006–07 to achieve increased media coverage of positive initiatives by government and industry bodies on disability issues where HREOC has been involved, including access to voting, health services, banking access, captioning, and a range of initiatives regarding employment.

Public use of the disability rights section on HREOC's website continues to be strong, with 1 705 260 page views recorded in this period. Information is continuously being added to, for example with advice answering frequently asked questions and information on recent complaint outcomes. Publications are also distributed in print and other formats on request.

7.4 LEGISLATIVE REFORM AND ASSESSMENT

7.4.1 Disability Standards

The DDA provides for 'Disability Standards' to be made by the Attorney-General in specified areas. These currently include: accommodation; administration of Commonwealth laws and programs; education; employment; and public transport. Contravention of a Disability Standard is unlawful under the Act.

HREOC supports adoption of Disability Standards as offering potential to increase certainty and clarity of rights and responsibilities for relevant parties, and thereby

advance the objects of the Act. HREOC has a function under the DDA to advise the Attorney-General regarding the making of Standards, and to date, has performed this function by practical participation in Standards development processes rather than by formal reporting.

7.4.2 Access to premises

HREOC has continued to work intensively with the Australian Building Codes Board and industry, community and government members of the Board's Building Access Policy Committee, towards finalisation of Disability Standards on access to premises. This work has occurred in conjunction with upgrading of the access provisions of the Building Code of Australia, to promote improved access for people with disabilities and to provide industry, local government and other parties with a clearer and more coherent set of rights and responsibilities. As at June 2007, Ministers were still considering revised proposals from the Australian Building Codes Board taking into account the results of the Regulation Impact Statement process on the draft standards issued in 2005.

While awaiting progress towards Standards, HREOC has commenced a number of initiatives aimed at improving understanding about the importance of access in the built environment. These include:

- improving access on our website to local and overseas information dealing with issues such as recreational facilities, playgrounds, public footpaths and fitout matters;
- preparing *Access to Buildings and Services – Guidelines and Information* (due for release in July 2007) to assist building owners and service providers to identify issues that might affect the level of access provided by their current building, or a building they are thinking of buying or renting. It will also help service providers to look more generally at whether the goods and services provided are accessible to people with a range of disabilities; and
- preparing a guide (also due for release in July 2007) to assist designers, builders, certifiers and planners to better understand the importance of applying the access features already required by the Building Code of Australia and its referenced Australian Standards, and demonstrating correct practice and common mistakes.

HREOC also continues to contribute to the work of Standards Australia, in particular, its review of standards covering the interior fit-out of buildings. HREOC also continued to work with industry and regulatory bodies to promote actions to address the current and growing need for more accessible housing.

7.4.3 Education

Following the entry into force of Disability Standards for Education in August 2005, HREOC has continued to discuss with the Attorney-General's Department and the Department of Education, Science and Technology, possible further measures for promotion and implementation of the Standards.

7.4.4 Public transport

The first five-year review of the Disability Standards for Accessible Public Transport commenced in March 2007. The review is being conducted by independent consultants on behalf of the Minister for Transport and Regional Services and the Attorney-General and is expected to report in October 2007. HREOC will contribute its expertise and experience to the review.

Significant issues regarding aviation access continued to be raised during 2006–07 through complaints under the Disability Discrimination Act. HREOC has met with the Department of Transport and Regional Services, workplace and aviation safety regulators, aviation industry participants and disability community representatives to seek to resolve these issues. As at June 2007, however, several complaints regarding capacity of people with disability to travel independently had been unable to be resolved by HREOC and were proceeding to the Federal Court.

7.4.5 Productivity Commission review

The federal government decided in 2006 that a range of amendments should be made to the Disability Discrimination Act in response to the review of the Act by the Productivity Commission, and to identify any associated amendments to the DDA which might appropriately be pursued as part of the same process. HREOC supports those amendments being made as soon as possible and looks forward to the presentation of a Bill to the federal Parliament.

7.5 CONSULTATION

Close consultation with disability community representatives and with relevant industry bodies is a feature of all HREOC project and policy work in the disability rights area. HREOC uses an extensive email list together with its website to notify interested parties of policy and project initiatives and to seek comments.

As detailed above, specific consultative structures have been maintained to continue the work of HREOC's *National Inquiry on Employment and Disability* in a number of areas.

HREOC hosted a workshop on 27–28 June on the new Convention on the Rights of Persons with Disabilities for representatives of disability peak organisations, disability advisory bodies and state and territory equal opportunity agencies. The workshop was opened by federal Attorney-General Philip Ruddock, who expressed his strong support for prompt movement which would enable the government to consider ratification of the Convention. He also indicated commitment to continuing consultation with disability organisations in those processes.



Commissioner Innes and Federal Attorney-General Philip Ruddock MP at the workshop hosted by HREOC on the new Convention on the Rights of Persons with Disabilities in June 2007.

7.6 EXEMPTIONS

Section 55 of the DDA gives HREOC the power to grant temporary exemption from provisions of the Act which make discrimination unlawful. (The exemption applications policy is available on HREOC's website or on request.)

The temporary exemption mechanism is an important way to manage the process of transition over time from discriminatory and inaccessible systems and environments to more inclusive ones.

Exemption processes are open to public participation through online publication of HREOC's notice of inquiry and details or text of applications. Submissions from interested parties are also published.

7.6.1 Hervey Bay RSL

On 25 May 2007 HREOC granted a temporary exemption from the operation of relevant provisions of the Disability Standards for Accessible Public Transport and the DDA, to Hervey Bay RSL Club. This exemption concerned physical access to the club's newly acquired courtesy buses and was granted on condition that the club replace or retrofit the buses to provide access by 31 March 2008.

7.6.2 Australasian Railways Association

On 22 January 2007 HREOC granted a series of temporary exemptions to members of the Australasian Railways Association (ARA) in relation to provisions of the Disability Standards for Accessible Public Transport and of the DDA. These exemptions were granted on condition that ARA members meet a set of revised compliance requirements and report to HREOC on implementation of the revised obligations. This decision followed lengthy consultation between HREOC and industry and community representatives following an application in July 2005 by the ARA for a range of exemptions. In each case, the exemptions granted were supported by the Accessible Public Transport Jurisdictional Committee, with which HREOC is required to consult on exemptions relating to the Disability Standards for Accessible Public Transport.

Decisions were deferred on a number of other issues for which the ARA had also applied for exemption, pending further consultation between ARA, community representatives and HREOC.

7.6.3 Airport Direct

On 15 December 2006 HREOC granted an application for a temporary exemption from the operation of relevant provisions of the Disability Standards for Accessible Public Transport and the DDA, to permit deferral of provision of wheelchair access on a public transport service to be known as Airport Direct, operating from Shepparton to Melbourne. This followed refusal of an earlier application, in February 2006, where HREOC was not satisfied that the application went beyond a request for certification of unjustifiable hardship – considered an inappropriate purpose for the temporary exemption power. The successful application differed significantly from the initial one in that it did not simply seek permission to operate an inaccessible vehicle indefinitely,

but rather sought protection pending the replacement of the inaccessible vehicle within a defined and short period.

7.7 ACTION PLANS UNDER THE DISABILITY DISCRIMINATION ACT

Action Plans under the Disability Discrimination Act provide an important mechanism for organisations to structure their own compliance efforts.

As at 30 June 2007, 516 plans were registered with HREOC (an increase from 368 in June 2006). These comprise: 43 business enterprises, 54 non-government organisations, 36 federal government and 58 state and territory government departments and agencies. There are also 154 local government plans and 171 from education providers.

The register of Action Plans, and those plans provided electronically to HREOC (467 of the total), are available on the website. The register assists other organisations interested in developing their own plans as well as individuals interested in assessing the effectiveness and implementation of an organisation's Action Plan. A number of organisations have also submitted revised plans or implementation reports.

7.8 LEGISLATIVE DEVELOPMENT

The Disability Discrimination Unit also contributes to legislative development by making written and oral submission to Parliamentary and other inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.

7.9 SPEECHES

Listed below is a selection of speeches made by Commissioner Innes during 2006–07. Speeches and papers are available on HREOC's website at: www.humanrights.gov.au/disability_rights/speeches/speeches.html

Keynote speech: NSW Department of Education and Training Teacher Consultants Conference, Sydney, 17 May, 2007.

Deafness forum presentation to Princess Alexandra Hospital, Brisbane, 20 March, 2007.

Spinning an Accessible Web: Presentation to E-Accessibility Forum, Adelaide, 6 March, 2007.

Launch of Westpac Accessibility Action Plan, Sydney, 11 December, 2006.

Disability and Information Technology: Forum on Engaging Canadian and Australian Information Technology Companies in Inclusion and Accessibility, Sydney, 4 December, 2006.

Housing, Human Rights and Sustainability: Australian Network for Universal Housing Design forum, Sydney, 8 November, 2006.

Presentation to Australian Association of the Deaf national conference, Adelaide, 3 November, 2006.

The Disability Standards for Accessible Public Transport where are we? Bus Industry Confederation Conference, Canberra, 31 October, 2006.

Pathways to employment: NSW Council for Intellectual Disability / NSW Council of Social Service conference, Sydney, 18 September, 2006.

Presentation to Queensland Taxi Council forum, Toowoomba, 12 September, 2006.

Presentation to Sydney City Access Forum, Sydney, 6 September, 2006.

Occupational Health and Safety and HREOC's National Inquiry on Employment and Disability: Discrimination Alert and Occupational Health News Conference, Sydney, 1 September, 2006.

Chapter 8: Human Rights

8.1 STATEMENT FROM THE COMMISSIONER

The 2006–07 year has been largely dedicated to identifying and eliminating the discrimination faced by people in same-sex relationships in accessing basic financial and work-related entitlements.

The *Same-Sex: Same Entitlements* Inquiry put federal laws under the human rights microscope. It found that 58 laws discriminate against more than 20 000 Australian same-sex couples – simply because of who they love. Those laws deal with fundamental areas of family life such as employment, taxation, and health care subsidies.



Mr Graeme Innes, AM
Human Rights Commissioner

The *Same-Sex: Same Entitlements* report documents which benefits and entitlements are denied to same-sex couples and their children. It also describes the emotional and financial impact of that discrimination. I was truly moved by the desire for equality – nothing more, just equality – which was so passionately expressed by many of the more than 1 000 people who spoke or wrote to us.

The *Same-Sex: Same Entitlements* report also highlights how easily discrimination against same-sex couples can be removed. The discrimination is directly attributable to the way federal laws define who qualifies as a person's 'partner', 'spouse', 'de facto spouse' and so on. The solution is to amend those definitions so that a same-sex partner is included in the same way as an opposite-sex de facto. Once that occurs, most of the problems just fall away. One of the challenges for the upcoming year is to encourage the government to implement the recommendations in the *Same-Sex: Same Entitlements* report.

Also in 2006–07, we conducted inspections of Australia's mainland immigration detention facilities. We were greatly encouraged by the cooperative attitude of detention staff and the clear efforts to improve the conditions inside immigration detention centres. However, I stand by HREOC's enduring call for the amendment of Australia's immigration detention laws. Mandatory, unreviewable, indefinite detention breaches Australia's human rights obligations and inevitably has a negative impact on the mental health and wellbeing of those people subjected to it.

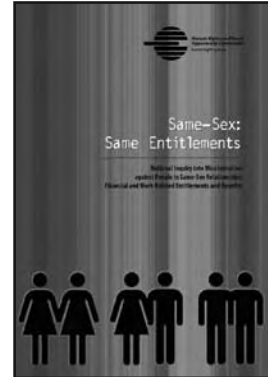
In 2007–08 we will be further diversifying our human rights portfolio. We will develop and extend the material on our website, and we will look to our stakeholders to identify the emerging human rights issues facing Australia. I, and my team, look forward to the challenges this will bring.

8.2 RESEARCH AND POLICY

8.2.1 'Same-Sex: Same Entitlements'— the National Inquiry into Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits

The *Same-Sex: Same Entitlements* Inquiry was launched on 6 April 2006. The purpose of the Inquiry was to:

- identify the federal laws which discriminate against same-sex couples and their children in the context of financial and work-related benefits and entitlements;
- describe the impact of those discriminatory laws on same-sex couples and their children; and
- make recommendations as to how to remove that discrimination.



Attendees at the report launch.

The final report of the Inquiry was tabled in federal Parliament on 21 June 2007. The final report reflects all three of these goals.

The report and community guide was officially launched in Sydney on 22 June 2007.

Findings and Recommendations

The *Same-Sex: Same Entitlements* report identifies 58 federal laws which deny same-sex couples and their children the basic financial and work-related entitlements which are available to opposite-sex couples and their children.

The 58 discriminatory laws identified by the Inquiry cover the following areas:

- employment;
- workers' compensation;
- tax;
- social security;
- veterans' entitlements;
- health care subsidies;
- family law;
- superannuation;
- aged care; and
- migration.



Media personality Peter Fitzsimons launching the 'Same-Sex: Same Entitlements' report in Sydney.

The report recommends amendment to the definitions of a de facto relationship in each of these 58 laws. The report also recommends changes to federal, state and territory laws to recognise the relationship between a child and both parents in a same-sex couple. Together, these changes would ensure that same-sex couples and their children would be treated in the same way as opposite-sex couples and their children.

The final report can be found at: www.humanrights.gov.au/human_rights/samesex/report/

As at 30 June 2007, the federal government had indicated that it was considering the recommendations of the final report.

Methodology

The *Same-Sex: Same Entitlements* report reflects the information, stories and opinions expressed in the 680 written submissions collected by the Inquiry. Those submissions came from the following individuals and groups:

- employment bodies
- gay, lesbian, bisexual, transgender and intersex individuals and couples
- human rights, advocacy and legal bodies
- members of the public
- non-government organisations
- organisations representing gay, lesbian, bisexual, transgender and/or intersex people
- parents, friends or family members of same-sex couples
- peak bodies
- religious organisations
- state and territory government agencies
- state equal opportunity commissions
- unions
- universities and academics.

For a full list of those who made submissions and copies of certain submissions see: www.humanrights.gov.au/samesex/inquiry/submissions.html

The *Same-Sex: Same Entitlements* report also reflects the evidence collected in the seven public hearings and 18 community forums held around Australia. Those public consultations clearly revealed the financial and emotional strain placed on gay and lesbian couples who are trying to live their lives like everybody else in the community. For a list and summary of the hearings and community forums see: www.humanrights.gov.au/samesex/inquiry/hearings.html

The Inquiry also received information from 15 federal government agencies.

The Inquiry released two discussion papers and a research paper as a way to encourage community responses and elicit further information from experts in the field. The final report incorporates the information in the discussion and research papers. Copies of those papers can be found at: www.humanrights.gov.au/samesex/inquiry/papers.html

8.3 MONITORING AND ADHERING TO HUMAN RIGHTS

8.3.1 Immigration detention, asylum-seekers and refugees

The President, Human Rights Commissioner and Human Rights Unit staff conducted inspections of all mainland immigration detention facilities during October and November 2006. In January 2007 an inspection report was published on the HREOC website at: www.humanrights.gov.au/human_rights/asylum_seekers/inspection_of_mainland_idf.html

The inspection report notes that substantial efforts have been made by the Department of Immigration and Citizenship (DIAC) to improve the physical environment, reduce the tension levels, enhance the programs and activities available to detainees, and improve mental health services inside immigration detention centres.

The inspection report also notes that, despite these improvements, the fundamental problem with immigration detention has not changed – the length of detention and the uncertainty about how much longer that detention will last.

The report makes 41 recommendations for improvements to the law, administration and conditions inside detention centres. There has been constructive interaction between HREOC and DIAC regarding those recommendations.

Commissioner Innes continues to engage with DIAC on a variety of immigration issues.

8.4 EDUCATION AND PROMOTION OF HUMAN RIGHTS

8.4.1 Community Guide for *Same-Sex: Same Entitlements* Inquiry



The *Same-Sex: Same Entitlements* Inquiry produced a community guide to describe discrimination against same-sex couples in a short and simple format. The guide is available at no cost. It is an educational tool for community groups and general members of the public.

8.4.2 Art and Essay Competitions for Young People

In 2006 HREOC partnered with the Australian Red Cross to run the *Human Writes* Essay Competition and *Rights in Perspective* Art Competition.

Children and young people aged between 11 and 18 years-old were encouraged to express their views and thoughts about human rights in either a written or visual arts form.



The *Rights in Perspective* Art Competition received 326 entries and the *Human Writes* Essay Competition received 208 entries.

The entries were judged by panels of experts including the Human Rights Commissioner, journalists, educators, artists, curators and senior representatives from the Australian Red Cross. Prizes were awarded for the best works in junior and senior categories at both a state and national level.



The winning artworks and essays can be found at: www.humanrights.gov.au/about/competitions/index.html

8.5 LEGISLATIVE DEVELOPMENT

In addition to the legislative changes recommended in the final report of the *Same-Sex: Same Entitlements* Inquiry, the Human Rights Unit contributes to legislative development by making written and oral submission to Parliamentary and other Inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.

8.6 SPEECHES AND CONSULTATIONS

The Commissioner and staff conduct meetings, consultations and media interviews on an ongoing basis.

In the 2006–07 financial year the majority of those consultations occurred in the context of the *Same-Sex: Same Entitlements* Inquiry and the immigration detention centre visits (see above).

In addition, the Commissioner gave some separate addresses during 2006–07. Some of those speeches can be accessed on HREOC's website at: www.humanrights.gov.au/about/media/speeches/human_rights/

'*Canberra Launch of Same-Sex: Same Entitlements Report*, ' Human Rights Community Forum, Canberra, 29 June, 2007.

'*National Launch of Same-Sex: Same Entitlements Report*, ' Sydney, 22 June, 2007.

'Same-Sex: Same Entitlements Inquiry,' Queensland Association for Healthy Communities Inc Health in Difference Conference, Brisbane, 15 June, 2007.

'Human Rights in Australia' – Keynote address, NSW Professional Teacher's Council Annual President's Dinner, Sydney, 12 June, 2007.

'Human rights – who is my neighbour?' Keynote address, Mount St Benedict College, Pennant Hills, 23 May, 2007.

'Using the Law to Make a Difference,' Sir Ninian Stephens Lecture, University Of Newcastle, 8 May, 2007.

'What are Human Rights?' Keynote address, Service Learning Conference, Gala Dinner on Human Rights, Sydney, 18 April, 2007.

'What are Human Rights?' Liberal Speakers Group Meeting, Sydney, 6 March, 2007.

'Human Rights for Same Sex Couples,' Keynote address, Victorian Equal Opportunity Commission Human Rights Conference, Melbourne, 27 February, 2007.

'Seminar on the Health of Refugee Children,' Sydney Children's Hospital, Sydney, 20 September, 2006.

'Young people and human rights,' Youth for Human Rights Forum, Sydney, 11 December, 2006.

'White Ribbon Campaign Launch,' Sydney, 24 November, 2006.

'Challenging Discrimination against same sex couples at work,' Keynote address, 2nd Diversity Council of Australia Conference, Sydney, 26 October, 2006.

Chapter 9: *Race Discrimination*

9.1 STATEMENT FROM THE COMMISSIONER

This report covers my third year as the Acting Race Discrimination Commissioner at HREOC, a position I occupy alongside my role as the Aboriginal and Torres Strait Islander Social Justice Commissioner. Over these past three years I have become concerned by an increasing ambivalence and at times antagonism towards multiculturalism, both as a set of principles and as a government policy framing social relations within Australia.



Mr Tom Calma
*Acting Race Discrimination
Commissioner*

What is of particular concern is that the debate on multiculturalism tends to respond to, and be framed by, either international incidents involving terrorist attacks or, at the local level, incidents of racial tension or conflict. These events often lead to assertions by politicians or commentators, that such incidents result from the freedom multiculturalism gives people to practice cultures and religions that are anathema to the core values of Australian society.

I have argued in a number of places that these responses fail to take account of global trends. For instance, such responses fail to take account of the unprecedented increase of cultural, ethnic and religious diversity within contemporary societies. This diversity is part of the unstoppable movement of people, commodities and ideas at the global level.

For many people these are welcome developments that have opened the space for recognition of minority cultures in the public sphere. For others, these new realities activate old suspicions about other cultures and ethnic groups.

As Race Discrimination Commissioner, I see multiculturalism as a sound policy framework to promote understanding, respect and friendship among racial and ethnic groups in Australia. Multiculturalism also provides a basis for combating prejudices that lead to racial discrimination. Multiculturalism correlates with HREOC's legislative mandate to achieve equitable access and harmonious community relations. I have pursued a number of projects over the preceding year towards this goal and these are outlined below.

I have pursued in particular, a number of projects aimed at supporting Muslim communities in defending themselves against religious abuse and hatred. While this targeted work is necessary to ensure the concerns of particular communities are addressed, it is equally important that strategies are in place to educate the Australian community about the principles of non-discrimination enshrined in the Racial Discrimination Act (RDA).

9.2 RESEARCH AND POLICY

9.2.1 The *Unlocking Doors* Project: Engaging Muslim Communities and Police



Participants at the Victorian *Unlocking Doors* Forum.

The aim of the *Unlocking Doors* Project was to facilitate a dialogue between Muslim communities and police in order to build on the capacity of police to respond to incidents of racial or religious hatred and abuse. The project was funded by the Commonwealth Department of Immigration and Multicultural Affairs (DIMA).

The project was a response to the concerns expressed by Arab and Muslim organisations during HREOC consultations conducted through the *Ismaʿ* project in 2003 about the rise in anti-Arab and anti-Muslim prejudice in Australia. The *Ismaʿ* Report advised that mechanisms were required to build trust between Muslim communities and law enforcement agencies in order to reduce the risk of further marginalisation of Arab and Muslim communities, in particular, young people and women.

The first phase of the *Unlocking Doors* Project included consultations and workshops with key stakeholders and Muslim community members involving more than 80 meetings and 15 workshops. Following this, a forum was held in September in Victoria and NSW. More than 200 people attended these forums, including uniformed and non-uniformed police, Muslim community members and their representatives, young people, Muslim women, and government representatives. A report of the project will be on HREOC's website later in 2007.

9.2.2 Muslim Women and Human Rights Forum

A Muslim women's forum on human rights, entitled *Living Spirit: Muslim Women and Human Rights Project – the right to participate in social change*, was held in Victoria in September 2006.



The Forum was co-hosted by the Islamic Women's Welfare Council of Victoria (IWWCV) and funded by DIMA. The project was supported by: the Equal Opportunity Commission of Victoria (EOCV); the Islamic Council of Victoria (ICV); the Islamic Girls and Women's Group (IGWG); the Federation of Ethnic Communities' Councils of Australia (FECCA); the Ethnic

Communities' Council of Victoria (ECCV); the Centre for Multicultural Youth Issues (CMYI); the Victorian Immigrant and Refugee Women's Coalition (VIRWC); and the Goulburn Ovens Institute of TAFE.

Prior to the forum, HREOC held meetings with more than 60 key organisations and individuals in Victoria and NSW to determine how the project could best address human rights issues for Muslim women.

The *Living Spirit* project won an award for excellence in the field of projects/initiatives beneficial to Australian Muslims in this country, and in particular, Victoria, presented by the Islamic Council of Victoria (ICV) and the Department of Family and Community Services and Indigenous Affairs (FaCSIA).

The forum aimed to promote common goals of harmony and understanding between Muslims and non-Muslim women in Australia. It was attended by more than 130 women from diverse religious and cultural backgrounds, most of whom were Muslim women home-makers, students, service providers, community workers, religious leaders and professionals, including lawyers. Non-Muslim participants included church leaders, police, community workers, service providers, anti-discrimination agencies, media, government representatives and individuals.

The one-day forum included a hypothetical session called 'Righting the Wrongs: How would you respond?' which addressed the policy standards used by decision makers to respond to incidents of discrimination and abuse. There was also a morning tea with politicians and a 'Why Women Matter' exhibition profiling achievements and contributions to Australia by 10 everyday Muslim women. 'Veiled Ambition' and other DVDs were screened and 10 concurrent workshops were held exploring human rights issues facing Muslim women. The workshops included: Islam and human rights; the effects of anti-terrorism laws; media issues including freedom of speech and racial vilification; complaints mechanisms and anti-discrimination law; confronting stereotypes and misconceptions; and participating in social change and strategies for the future.

Participants also wrote their ideas and thoughts about the day, human rights and Islam onto a canvas mural which has been donated to the Islamic Women's Welfare Council of Victoria.

9.2.3 Meeting of state and territory equal opportunity managers working in the race discrimination area

HREOC hosted a meeting on 2 November of state and territory equal opportunity commissioners or their representative and the New Zealand Race Relations Commissioner. The purpose of the meeting was to:

- share information and experiences about race discrimination and the strategies being adopted to combat racism across Australia and New Zealand;
- identify common issues and possible partnerships; and
- develop common strategies on race-related issues.

It was agreed to continue to hold regular meetings of state and territory EOC managers working in this area and to further identify common strategies.

9.3 EDUCATION AND PROMOTION

9.3.1 New Racisms: New Anti-Racisms Conference

HREOC co-hosted a conference entitled 'New Racisms: New Anti-Racisms' with the University of Sydney on 3–4 November 2006. The University convened the conference in order to link the work being done at a theoretical level to combat racism with that being done within the broader community at an institutional and organisational level. The conference facilitated information sharing on how to address the new forms of racisms operating at the global, national and local levels.

9.3.2 Sport and Racism project



The Department of Immigration and Multicultural Affairs (DIMA) funded HREOC to survey and compile a list of existing strategies to combat racism within sport that have been adopted by selected national sporting organisations, codes, government and non-government sporting agencies and human rights institutions. The report has been provided to the Department (now known as the Department of Immigration and Citizenship) and will be released in the latter part of 2007.

The report also gathers available baseline data on the level of participation by culturally and linguistically diverse (CALD) communities and individuals in sport as well as information on any projects which aim to increase Indigenous and CALD participation.

9.3.3 HREOC's new 'Community Partnerships' for Human Rights Program

Background

In response to increasing concerns expressed by Muslim organisations about the rise in anti-Muslim prejudice, HREOC commenced a series of consultations in 2002 through a project entitled, *Ismaʿ – Listen: National consultations on eliminating prejudice against Arab and Muslim Australians* in which more than 1 400 people participated. These consultations culminated in a report of the same name published in 2003. This is available online at www.humanrights.gov.au/racial_discrimination/isma/

In 2005, the Council of Australian Governments (COAG) examined the emerging issues around Australia's social cohesion, harmony and security. This led to the Ministerial Council on Immigration and Multicultural Affairs developing a national action plan building on recommendations and principles agreed between Muslim community leaders, state and territory leaders and other faith and community leaders.

Building on HREOC's substantial body of work in this area, HREOC received funding from the Australian Government's \$35 million four-year funding package to implement the National Action Plan (NAP) to Build on Social Cohesion, Harmony and Security.

As a result, in early 2007 HREOC established a new Education and Partnerships Section as part of the Race Discrimination Unit. The role of the new section is to implement HREOC's NAP activity in line with HREOC's functions through the 'Community Partnerships for Human Rights Program.'

Program projects

HREOC is focusing on two areas under the NAP: working with young Muslim Australians and law enforcement .

In its work with young Muslim Australians, HREOC will develop education strategies and resources associated with civic responsibility, discrimination, human rights and responsibilities education aimed at young people. HREOC will also work with law enforcement agencies across Australia to build their engagement with Muslim communities and to help address discrimination and vilification targeted at Muslim Australians.

HREOC will undertake a wide range of innovative projects to implement these initiatives in order to help build community capacity and social cohesion.

Attorney-General Philip Ruddock announced in June a number of HREOC's projects under the NAP. A summary of these projects is given below.

- *ESL Teachers' Human Rights Curriculum Resources Project*: This project will develop a new set of education resources to be used by English as a Second Language (ESL) teachers who teach English to non-English speakers about human rights and discrimination of all types and how Australian laws protect people.
- *Community Languages Australia (CLA) Human Rights Project*: This project is another education-oriented project in which HREOC is partnering Australia's peak national body for community language schools, the CLA. The project will develop classroom material about discrimination, human rights, cross-cultural respect, and where and how to make a complaint if discrimination or vilification occurs.
- *Community Police Partnership Project*: This project will build partnerships between police and Muslim communities across Australia. It will focus on working with young Muslim Australians and law enforcement agencies to help address discrimination and vilification.

It is anticipated that through joint projects, local networks will be established and a stronger sense of social participation, respect and inclusion within communities will be established.

- *Freedom of Religion and Belief in the 21st Century Project*: This project will see HREOC partner with a range of organisations including the Australian Partnership of Religious Organisations (APRO), the community sector and tertiary institutions, to renew the 1998 HREOC Report on Freedom of Religion and Belief.

HREOC also intends to use the 'Community Partnerships for Human Rights' initiative to refocus on the critical issues relating to religious harmony. The human rights impacts of religious belief, cultural practice and spirituality in a globalised world threatened by fundamentalism, need to be closely examined.

In recognition of this issue, the Commissioner joined the Australian Government delegation to Waitangi in New Zealand in May to represent HREOC at the *Building*

Bridges Third Asia-Pacific Regional Inter-faith Dialogue. HREOC is also supporting the Australian Partnerships of Religious Organisations to conduct national dialogue on inter-faith issues, and one of its future research projects will focus on this area.

9.4 LEGISLATIVE DEVELOPMENT

The Race Discrimination Unit contributes to legislative development by making written and oral submission to Parliamentary and other Inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.

9.5 SPEECHES

A selection of public addresses made by the acting Race Discrimination Commissioner and his senior staff during 2006–07 is listed below. Speeches can also be accessed on the HREOC website at: www.humanrights.gov.au/about/media/speeches/race-discrim/index.html

Australian Partnership of Religious Organisation (APRO) National Inter-Faith Forum, presented by Conrad Gershevitch, Director of HREOC's Education and Partnerships Section, Race Discrimination Unit, on behalf of the Race Discrimination Commissioner, Sydney, 18 June, 2007.

Eliminating Racism: Valuing Diversity Conference, presented by Margaret Donaldson, Director of HREOC's Race Discrimination Unit, on behalf of the Race Discrimination Commissioner, Melbourne, 21 March, 2007.

International Day of the Imprisoned Writer, Adelaide, 15 November, 2006.

Refugee Week, Adelaide, 18 October, 2006.

Cultural Competency Conference, Sydney, 8 September, 2006.

Local Government New Zealand Conference, Wellington, New Zealand, 18 July, 2006.

Chapter 10: *Sex and Age Discrimination*

10.1 STATEMENT FROM THE COMMISSIONER

For the past eight months I have worked with the staff of the Sex and Age Discrimination Unit to continue the projects begun by the former Sex Discrimination Commissioner, Pru Goward. Ms Goward left HREOC in March 2007 following a leave of absence in November 2006. The Unit's major project throughout this reporting year is the women, men, work and family project, which entered its final stage with the launch of the *It's About Time: Women, men, work and family* final paper in March 2007. The paper, with its 45 broad-ranging policy recommendations is a tribute to the hard work and vision of Ms Goward, who initiated the project and engaged public debate on the issues.



The Hon. John von Doussa QC
*Acting Sex Discrimination
Commissioner and Commissioner
responsible for Age Discrimination*

It's About Time addresses one of the biggest challenges facing Australian society in the 21st century; balancing paid work with family responsibilities. A common theme in the stories HREOC heard during this project was the issue of time: time pressures, conflicting demands on time and a desire for more time to spend with family and community.

Managing time is of course not only about individual choices and capacities, but about social values and the support that is offered by governments and workplaces. In response to what the Australian community told us, *It's About Time* sets out a holistic framework for addressing the many aspects of the work and family issue, as well as priority measures to assist men and women to strike a better balance between paid work and family life.



Mr von Doussa at the launch of the 'It's About Time' paper with launch MC Elizabeth Broderick (far right) from Blake Dawson Waldron, and launch speakers Wendy Harmer and Charles 'Bud' Tingwell.

Chief among HREOC's recommendations is the proposal for new legislation to provide protection from discrimination due to family responsibilities

– a *Family Responsibilities and Carers' Rights Act*. If implemented, this Act would provide more comprehensive protection for men and women with family and carer responsibilities by making discrimination on the basis of family and carer responsibilities unlawful in all areas of employment. The new Act would also include a right for workers to request, and have reasonably considered, flexible work arrangements to meet family responsibilities.

In my time as Acting Commissioner, I have had the opportunity to travel around the country promoting the paper and its findings in a series of community forums. Listening to the feedback at these forums, it is clear that work and family issues are not only relevant to employees balancing paid work with the care of small children. Time pressures affect individuals and families across the life course. A life cycle approach to these issues is therefore needed if we are to adequately support all forms of care, including elder care and care for people with disability.

We must also approach this issue from the perspective of gender equality. Increased paid work opportunities for women over the past 20 years have not produced a corresponding change in the division of unpaid responsibilities between women and men in the home. The effects of this situation can be far reaching; the experience of providing years of unpaid caring work can leave women with limited employment opportunities resulting in poverty in their later years.

While women complain of high paid and unpaid workloads, men in full-time work, especially those working long hours, complain of a lack of access to family life. HREOC deliberately sought men's views on this issue during this project; incorporating their perspectives is a key part of forming solutions to poor work and family balance. Men in senior management roles are particularly well placed to lead cultural change in the workplace by putting into practice the policies that many businesses now proclaim.

Workplaces are changing further as the so-called 'baby boomers' are ageing at a time when women are giving birth later in life, thus increasing the likelihood of dual caring responsibilities for both children and ageing parents. In the current tight labour market, many large employers are already responding with policies that assist employees with various caring responsibilities. Many are also recognising the skills that mature-aged workers can bring to their business. There is more work to do in this area, however, with research commissioned by the Sex and Age Discrimination Unit showing that ageist stereotypes among employers are a significant barrier to the employment of older workers. In response, the unit is currently developing a national age discrimination community awareness strategy to encourage positive attitudes towards older workers.

The Sex and Age Discrimination Unit has undertaken a range of other projects, including educational materials for Indigenous women on pregnancy and work. These materials were produced in partnership with the National Network of Indigenous Women's Legal Services and were developed through a series of consultations with Indigenous women in Perth, Kununurra and Port Augusta. There has been a high take-up of these resources among the Australian community.

Our continuing research partnerships remain a useful source of information for the Unit, helping us to develop evidence-based policy while also providing resources for other agencies as well as the general public.

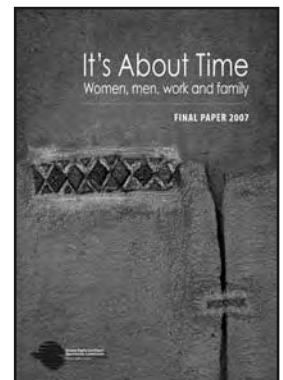
In addition, we have continued our involvement in a range of international activities, all of which highlight the unique place that Australia has in working within our region to promote the principle of gender equality and women's rights.

After more than five years as the Sex Discrimination Commissioner, the departure of Ms Goward left a large pair of shoes to fill. While it is never easy to follow on from such an effective advocate for the rights of women, I am grateful to have had the opportunity to steer the work of HREOC in this area during my time as Acting Commissioner. I also look forward to welcoming the new Sex Discrimination Commissioner, Elizabeth Broderick, when she takes over the role in September 2007.

10.2 RESEARCH AND POLICY

10.2.1 Paid work and family responsibilities – *It's About Time: Women, men, work and family*

In June 2005 a project on women, men, work and family was launched with a discussion paper called *Striking the Balance: Women, men, work and family*. The project examined the particular pressures facing men and women who seek to combine paid work with family responsibilities. A total of 44 public consultations and focus groups were held across Australia throughout 2005–06, and, along with 181 submissions and roundtable discussions, fed into the final stage of the project – the development and release of the *It's About Time: Women, men, work and family* Final Paper in March 2007.



The *It's About Time: Women, men, work and family* final paper and an accompanying community guide were launched at Blake Dawson and Waldron on 7 March 2007. The Acting Commissioner, actor and former carer Charles 'Bud' Tingwell and humorist/writer Wendy Harmer spoke at the event which was attended by approximately 130 people and attracted significant media coverage.

It's About Time was distributed to approximately 650 stakeholders including all federal Members of Parliament and Senators, policy makers, non-government organisations, employers, unions and interested members of the public. The paper and community guide were also made available online.

The launch was followed up by a number of community, business and academic forums around the country to disseminate the findings of the paper and gather feedback on the paper's recommendations. To date, forums have been held in Adelaide, Melbourne, Canberra, Brisbane, Perth, Darwin and Sydney with Hobart to follow. The community forums were organised in partnership with local organisations, such as state and territory equal opportunity and anti-discrimination agencies and universities. Employer forums were held in Brisbane, Sydney and Melbourne, and were hosted by the Diversity Council Australia as part of their Diversity Practitioners' Forum.



Mr von Doussa and NT Anti-Discrimination Commissioner Tony Fitzgerald at the 'It's About Time' Community Forum in Darwin on 17 May 2007.

10.2.2 Research Benchmarking Women's Wages and Conditions

The Sex and Age Discrimination Unit, along with the National Foundation of Australian Women and the Women's Electoral Lobby, commissioned research by a consortium of academics (Women in Social and Economic Research – WiSER – based at Curtin University of Technology) into current pay and conditions for women in the labour market.

The research collated all available data relating to women's pay and conditions in Australia and gave a snapshot which provides a benchmark against which future research on women's employment can be measured. The research also identified gaps in currently available data and put forward recommendations about further research and data collection relevant to women's employment in the context of the new workplace relations framework.

The final report of this research, the *Women's pay and conditions in an era of changing workplace regulations: Towards a Women's Employment Status Key Indicators (WESKI) database* report, was released on 11 September 2006.

10.2.3 Trafficking in Women

The Sex and Age Discrimination Unit continues to monitor the situation in relation to trafficking of women in Australia, and has regular contact with non-government agencies, academics and government agencies on the issue, as well as with the US State Department which prepares an annual report of each country's response to the problem.

10.2.4 Qualitative Research of Age Discrimination

In the second half of 2006, HREOC contracted Social Change Media to identify key issues facing older people as a basis for determining the focus of a national community awareness strategy about age discrimination. This internal research showed that age discrimination is prevalent in Australia, that there are considerable barriers to preventing age discrimination in employment and that ageist stereotypes amongst employers are a significant part of the problem. This research is currently being used to develop the Sex and Age Discrimination Unit's community awareness strategy on age discrimination.

10.2.5 ARC linkage project 'Parental Leave in Australia: Access, utilisation and efficacy'

The Sex and Age Discrimination Unit, on behalf of HREOC, is an industry partner to the Australian Research Council (ARC) linkage project 'Parental Leave in Australia: Access, utilisation and efficacy'. The project aims to: provide benchmark information on access to, and utilisation of, parental leave in Australia; identify parents' preferences and unmet needs for parental leave; and assess broader implications for gender equality. Lead researchers are Dr Gillian Whitehouse and Dr Marian Baird.

The research team released its survey data in November 2006 and made it available on the University of Queensland website.

The third stage of the project – household interviews – is currently nearing completion.

10.2.6 ARC linkage project ‘Impact of Parents’ Employment on Children’s Wellbeing: The influence of employment quality, time and activities with children, and parenting practices’

The Sex and Age Discrimination Unit, on behalf of HREOC, is an industry partner to the ARC linkage project ‘Impact of Parents’ Employment on Children’s Wellbeing: The influence of employment quality, time and activities with children, and parenting practices.’

Lead investigators are Dr Michael Bittman, Dr Jan Nicholson and Dr Lyndall Strazdins. Other industry partners are the Queensland Commission for Children and Young People, the Queensland Office for Women and the NSW Commission for Children and Young People.

The research is progressing with preliminary findings presented and discussed at various national and international conferences.

It is expected that some papers with results of the study will be available around October 2007.

10.2.7 ARC linkage project ‘Australia’s response to Trafficking in Women: Towards a model for regulation of forced migration in the Asia Pacific Region’

The Sex and Age Discrimination Unit, on behalf of HREOC, is an industry partner to an ARC Linkage project ‘Australia’s response to Trafficking in Women: Towards a model for regulation of forced migration in the Asia Pacific Region’. The project is investigating gaps in Australia’s legal and policy response to trafficking in women.

Lead investigators are Professor Bernadette McSherry, Associate Professor Susan Kneebone and Dr Julie Debeljak. Other industry partners are ACIL Australia Pty Ltd, the federal Attorney-General’s Department and World Vision Australia.

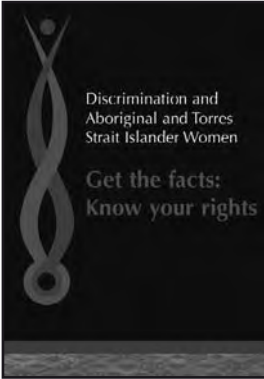
The project aims to evaluate Australia’s response to trafficking in persons, particularly women and children, from the perspective of criminal justice, international human rights law and migration law.

The project is currently in its second phase. Investigators are interviewing government and non-government representatives in Australia and the Asia Pacific Region. To date they have conducted interviews in Thailand, Laos and Cambodia, and are planning to conduct interviews in Myanmar in coming months.

Preliminary findings have been presented at a number of national and international conferences and seminars.

10.3 EDUCATION AND PROMOTION

10.3.1 Materials for Indigenous Women on Pregnancy and Work



Following a recommendation in HREOC's 1999 report *Pregnant and Productive: It's a right not a privilege to work while pregnant*, the federal Attorney-General's Department requested that the Sex and Age Discrimination Unit produce culturally-specific education materials on pregnancy, potential pregnancy and breastfeeding discrimination in the workplace for Indigenous women.

The materials consist of a folder containing 12 fact sheets covering information about pregnancy and work along with a more general brochure about unlawful discrimination and Indigenous women. The materials include information on parental leave and information on returning to the workplace with young children.

This project was funded by the Attorney-General's Department, the Office of Indigenous Policy Coordination and the Office for Women and was carried out in partnership with the National Network of Indigenous women's legal services.

The Attorney-General launched the materials at HREOC on 29 August 2006. The then Sex Discrimination Commissioner Pru Goward and Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma also spoke at this event. The materials have been distributed to Aboriginal Legal and Medical Services, community legal services, women's legal services, Indigenous organisations, women's organisations, legal centres, unions and other relevant organisations and government agencies around the country. Hundreds of kits have also been distributed as a result of orders received following the launch. The materials are also available on HREOC's website.

10.3.2 Community Awareness Strategy on Age Discrimination

Based on the Sex and Age Discrimination Unit's research on age discrimination issues, a community awareness strategy on age discrimination issues is being developed. The elements of the strategy include a revised age discrimination brochure incorporating focus group feedback, the development of a print advertisement campaign and web-based materials aimed at overcoming negative stereotypes and discrimination against older workers.

10.4 INTERNATIONAL ACTIVITIES

10.4.1 Human Rights Technical Cooperation Program

The Sex and Age Discrimination Unit is working with the International Programs Unit on domestic violence activities of the Australia-China Human Rights Technical Cooperation Program. The then Sex Discrimination Commissioner Ms Goward participated in an Anti-Domestic Violence Workshop led by the All China Women's Federation in Urumqi Xinjiang Autonomous Region on 26 and 27 July 2006 as part of the Human Rights Technical Cooperation Program activities.

10.4.2 Japan International Labour Foundation (JILAF) Delegation

The Sex and Age Discrimination Unit met with a 12 member delegation of Women Trade Union leaders on 1 February 2007. The Japan International Labour Foundation (JILAF) sent International Exchange Teams consisting of women trade union leaders of RENGO (Japanese Trade Union Confederation) in order to promote international cooperation by exchanging views on labour, economic, social and gender equality issues. The purpose of the delegation was to deepen the understanding on gender equality issues and to learn about women and work issues in Australia.

10.4.3 Visit by Papua New Guinea General-Secretaries

The then Sex Discrimination Commissioner Pru Goward met with two political party General-Secretaries from Papua New Guinea on 24 October 2006. Ms Joyce Grant, Secretary-General, of the National Alliance (part of the governing coalition) and Ms Monica Hasimani, Secretary-General, PNG Greens Party. The women had been in Australia undertaking the Political Party Development Course conducted by the Centre of Democratic Institutions at the Australian National University with other political party leaders from South East Asia and the South Pacific. The visit to HREOC was organised by the federal Office for Women.

10.4.4 Attorney-General's Department Australia-China Legal Professional Development Program

A member of the Sex and Age Discrimination Unit met with Ms Li Xin, Division Director in the International Judicial Cooperation Department of the Supreme Prosecution Service in China, to brief her on the Unit's work. Ms Li visited HREOC as part of the Attorney-General's Department Australia-China Legal Professional Development Program.

10.5 EXEMPTIONS UNDER THE SEX DISCRIMINATION ACT

10.5.1 Forensic Technology Pty Ltd

Forensic Technology Pty Ltd, trading as Crisis Support Services (CSS), is a non-profit organisation that provides a range of counselling and community support services. It offers counselling for men, via both the Mensline Australia family and relationships operation and Suicide Helpline services.

CSS sought an exemption from the Sex Discrimination Act to:

- advertise nationally for and recruit male counsellors to join their Graduate Trainee Program; and
- at the end of the program, to offer employment to as many male counsellors who completed the program, as it considered appropriate.

The applicant stated that a need for male counsellors had arisen in relation to CSS' counselling services due to increased use of these services by men who request to speak to a male counsellor. The application noted that the current gender ratio of staff

at Mensline is 35:65 (male: female) and documented some evidence in support of the preference of male callers' requests to speak to a male counsellor.

HREOC accepted that, based on the gender-ratio and small number of staff at Mensline, it is currently unable to accommodate the number of requests it receives from men to speak to a male counsellor.

HREOC also accepted that some men, particularly those from culturally and linguistically diverse backgrounds, have difficulty seeking assistance or counselling from a female in times of crisis. HREOC was of the view, however, that the current evidence was inconclusive as to whether men generally preferred to speak to a woman or a man in a situation of crisis.

HREOC granted the exemption for one year and noted that stronger supporting evidence might lead HREOC to consider granting the exemption for a longer period.

10.6 LEGISLATIVE DEVELOPMENT

The Sex and Age Discrimination Unit contributes to legislative development by making written and oral submission to Parliamentary and other inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.

10.7 SPEECHES

Former Commissioner Goward, the Acting Commissioner and the Sex and Age Discrimination Unit were involved in approximately 50 meetings and made over 70 speeches during 2006–07. A selection of these, listed below, can be accessed on HREOC's website at www.humanrights.gov.au/about/media/speeches/sex_discrim/

The following speeches were presented by Commissioner Goward.

'Making the Boom Pay,' the 2006 Economic and Social Outlook Conference, Melbourne, 3 November, 2006.

'Healthy Workforce,' WA State Health Conference, Perth, 2 November, 2006.

'Is it profitable for small business to be family friendly,' NSW EEO practitioners Association Seminar, Sydney, 25 October, 2006.

'Age Discrimination and in relation to older people with disabilities,' Centre for ageing and Pastoral Studies Conference, Canberra, 28 September, 2006.

'Work Life balance,' Diversity Practitioners Forum, Sydney, Melbourne, Wollongong, September, 2006.

'Embracing, Challenge, Diversity and Change,' Pilbara Women in Management Conference, WA, 21 September, 2006.

'Men's health, work and family,' Australian Market Research Society Conference, Melbourne, Brisbane, Hobart, September, 2006.

'Adult Learning,' Adult learners Week, Sydney, Melbourne, Brisbane, Hobart, 4–9 September, 2006.

'Sex Discrimination Act,' National Conference of Muslim Women," Canberra, 1 September, 2006

'Implementation – Growing the potential workforce by attracting people from different backgrounds,' Resources and Infrastructure Industry Skills Council, Sydney, 23 August, 2006.

'Striking the Balance,' Australian Institute of Family Studies, Melbourne, 17 August, 2006.

'Striking the Balance and The Law,' QUT Faculty of Law Public Lecture Series, Queensland, 12 July, 2006.

'Demography, Destiny and Public Policy,' Social and Economic Policy Public Lecture Series, Canberra, 11 July, 2006.

'Economic growth and community development,' Wakefield Development Council Forum, South Australia, 6 July, 2006

'Making the most of the ageing workforce,' Newcastle Business Club Lunch, 4 July, 2006.

The following speeches were presented by John von Doussa QC in his capacity as Acting Commissioner:

'Working Time and the Work-life Balance,' Melbourne Institute Public Economics Forum, Canberra, 26 June, 2007.

'It's About Time: Women, men, work and family,' Community Forums, Sydney, Melbourne, Canberra, Adelaide, Darwin and Brisbane, March to June, 2007.

'It's About Time: Key findings from the women, men, work and family project,' Australian Institute of Family Studies Seminar, Melbourne, 12 April, 2007.

'It's About Time: Women, men, work and family,' Final Paper launch, Blake Dawson and Waldron, Sydney, 7 March, 2007.

Chapter 11:

International Activities

While the role and functions of HREOC as set out in legislation, are primarily directed towards human rights issues within Australia HREOC undertakes an international education and training role, with a specific focus on agencies in the Asia Pacific region.

In 2006–07, as in past years, most of this has taken the form of technical cooperation programs with other countries. These programs, which are based around sharing knowledge and expertise, are generally delivered through the framework of the Australian Government’s development cooperation program administered by the Australian Agency for International Development (AusAID). This international technical cooperation work is externally funded (not from HREOC’s core budget which is devoted to fulfilling its domestic mandate).

These programs, along with HREOC’s participation in other international fora, such as the Asia Pacific Forum of National Human Rights Institutions, also provide a valuable way to keep abreast of international developments in human rights and models of best practice for national human rights institutions.

HREOC’s international role has evolved from the way that it has pursued its domestic responsibilities. It also reflects the organisation’s belief that helping to strengthen human rights protection in other countries has flow-on benefits for everyone, including Australia. The international work also provides staff development and gives wider international perspectives which enhance HREOC’s domestic work.

In undertaking these activities, HREOC engages with a variety of institutions and professionals relevant to the protection and promotion of human rights; for example, government agencies and civil society groups in other countries that are involved in the protection and promotion of human rights, and interested in how the Australian experience could be relevant to their country. The activities seek to strengthen the capacity of those institutions to protect human rights through the increased ‘professionalism’ of agencies involved in enforcing or implementing laws and the rule of law.

Many of HREOC’s international training activities involve a staged process of implementation, from initial scoping to design through to full implementation. This reflects the strong emphasis HREOC gives to detailed planning to ensure that the Australian input accords with the needs and priorities of overseas partner agencies.

It also reflects the fact that success in this area requires a gradualist approach, with substantive progress often being preceded by a lengthy process of establishing relationships and building confidence in the program. Concerted efforts are also made to ensure that partner agencies feel a sense of ownership of the program, which is essential to its success and long-term sustainability.

Most of the international training activities undertaken by HREOC centre on practical issues that affect the lives of individuals, such as domestic violence, police conduct, prison management, investigation techniques, human trafficking and so on. Notwithstanding this practical focus, efforts are made to ensure that the activities are firmly grounded in human rights principles set out in international law.

11.1 CHINA-AUSTRALIA HUMAN RIGHTS TECHNICAL COOPERATION PROGRAM

HREOC's most substantial international program involvement is with the China-Australia Human Rights Technical Cooperation Program (HRTC), which is an integral part of Australia's annual inter-governmental Dialogue on Human Rights with China. HREOC participates in dialogue meetings and will attend the 2007 dialogue in July in Beijing.

The HRTC program encompasses three principal themes: protection of the rights of women and children; protection of ethnic minority rights; and reform of the legal system.

The program aims to provide an important information base of human rights principles, ideas and strategies which can be drawn upon in the development of Chinese policies and practices. The program includes activities conducted in both China and Australia. Each activity in the program is implemented as a cooperative venture between HREOC and particular Chinese organisations. Some selected examples of activities implemented in the 2006–07 HRTC Program are given below.

- In October 2006 a seminar on Implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) was held in Urumqi, Xinjiang Autonomous Region. The seminar aimed to assist the Ministry of Foreign Affairs and other agencies from the People's Republic of China (PRC) in implementing the recommendations of the United Nations ICESCR Committee following its consideration of China's first periodic report under that treaty.
- In November 2006 a Model United Nations was held in Chengdu, Sichuan Province, in cooperation with the United Nations Association. The activity simulated the proceedings of the UN Human Rights Council in the debate and adoption of resolutions on selected human rights issues.
- In December 2006 a seminar on the system of 'people's assessors' in China's courts was held in Haikou, Hainan Province. The seminar, conducted in cooperation with the National Judges' College of China, aimed to encourage the application of human rights principles in the development of the people's assessor system.

- In December 2006 a delegation from the Penitentiary Administration Bureau in the Ministry of Public Security visited Australia to study measures for protecting and promoting the rights of juvenile and female detainees.
- In February 2007 two officials from the Ministry of Foreign Affairs arrived in Australia to undertake postgraduate studies in human rights at the University of Melbourne.
- In March 2007 a delegation from the Supreme People's Procuratorate undertook a study visit to examine Australian measures for combating corrupt conduct by government officials.
- In March 2007 a delegation comprising officials from the Ministry of Justice and the Department of Justice of the Tibet Autonomous Region undertook a study visit to Australia. The focus of the visit was on measures to ensure the successful reintegration of prisoners into society following their release.
- In April 2007 a seminar on the Protection of the Rights of Juveniles in the Criminal Justice System was held in Nanjing, Jiangsu Province. The seminar, held in cooperation with the Supreme People's Procuratorate, examined human rights based approaches to the administration of juvenile justice, with particular emphasis of restorative justice and diversionary programs.
- In April 2007 a Juvenile Justice Seminar was held in Suzhou, Jiangsu Province, in cooperation with the Supreme People's Court. The seminar focused on protection of the rights of juveniles in the criminal justice system, including the role of children's courts.
- In March 2007 a Women's Law Workshop was held in Haikou, Hainan Province. The workshop, held in cooperation with the All-China Women's Federation, focused on implementation of China's Law on Protection of the Rights and Interests of Women. The workshop canvassed strategies for applying principles of human rights and gender equality into the implementation of the law.
- In April 2007 a Penitentiary Administration Seminar was held in Nanjing, Jiangsu Province. The seminar, held in cooperation with the Ministry of Public Security built on the December 2006 study visit to Australia and engaged a larger group of penitentiary officials in discussion of human rights protection in the treatment of female and juvenile detainees.
- A human rights public education initiative was implemented in cooperation with the United Nations Association of China during the first half of 2007. This activity involved a national competition on human rights knowledge conducted through the national media in China.
- Two training programs on Human Rights and Family Planning were conducted during 2006–07 in cooperation with the National Population and Family Planning Commission. The training programs were held in Nanchang, Jiangxi Province in October 2006 and in Kunming, Yunnan Province, in March 2007. The training focused on measures for protecting and promoting human rights in the delivery of family planning and reproductive health services.

11.2 VIETNAM-AUSTRALIA HUMAN RIGHTS TECHNICAL COOPERATION PROGRAM

HREOC also participates in the annual Australia-Vietnam Dialogue on International Organisations and Legal Issues, including Human Rights. HREOC attended the 2007 Dialogue held in Hanoi in April 2007.

A program of human rights technical cooperation with Vietnam was established as part of the dialogue and commenced in late 2006. The HRTC program with Vietnam focuses on four areas: access to justice; dissemination of information about legal rights and obligations; the rights of women; and raising awareness of international human rights treaty obligations. HRTC activities implemented in 2006–07 included the following:

- In October 2006 a delegation led by the Supreme People’s Court of Vietnam undertook a two-week study visit to Australia. The 10-member delegation examined Australian laws, procedures and practices for promoting access to justice through court processes and in the legal system generally.
- In January 2007 a Seminar on International Human Rights Treaties was held in Hanoi. This activity was conducted in cooperation with the Ministry of Foreign Affairs. The seminar examined the content of human rights treaties to which Vietnam is a party as well as practical measures for compliance with treaty obligations.
- In April 2007 a Seminar on Dissemination of Legal Information was held in Hanoi, in cooperation with the Ministry of Justice. The seminar provided capacity building for the ministry in its role of disseminating information to government officials and the general population about legal rights and responsibilities under Vietnamese law.
- In May 2007 a Train-the Trainer Workshop was held in Hanoi in cooperation with the Vietnam Women’s Union. The theme was enhancing awareness of women’s rights, and the activity aimed to strengthen the training and advocacy skills of local women’s union staff.
- In June 2007 a further Seminar on International Human Rights Treaties was conducted with the Ministry of Foreign Affairs. This seminar was held in Da Nang and provided training for government officials in the central provinces.

11.3 LAOS-AUSTRALIA HUMAN RIGHTS DIALOGUE

HREOC participated in the Laos-Australia Human Rights Dialogue meeting, held in Vientiane in October 2006.

11.4 INTERNATIONAL VISITORS

In addition to formal programs of bilateral technical cooperation, HREOC frequently receives international visitors and participates in meetings with representatives of

organisations concerned with human rights. A summary of these meetings is given below.

- In July 2006 HREOC hosted a meeting with a delegation led by the Deputy Chairperson of the Vietnam Women's Union, Madame Nguyen Thi Thanh Hoa.
- In October 2006 HREOC met with the Vice-President of Vietnam, Madame Truong My Hoa, during her visit to Canberra.
- In May 2007 HREOC hosted a meeting with a delegation led by the Minister responsible for China's National Population and Family Planning Commission, Mr Zhang Weiqing.
- In June 2007 HREOC hosted a meeting with a delegation led by the Vice-President of the All-China Women's Federation, Madame Huang Qingyi.

11.5 INTERNATIONAL CONFERENCES AND MEETINGS

HREOC also maintained involvement in a number of multilateral bodies concerned with the protection and promotion of human rights. International conferences and meetings HREOC participated in during 2006–07 included:

- Eleventh Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions, Suva, Fiji, 31 July – 3 August 2006
- Eighth International Conference for National Human Rights Institutions, Santa Cruz, Bolivia, 24-26 October, 2006
- Eighteenth Session of the Annual Meeting of the International Coordinating Committee of National Human Rights Institutions, Santa Cruz, Bolivia, 26-27 October, 2006
- Commonwealth Secretariat Conference of National Human Rights Institutions, London, United Kingdom, 26-28 February, 2007
- Meeting of Forum Councillors of the Asia-Pacific Forum of National Human Rights Institutions, Geneva, Switzerland, 20 March, 2007
- Nineteenth Session of the Annual Meeting of the International Coordinating Committee of National Human Rights Institutions, Geneva, Switzerland, 21-23 March, 2007
- Fourth Session of the United Nations Human Rights Council, Geneva, Switzerland, March, 2007
- Fifth Session of the United Nations Human Rights Council, Geneva, Switzerland, June, 2007
- Meeting of Senior Office Holders of Asia Pacific Forum with the Chair of the International Coordinating Committee of National Human Rights Institutions, Geneva, Switzerland, June, 2007.

Appendices

Appendix 1

INTERNATIONAL INSTRUMENTS OBSERVED UNDER LEGISLATION ADMINISTERED BY THE HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

Human Rights and Equal Opportunity Commission Act

The *International Covenant on Civil and Political Rights* deals with many human rights and includes the right without discrimination to:

- freedom from torture or cruel and inhumane punishment
- equality before the law
- humane treatment if deprived of liberty
- freedom of thought, conscience and religion
- peaceful assembly
- a vote and election by equal suffrage
- marriage and family.

The *Declaration on the Rights of the Child* provides that every child has the right to:

- a name and nationality
- adequate nutrition, housing and medical services
- education
- special treatment, education and care if the child has a disability
- adequate care, affection and security
- protection from neglect, cruelty and exploitation.

The *Declaration on the Rights of Disabled Persons* provides that people with disabilities have the right to:

- respect and dignity
- assistance to enable them to become as self-reliant as possible
- education, training and work
- family and social life
- protection from discriminatory treatment.

The *Declaration on the Rights of Mentally Retarded Persons* provides that people with a mental disability have the right to:

- proper medical care and therapy
- protection from exploitation, abuse and degrading treatment
- a decent standard of living
- education, training and work

- due process of law
- review of procedures which may deny them these rights.

The *International Labour Organisation Convention 111* deals with discrimination in employment and occupation. Australian adherence to this Convention provides that all people have the right to equal treatment in employment and occupation without discrimination on the basis of:

- race
- colour
- sex
- religion
- political opinion
- national extraction
- social origin
- age
- medical record
- criminal record
- sexual preference
- trade union activity
- marital status
- nationality
- disability (whether physical, intellectual, psychiatric or mental)
- impairment (including HIV/AIDS status).

The *Convention on the Rights of the Child* confirms that children are entitled to the full range of human rights recognised in international law (subject to limitations relating to their capacity to exercise these rights and to the responsibilities of families). The Convention also recognises a range of rights relating to the special needs of children. It seeks to ensure that the protection of these rights in law and practice is improved.

The *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* became part of the definition of human rights for the purposes of the Human Rights and Equal Opportunity Act on 24 February 1994. The Declaration recognises the right to freedom of religion. The only limitations to this right are those prescribed by law and which are necessary to protect public safety, order, health, morals or the fundamental rights and freedoms of others.

Age Discrimination Act

Australia has assumed obligations to eliminate and address age discrimination under the *International Labour Organisation Convention 111*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights* and the *Convention on the Rights of the Child*.

Racial Discrimination Act

The *International Convention on the Elimination of All Forms of Racial Discrimination* aims at the elimination of all forms of racial discrimination in order to promote understanding between races and provide freedom from racial segregation. It is entered into force for Australia by the *Commonwealth Racial Discrimination Act 1975* in which it is scheduled.

Sex Discrimination Act

The *Convention on the Elimination of All Forms of Discrimination Against Women* and certain aspects of the *International Labour (ILO) Convention 156* are multilateral agreements adopted under the auspices of the General Assembly of the United Nations in 1979. The Conventions recognise the civil, political, economic, social and cultural rights of women. The *Commonwealth Sex Discrimination Act 1984* implemented the Convention into Australian law.

Appendix 2

COMMISSION PUBLICATIONS RELEASED DURING 2006–07

General

About the Human Rights and Equal Opportunity Commission brochure (updated)

Human Rights and Equal Opportunity Commission *Annual Report 2005–06* (tabled report)

The Human Rights and Equal Opportunity Commission: *Respecting, Protecting and Promoting Human Rights* DVD (2007)

2006 Human Rights Award and Medals brochure

Good practice, good business resources for employers CD-Rom (updated)

Legal

No. 36 – Report of Ms CD’s human rights at the Curtin Immigration Reception and Processing Centre (2006)

Quarterly Human Rights Law Bulletin: providing an update on domestic and international human rights law

Complaints

The Complaint Guide brochure (updated)

Work Out Your Rights brochure and poster

Get to know your rights – poster in community languages

The Complaint Process – brief guide and flowchart brochure

Education

Voices of Australia: Education Module

Youth Challenge – Teaching Human Rights and Responsibilities CD/DVD (updated)

Bringing them home Education Module DVD (updated)

Aboriginal and Torres Strait Islander Social Justice

Social Justice Report 2006 (tabled report)

Native Title Report 2006 (tabled report)

Social Justice Report 2006 and Native Title Report 2006 Community Guide and CD-Rom

Engaging the Marginalized: Partnerships between Indigenous peoples, governments and civil society CD-Rom

Track the history: history of the separation of Aboriginal and Torres Strait Islander children from their families poster

Achieving Aboriginal and Torres Strait Islander health equality within a generation publication

Indigenous Peoples: Issues in International and Australian Law publication

Human Rights

Same-Sex: Same Entitlements Report of the National Inquiry into the Discrimination against People in Same-Sex Relationships: Financial and Work-Related Entitlements and Benefits (tabled report)

Same-Sex: Same Entitlements Community Guide and CD-Rom

Disability Rights

The Good, the Bad and the Ugly: Design and construction for access CD-Rom

Race Discrimination

Your Guide to the Racial Discrimination Act brochure

History of change – timeline of Australia’s race relations poster

Sex Discrimination

It’s About Time: Women, men, work and family Final Paper

It’s About Time: Women, men, work and family Community Guide

Get the Facts: Know your Rights kit – discrimination and Aboriginal and Torres Strait Islander Women

Appendix 3

FREEDOM OF INFORMATION

The Freedom of Information Act gives the general public legal access to government documents.

Freedom of Information statistics

During 2006–07, HREOC received 18 initial requests for access to documents under the Freedom of Information Act. HREOC was also asked to conduct an internal review of two of those decisions.

Of the 18 initial requests for information, nine were brought by individuals seeking access to documents relating to themselves.

A total of 18 applications and two internal reviews were processed in this financial year.

Categories of documents

Documents held by HREOC relate to:

- administration matters, including personnel, recruitment, accounts, purchasing, registers, registry, library records and indices;
- complaint handling matters, including the investigation, clarification and resolution of complaints;
- legal matters, including legal documents, opinion, advice and representations;
- research matters, including research papers in relation to complaints, existing or proposed legislative practices, public education, national inquiries and other relevant issues;
- policy matters, including minutes of HREOC meetings, administrative and operational guidelines;
- operational matters, including files on formal inquiries; and
- reference materials, including press clippings, survey and research materials, documents relating to conferences, seminars and those contained in the library.

Freedom of Information procedures

Initial enquiries about access to HREOC documents should be directed to the Freedom of Information Officer by either telephoning (02) 9284 9600 or by writing to:

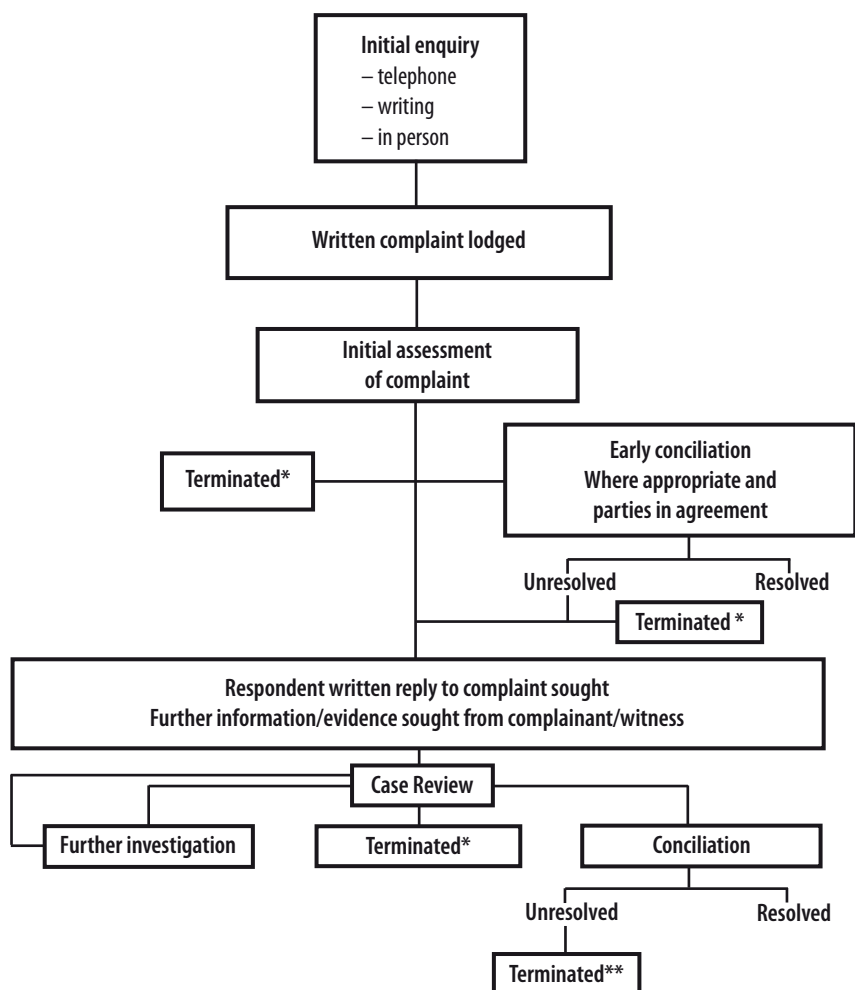
Freedom of Information Officer
Human Rights and Equal Opportunity Commission
GPO Box 5218
Sydney, NSW 2001

Procedures for dealing with Freedom of Information requests are detailed in section 15 of the Freedom of Information Act. A valid request must:

- be in writing;
- be accompanied by a payment of \$30 application fee;
- include the name and address of the person requesting the information; and
- specify the documents to be accessed.

Appendix 4

THE COMPLAINT HANDLING PROCESS



* When complaints under the Age, Racial, Sex and Disability Discrimination Acts are terminated, the complainant may apply to have the allegations heard and determined by the Federal Court of Australia or the Federal Magistrates Court.

** Complaints under the Human Rights and Equal Opportunity Commission Act concerning discrimination in employment or a breach of human rights, which cannot be conciliated, cannot be taken to court. If the President is satisfied that the subject matter of the complaint constitutes discrimination or a breach of human rights these findings are reported to the Attorney-General for tabling in Parliament.

Appendix 5

HUMAN RESOURCES AND ADMINISTRATIVE SERVICES

Performance management and staff development

HREOC's Performance Management Scheme provides a framework to manage and develop our staff to achieve our corporate objectives. The scheme provides regular and formal assessment of an employee's work performance and allows for access to training and skills development.

HREOC's Certified Agreement recognises the need to provide adequate training for staff to support workplace changes. This is especially relevant with changes in the Information Technology area where staff are provided with relevant and ongoing training.

Training is identified through an individual's training and development plan in conjunction with the Performance Management Scheme. Training encompasses a range of development activities including: professional development courses; on-the-job training; and the opportunity to represent the organisation at seminars/fora. These may broaden the skills and experience of staff, and where overseas/interstate travel is involved, may also provide an opportunity to reward staff for their performance. As part of HREOC's staff development strategy, staff are also provided with support under our Studies Assistance policy. The policy provides for access to study leave and financial assistance where study is relevant to the work of HREOC, an individual's work responsibilities, and where it assists with career development.

Workplace diversity and equal employment opportunity

HREOC recognises that diversity in our staff is one of our greatest strengths and assets and is committed to valuing and promoting the principles of workplace diversity through our work practices.

Throughout the year, HREOC supported diversity events, including International Women's Day, NAIDOC Week and Harmony Day.

Other strategies under the plan focus on supporting staff with family responsibilities. Family friendly workplace policies were enhanced in the current Certified Agreement which increased paid parental leave and provided access to extended leave following maternity or parental leave. Staff can apply for part-time employment up until the school age of their child. At the end of 30 June 2007, 12 ongoing staff had part-time arrangements in place. Staff are able to access a Family Support Service to obtain information on dependent care including child care and elder care options.

Reconciliation action plan

HREOC has developed a Reconciliation Action Plan (RAP) as part of its commitment to Reconciliation Australia's National Program of Action for Reconciliation.

HREOC launched its RAP on Friday 25 May, to coincide with the 40th anniversary of the 1967 Referendum that changed the provisions of Australia's Constitution relating to Aboriginal people.

The RAP identifies action to be taken by HREOC across the following areas:

1. Cultural recognition and awareness;
2. Education, promoting understanding and public discussion of Indigenous people's rights;
3. Working for HREOC;
4. Human rights compliance;
5. Celebration and commemoration; and
6. Responsibility for implementing the RAP.

To assist in monitoring, developing and implementing the RAP, HREOC has established a RAP Committee. To reflect the HREOC-wide nature of our commitment to reconciliation, the Committee consists of senior staff representing all parts of HREOC and includes an Indigenous staff representative.

The Committee engaged an Indigenous consultant in formulating the RAP and is committed to engagement with the Indigenous community in further developing the RAP.

HREOC's RAP is available online at: www.humanrights.gov.au/about/rap.html

Occupational health and safety

HREOC's policy is to promote and maintain the highest degree of health, safety and wellbeing of all staff. HREOC monitors health and safety through its Occupational Health and Safety (OH&S) Committee, which includes a staff health and safety representative and four corporate support staff who meet regularly through the year. Minutes of the committee are placed on HREOC's intranet and any issues that require action are brought to the attention of management.

A hazards survey is conducted annually and the Committee monitors any OH&S issues that arise. Personnel staff have been trained as case managers and regularly attend Comcare forums and training as required. Ongoing assistance and support on OH&S and ergonomic issues is provided to new and existing staff.

Assessments are completed as required for staff who identify particular ergonomic issues. A software program called 'Workpace' assists staff in taking regular pause breaks throughout the day. HREOC offers support to staff through QUIT smoking programs and flu vaccinations.

HREOC has a Healthy Lifestyle Program to promote health and fitness as a means of achieving work/life balance and improving the health and wellbeing of our employees.

HREOC continues to provide staff with access to counselling services through its Employee Assistance Program (EAP). This is a free and confidential service for staff and their families to provide counselling on personal and work-related problems if required. No systemic issues have been identified through this service.

Work has begun on the development of new Health and Safety Management Administrative plans (HSMA's) as a result of changes to the *Safety Rehabilitation Compensation and Other Legislation Amendment Act 2007* which came into effect on 13 April 2007.

Workplace relations and employment

Staff in HREOC are employed under section 22 of the *Public Service Act 1999*. HREOC's current agreement was certified by the Australian Industrial Relations Commission on 23 December 2005 and is in operation for three years. The agreement is comprehensive and was certified under section 170LJ of the *Workplace Relations Act 1976*. The number of HREOC employees covered by the agreement as at 30 June 2007 was 116, including both ongoing and non-ongoing staff. Employees received a four percent increase during 2006–07.

The agreement maintains core employment conditions and supports family friendly policies. The current Agreement provides for 14 weeks paid maternity leave, four weeks paid parental leave, and access to extended leave following maternity or parental leave. HREOC also supports access to part-time employment up until the child reaches school age. Salary progression within classification levels is subject to performance assessment. Salary ranges are reflected in the table below. HREOC has six staff covered by Australian Workplace Agreements, including one senior executive service (SES) level staff member.

Consultancy services

HREOC uses consultants where there is a need to access skills, expertise or independence not available within HREOC.

During 2006–07, eight new consultancy arrangements were entered into involving total actual expenditure including GST of \$249 870. There were no active part-performed consultancy contracts from prior years.

<i>Consultant Name</i>	<i>Description</i>	<i>Contract Price</i>	<i>Selection Process</i>	<i>Justification*</i>
Acumen Alliance	Internal Audit Services	\$99 000	Select Tender	B,C
Clayton Utz	Specialist Legal Services	\$13 576	Direct Source	A,B
Clayton Utz	Specialist Legal Services	\$15 729	Direct Source	A,B
Libraries Alive Pty Ltd	Library advisory and consultative services	\$39 200	Direct Source	A,B,C
Monash University	Research and analysis on Native Title issues	\$17 600	Direct Source	A,B
Justine Nolan	Review of Corporate Social Responsibility and Human Rights in Australia	\$25 000	Direct Souce	A,B
Pure Hacking Pty Ltd	IT Security Audit and policy formulation	\$21 065	Direct Souce	A,B,C
Pure Hacking Pty Ltd	IT Security work to enable connection to FEDLINK	\$18 700	Direct Source	A,B,C
Total		\$249 870		

**A – skills currently unavailable within the agency*

B – need for specialised or professional skills

C – need for independent research or assessment

Purchasing

HREOC’s purchasing procedures adhere to the Commonwealth Procurement Guidelines issued by the Department of Finance and Administration and updated to incorporate policy changes effective 1 January 2005. The procedures address a wide range of procurement situations, allowing managers flexibility when making procurement decisions, while complying with the Commonwealth’s core procurement principle of value for money. There were no contracts exempt from publishing through AusTender in 2006–07.

There was no competitive tendering and contracting during 2005–06 that resulted in a transfer of providers of goods and services from a Commonwealth organisation to a non-government body.

Ecologically sustainable development and environmental performance

While human rights principles are fundamentally embedded within the principles of ecologically sustainable development (ESD), HREOC’s activities do not explicitly contribute to ESD nor impact directly on the environment other than through its business operations in the consumption of those resources required to maintain the operations of HREOC.

HREOC uses energy saving methods in its operations and endeavours to make the best use of resources. Purchase and/or leasing of ‘Energy Star’ rated office machines and equipment with ‘power save’ features is encouraged, and preference is given to environmentally sound products when purchasing office supplies.

HREOC has implemented a number of environmentally friendly initiatives to reduce environmental impact. Waste paper, cardboard, printer cartridges and other materials are recycled subject to the availability of appropriate recycling schemes. HREOC also uses new generation low mercury triphosphor fluorescent tubes.

During 2006–07 HREOC and staff participated in the Earth Hour initiative which was held on Saturday 31 March 2007.

Audit Committee

Consistent with the ASX (Australian Stock Exchange) principles of good corporate governance and the requirements of the *Financial Management and Accountability Act 1997*, HREOC maintains an audit committee to advise the President on the compliance with external reporting requirements and the effectiveness and efficiency of internal control and risk management mechanisms. The audit committee met four times during the reporting period.

Fraud control

HREOC has a Fraud Risk Assessment and Fraud Control Plan and has procedures and processes in place to assist in the process of fraud prevention, detection, investigation and reporting in line with the Commonwealth Fraud Control Guidelines. The Fraud Control Plan is made available electronically to all HREOC staff.

Staffing

HREOC’s average staffing level for the year was 104 staff, with a turnover of 13 percent for ongoing staff. This included three staff who retired during the year. An overview of HREOC’s staffing profile as at 30 June 2007 is summarised in the table below. The number of part-time staff also includes casual staff employed as at 30 June 2007.

<i>Classification</i>	<i>Male</i>	<i>Female</i>	<i>Full time</i>	<i>Part time</i>	<i>Total Ongoing</i>	<i>Total Non-ongoing</i>	<i>Total</i>
Statutory Office Holder	3	–	2	1	–	3	3
SES Band 2	–	1	1	–	1	–	1
EL2 (\$84,727–\$101,807)	10	11	18	3	19	2	21
EL 1 (\$73,462–\$80,559)	5	13	11	7	11	7	18
APS 6 (\$58,730–\$65,825)	10	20	25	5	26	4	30
APS 5 (\$53,056 –\$57,304)	2	6	8	–	2	6	8
APS 4 (\$47,568 –\$51,648)	–	8	6	2	6	2	8
APS 3 (\$42,680 –\$46,065)	5	25	18	12	14	16	30
APS 2 (\$38,503 –\$41,553)	–	5	3	2	1	4	5
APS 1 (\$33,109 –\$36,593)	1	–	–	1	1	–	1
Total	36	89	92	33	81	44	125

COMMONWEALTH DISABILITY STRATEGY

HREOC, along with all other Commonwealth agencies, reports against the Commonwealth Disability Strategy (CDS) performance framework annually. Full details on the CDS can be found on the Department of Families, Community Services and Indigenous Affairs website at: www.facsia.gov.au/disability/cds/index.htm

Through the CDS, the government seeks to ensure its policies, programs and services are as accessible to people with disabilities as they are to all other Australians. This, of course, is integral to the work of HREOC and evident in the work we do. The CDS identifies five core roles that may be relevant to the agency. HREOC's primary roles are that of policy adviser, service provider and employer. Full details on the policies and services highlighted in the Appendices can be found within the relevant section of the Annual Report.

HREOC is committed to implementing best practice in providing and improving access to its services for people with disabilities. Our complaint handling processes, online access to our services, website and education material, and consultation with disability groups provide examples of what we are doing to achieve this.

COMMONWEALTH DISABILITY STRATEGY PERFORMANCE REPORTING JUNE 2007

Further details on programs and policies outlined against the performance indicators can be found in the relevant section of the Annual Report.

POLICY ADVISOR ROLE

Performance indicator 1:

New or revised policy/program assesses impact on the lives of people with disabilities prior to decision

Performance measure

Percentage of new or revised policy/program proposals that document that the impact of the proposal was considered prior to the decision making stage.

Current level of performance 2006–07

- HREOC public Inquiries and exemption applications include people with disabilities to seek views on the issue before finalisation.
- National peak disability groups and selected regional groups are consulted on new projects in the development phase to seek their views on impact. Compliance in the Disability Rights Unit (DRU) is 100 percent.
- All submissions to Inquiries are taken in a range of formats, including verbal/ audio (transcribed by HREOC), e-mail and handwritten letters.

- All new initiatives are made publicly available through HREOC's webpage and key disability organisations are informed of developments through HREOC's e-mail list.
- Through HREOC's website and e-based networks, HREOC provides extensive information on new and revised policies and programs and seeks feedback at any stage on their effect.

Performance Examples

- *Same-Sex: Same Entitlements* Inquiry examined discrimination against people in same-sex relationships who:
 - ◊ were on disability pensions;
 - ◊ living with HIV/AIDS;
 - ◊ in residential aged care facilities; and
 - ◊ seeking workers compensation payments.
- Inspection of immigration detention facilities and commentary regarding asylum-seekers and refugees has a strong focus on:
 - ◊ the availability and quality of mental health services; and
 - ◊ the connection between declining mental health, immigration detention and restrictive visa conditions.

Goals 2007–08

- The annual report outlines areas of study, such as mental health, that will be undertaken during 2007–08.

Performance indicator 2:

People with disabilities are included in consultation about new or revised policy/program proposals

Performance measure

Percentage of consultations about new or revised policy/program proposals that are developed in consultation with people with disabilities.

Current level of performance 2006–07

- Consultation with people with disabilities and their representative organisations occurs at a number of levels including:
 - ◊ direct contact with representative organisations at a national and state/territory level;
 - ◊ invitations to respond to new and revised policy/programs through HREOC's website, e-based networks, in writing or by phone; and

- ◊ through public forums, conferences and public meetings.
- New initiatives are made publicly available through HREOC's webpage and disability organisations and individuals are informed of developments through HREOC's e-mail lists.
- Public consultation events are always held in accessible venues with hearing augmentation and sign language interpreters available.

Performance Examples

- The *Same-Sex: Same Entitlements* Inquiry sought the view of peak disability groups regarding the impact of discrimination on same-sex couples where one or more person had a disability.
- HREOC convened working groups including representatives of peak disability groups to monitor and promote implementation of the recommendations of HREOC's report on *WORKability II: Solutions – People with Disability in the Open Workplace*.
- The final report of the Sex and Age Discrimination Unit project *Striking the Balance: Women, men, work and family* was released in early 2007. The report made 45 recommendations aimed at assisting workers to meet their caring responsibilities across the life course, including caring for people with disability. The Sex and Age Discrimination Unit launched the report and held a series of forums throughout Australia to inform the community on the outcomes of the project and to receive feedback on the proposals for further research, policy work and law reform. These forums were open to the public as well as invited participants, including disability stakeholder groups.

Performance indicator 3:

Public announcements of new, revised or proposed policy/program initiatives are available in accessible formats for people with disabilities in a timely manner

Performance measure

- Percentage of new, revised or proposed policy/program announcements available in a range of accessible formats.
- Time taken in providing announcements in accessible formats.

Current level of performance 2006–07

- All information about new HREOC initiatives is available on a W3C/WAI compliant website, simultaneous with public release.
- 100 percent of announcements and information material available in accessible electronic format.
- 100 percent of material produced is also available in standard print, large print, audio and Braille on request.

- Time taken to produce in other than electronic format varies according to the size of the document, but generally within seven days.

PROVIDER ROLE

Further details on HREOC's complaint handling function, with a full description of its services and relevant statistics can be found in the Complaint Handling Section of the Annual Report, Chapter 4.

Performance indicator 1:

Complaints information service provides information about complaint handling service to people with disabilities

Performance measure

- Complaints information service accessible to people with disabilities.
- Number of calls/e-mails/visits to complaints information service related to disability issues.
- Number of groups that attended complaint handling information session, or were visited by the Complaint Handling Section (CHS) during regional and interstate visits, that included disability advocacy and disability legal services.

Current level of performance 2006–07

- HREOC complaints information is available in electronic and alternative formats. An e-mail facility and accessible online complaint form for the lodgement of complaints is available. Telephone and TTY facilities are available with a national 1300 number at local call cost.
- All complaint handling brochures and publications are available on HREOC's website in accessible electronic format and are available in alternative formats on request. Information about the complaints process and legislation is available in plain English format on HREOC's website. The website is updated regularly.
- 15 percent of phone/e-mail/written enquiries to the CHS are related to disability issues.
- 100 groups attended a CHS information session or were visited by CHS staff.
- A complaints information referral list is updated regularly to ensure callers with disabilities can be referred to appropriate advocacy groups and other appropriate services.

Goals 2007–08

- Increase targeted community education and liaison with disability groups and advocacy organisations in all states, in particular regional areas.

- Targeted community education and liaison with Indigenous and disability networks in each state.
- Targeted education and liaison with networks working with young people and mature/older people with disabilities.

Performance indicator 2:

Complaint handling service accessible to people with disabilities

Performance measure

- Number of complaints received under the *Disability Discrimination Act* (DDA).
- Number of complaints lodged by people with disabilities under all legislation administered by HREOC.
- Number of complainants who identify the need for specific assistance on intake form.
- Complaints received about accessibility of service.

Current level of performance 2006–07

- There were 802 complaints received under the Disability Discrimination Act (DDA) legislation for 2006–07. Refer to the Complaint Handling Section of the Annual Report for further details (Chapter 4).
- Complaints were received from people identifying as having a disability under all Acts administered by HREOC. Of responses to a survey question on demographics, 51 percent indicated the complainant had a disability.
- There were 123 requests for assistance recorded, including assistance with language interpreters and sign language interpreters, provision of information in alternative format, TTY and assistance with writing.
- There were no formal complaints received regarding accessibility of HREOC complaint handling service or premises. Performance measure = 100 percent.
- HREOC's premises are accessible. Premises used for remote and regional conciliation conferences are accessible. Performance measure = 100 percent.
- The Complaint Handling Section Access Committee reviews access to the CHS service by the community, including specific focus on people with disabilities. Further details are available in the Annual Report.

Performance indicator 3:

Staff training and development, includes training related to people with disabilities

Performance measure

Percentage of training programs that include information regarding people with disabilities and relevance to complaint handling processes.

Current level of performance 2006–07

- CHS investigation and conciliation training courses include specific training on accommodating people with disabilities in the complaint handling investigation and conciliation processes. Performance measure = 100 percent.
- ‘Ad hoc’ CHS training sessions specifically address relevance to people with disabilities who use complaint handling services. Performance measure = 100 percent.
- CHS Complaint Handling Manual advises staff to consider reasonable accommodation for people with disabilities is provided during the investigation and conciliation process such as provision of Auslan interpreters, use of TTY, use of alternative formats for information. Performance measure = 100 percent.

Performance indicator 4:***Complaint mechanism in place to address concerns raised about service and address requirements of people with disabilities****Performance measure*

Established complaint/grievance mechanism in operation. This is detailed in the Charter of Service which is provided to all parties to a complaint and available on the HREOC website. This is provided in alternative format on request.

Current level of performance 2006–07

- The Charter of Service addresses roles and responsibilities of HREOC and parties.
- No complaints about accessibility of service or disability-related issues were received under the Charter in the year.
- Performance measure = 100 percent.

EMPLOYER ROLE**Performance indicator 1:*****Employment policies, procedures and practices comply with the requirements of the Disability Discrimination Act 1992****Performance measure*

Number of employment policies, procedures and practices that meet the requirements of the *Disability Discrimination Act 1992*.

Current level of performance 2006–07

- HREOC's Corporate Plan includes reference to the Australian Public Service (APS) Values and social justice principles to ensure access to HREOC's services.
- HREOC's Certified Agreement 2005–08 contains a commitment to the acceptance of diversity in the workplace and preventing and eliminating discrimination. Most of HREOC's policies on employment are contained within the Certified Agreement.
- The Workplace Diversity Plan outlines strategies to maximise employment and developmental opportunities for people with disabilities. The Plan is available to all staff on HREOC's intranet.
- HREOC's E-mail/Internet Policy is reviewed regularly. It specifically refers to the inappropriate use of e-mails that may demean people with disabilities.
- No formal complaints/grievances were made by staff with disabilities with regard to current work practices.
- Reasonable adjustment principles are adhered to in the modification of employee's duties in the workplace. Two employees have been provided with voice-activated software to enable them to undertake their duties and another staff member with CCTV equipment.

Performance indicator 2:

Recruitment information for potential job applicants is available in accessible formats on request

Performance measure

- Percentage of recruitment information requested and provided in alternate electronic formats and accessible formats other than electronic.
- Average time taken to provide accessible information in electronic formats and formats other than electronic.

Current level of performance 2006–07

- Performance in providing accessible formats for recruitment material = 100 percent.
- Applicants are advised on HREOC's website that recruitment information is able to be provided in any format. All recruitment material is on HREOC's website and available by download at the same time it is advertised in the press. Advertisements in the press advise that information is available by contact phone, by TTY phone and on HREOC's website. The HREOC website meets the criteria for accessibility as outlined in the Government Online Strategy. The Jobs Page (www.humanrights.gov.au/about/jobs/) received 60 847 page views during 2006–07.
- There were no requests for Braille during 2006–07. HREOC is able to supply any requests within three-seven days.

Performance indicator 3:***Agency recruiters and managers apply the principle of reasonable adjustment****Performance measure*

Percentage of recruiters and managers provided with information on reasonable adjustment.

Current level of performance 2006–07

- Selection guidelines include information on reasonable adjustment and guidelines for interviewing staff with disabilities.
- Recruitment action is managed internally and not outsourced and all committees are provided with selection information on reasonable adjustment.

Performance indicator 4 :***Training and development programs consider the needs of staff with disabilities****Performance measure*

Percentage of training and development programs that consider the needs of staff with disabilities.

Current level of performance 2006–07

- Due to the small number of staff in the agency, training is coordinated by each of the unit managers under HREOC's Performance Management Scheme. The majority of training is provided off-site with external providers. Any in-house training programs recognise the needs of people with disabilities.
- Training nomination forms allow staff to advise any specific requirements such as:
 - ◊ wheelchair access
 - ◊ accessible toilets/parking
 - ◊ a hearing device
 - ◊ sign language interpreter
 - ◊ an attendant
 - ◊ a support person
 - ◊ information in Braille, audio cassette, large print, ASCII format.

Performance indicator 5:

Training and development programs include information on disability issues as they relate to the content of the program

Performance measure

Percentage of training and development programs that include information on disability issues as they relate to the program.

Current level of performance 2006–07

- As noted above, training is coordinated by each individual section.
- Induction includes information on workplace diversity and relevant legislation that HREOC administers, including the *Disability Discrimination Act 1992*.
- The Complaint Handling Section conducts training and information on disability issues for staff.

Performance indicator 6:

Complaint / grievance mechanisms, including access to external mechanisms, in place to address issues and concerns by staff

Performance measure

Established complaints/grievance mechanisms, including access to external mechanisms in operation.

Current level of performance 2006–07

- There is an established process in the HREOC Certified Agreement for complaints/grievances, which includes access to external review through the Australian Public Service Commission.
- All staff are advised of access to HREOC's Employee Assistance Program and encouraged to use this service when needed. This free service provides counselling and support for staff and their families.
- Provision of access to complaints/grievance mechanisms= 100 percent.

Note: Accessible electronic formats include ASCII (or txt) files and html for the web. Non-electronic accessible formats include Braille, audio cassette, large print and easy English. Other ways of making information available include video captioning and Auslan interpreters.

Financial Statements

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

Financial Statements
for the period ended 30 June 2007

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INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Matters relating to the Electronic Presentation of the Audited Financial Statements

This auditor's report relates to the financial statements published on the website of the Human Rights and Equal Opportunity Commission for the year ended 30 June 2007. The Commission's Chief executive is responsible for the integrity of the web site.

This auditor's report refers only to the primary statements, schedules and notes named below. It does not provide an opinion on any other information which may have been hyperlinked to/from the audited financial statements.

If users of this report are concerned with the inherent risks arising from electronic data communications they are advised to refer to the hard copy of the audited financial statements in the Human Rights and Equal Opportunity Commission's annual report.

Scope

We have audited the accompanying financial statements of the Human Rights and Equal Opportunity Commission for the year ended 30 June 2007. The financial statements comprise: a statement by the Chief Executive and Chief Financial Officer; income statement; balance sheet; statement of changes in equity; cash flow statement; schedules of commitments and contingencies; a summary of significant accounting policies, and other explanatory notes.

The Responsibility of the Chief Executive for the Financial Statements

The Commission's Chief Executive is responsible for the preparation and fair presentation of the financial statements in accordance with Finance Minister's Orders made under the *Financial Management and Accountability Act 1997* and Australian Accounting Standards (including Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on our audit. Our audit has been conducted in accordance with Australian National Audit Office Auditing Standards, which incorporate Australian Auditing Standards. These Auditing Standards require that we comply with

relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Human Rights and Equal Opportunity Commission's preparation and fair presentation of the financial statements in designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Human Rights and Equal Opportunity Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commission's Chief Executive, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting the audit, we have followed the independence requirements of the Australian National Audit Office, which incorporate the ethical requirements of the Australian accounting profession.

Auditor's Opinion

In my opinion, the financial statements of the Human Rights and Equal Opportunity Commission;

- (a) have been prepared in accordance with Finance Minister's Orders made under the *Financial Management and Accountability Act 1997* and Australian Accounting Standards (including Australian Accounting Interpretations); and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Human Rights and Equal Opportunity Commission's financial position as at 30 June 2007 and of its financial performance and its cash flows for the year then ended.

Australian National Audit Office



P Hinchey
Senior Director
Delegate of the Auditor-General

Sydney
21 August 2007

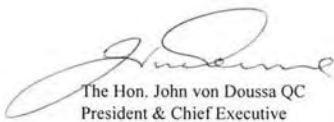
HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

Financial Statements

for the year ended 30 June 2007

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCE OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2007 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Ministers Orders made under the *Financial Management and Accountability Act 1997*, as amended.



The Hon. John von Doussa QC
President & Chief Executive

21 August 2007



Susan Roberts
Chief Finance Officer

21 August 2007

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

INCOME STATEMENT
for the period ended 30 June 2007

	Notes	2007 \$'000	2006 \$'000
INCOME			
Revenue			
Revenue from Government	3A	14,820	12,702
Sale of goods and rendering of services	3B	4,327	3,805
Other revenue	3C	93	86
Total revenue		<u>19,240</u>	<u>16,593</u>
TOTAL INCOME		<u>19,240</u>	<u>16,593</u>
EXPENSES			
Employee benefits	4A	9,488	7,829
Suppliers	4B	8,513	6,901
Depreciation and amortisation	4C	458	370
Finance costs	4D	15	15
Write-down and impairment of assets	4E	71	52
Losses from asset sales	4F	-	3
TOTAL EXPENSES		<u>18,545</u>	<u>15,170</u>
Surplus		<u>695</u>	<u>1,423</u>

The above statement should be read in conjunction with the accompanying notes.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

BALANCE SHEET

as at 30 June 2007

	Notes	2007 \$'000	2006 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	1,282	914
Trade and other receivables	5B	5,860	4,267
Total financial assets		7,142	5,181
Non-Financial Assets			
Infrastructure, plant and equipment	6A	2,362	2,307
Intangibles	6B	9	11
Other non-financial assets	6C	365	407
Total non-financial assets		2,736	2,725
TOTAL ASSETS		9,878	7,906
LIABILITIES			
Payables			
Suppliers	7A	241	525
Other payables	7B	424	133
Total payables		665	658
Non-Interest Bearing Liabilities			
Lease incentives	8A	194	243
Total non-interest bearing liabilities		194	243
Provisions			
Employee provisions	9A	1,878	1,736
Other provisions	9B	2,722	1,582
Total provisions		4,600	3,318
TOTAL LIABILITIES		5,459	4,219
NET ASSETS		4,420	3,687
EQUITY			
Contributed equity		1,231	1,099
Reserves		1,763	1,779
Retained surplus		1,426	809
TOTAL EQUITY		4,420	3,687
Current Assets		7,295	5,588
Non-Current Assets		2,583	2,318
Current Liabilities		3,856	3,464
Non-Current Liabilities		1,603	755

The above statement should be read in conjunction with the accompanying notes.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

STATEMENT OF CHANGES IN EQUITY
for the period ended 30 June 2007

	Retained Earnings		Asset Revaluation Reserve		Contributed Equity/Capital		Total Equity	
	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000
Opening balance	809	(614)	1,779	1,894	1,099	1,099	3,687	2,379
Balance carried forward from previous period	(14)	-	-	-	-	-	(14)	-
Adjustment for errors	(64)	-	-	-	-	-	(64)	-
Adjustment for changes in accounting policies	731	(614)	1,779	1,894	1,099	1,099	3,609	2,379
Adjusted opening balance								
Income and expense								
Revaluations recognised Directly in Equity (each item)	-	-	(16)	(115)	-	-	(16)	(115)
Sub-total income and expenses recognised Directly in Equity	695	1,423	(16)	(115)	-	-	(16)	(115)
Surplus for the period	695	1,423	(16)	(115)	-	-	679	1,308
Total income and expense								
Appropriation (equity injection)	-	-	-	-	132	-	132	-
Sub-total transactions with owners	1,426	809	1,763	1,779	1,231	1,099	4,420	3,687
Closing balance at 30 June	1,426	809	1,763	1,779	1,231	1,099	4,420	3,687
Closing balance attributable to the Australian Government								

The above statement should be read in conjunction with the accompanying notes.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

CASH FLOW STATEMENT
for the period ended 30 June 2007

	2007	2006
Notes	S'000	S'000
OPERATING ACTIVITIES		
Cash received		
Goods and services	5,780	3,995
Appropriations	14,820	12,702
Net GST received	136	133
Total cash received	<u>20,736</u>	<u>16,830</u>
Cash used		
Employees	(9,346)	(8,213)
Suppliers	(7,842)	(6,315)
Total cash used	<u>(17,188)</u>	<u>(14,528)</u>
Net cash from Operating Activities	10 <u>3,548</u>	<u>2,302</u>
INVESTING ACTIVITIES		
Cash used		
Purchase of property, plant and equipment	(562)	(366)
Intangibles	-	(11)
Total cash used	<u>(562)</u>	<u>(377)</u>
Net cash used by investing activities	<u>(562)</u>	<u>(377)</u>
FINANCING ACTIVITIES		
Cash received		
Appropriations - contributed equity	132	-
Total cash received	<u>132</u>	<u>-</u>
Cash used		
Other cash used	(2,750)	(3,000)
Total cash used	<u>(2,750)</u>	<u>(3,000)</u>
Net cash used by financing activities	<u>(2,618)</u>	<u>(3,000)</u>
Net increase or (decrease) in cash held	<u>368</u>	<u>(1,075)</u>
Cash at the beginning of the reporting period	914	1,989
Cash at the end of the reporting period	5A <u>1,282</u>	<u>914</u>

The above statement should be read in conjunction with the accompanying notes.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

SCHEDULE OF COMMITMENTS

as at 30 June 2007

	2007	2006
BY TYPE	\$'000	\$'000
Commitments receivable		
Sublease rental income	(2,866)	(3,609)
Other commitments receivable	(4,287)	(2,405)
Total commitments receivable	(7,153)	(6,014)
Commitments payable		
Capital commitments		
Infrastructure, plant and equipment ¹	101	-
Total capital commitments	101	-
Other commitments		
Operating leases ²	9,508	11,698
Other commitments payable ²	249	396
Total other commitments	9,757	12,094
Net commitments by type	2,705	6,080
BY MATURITY		
Commitments receivable		
Sublease rental income		
one year or less	(690)	(438)
from one to five years	(2,176)	(3,532)
Total sublease rental income	(2,866)	(3,970)
Other commitments receivable		
one year or less	(1,171)	(1,148)
from one to five years	(3,116)	(890)
over five years	-	(5)
Total other commitments receivable	(4,287)	(2,043)
Commitments payable		
Capital commitments		
one year or less	101	-
Total capital commitments	101	-
Operating lease commitments		
one year or less	2,347	2,354
from one to five years	7,161	9,285
over five years	-	59
Total operating lease commitments	9,508	11,698
Other commitments		
one year or less	183	396
from one to five years	66	-
Total other commitments	249	396
Net Commitments by maturity	2,705	6,081

Note: Commitments are GST inclusive where relevant.

1. Outstanding payments for leasehold improvements.

2. Operating leases included are effectively non-cancellable and comprise:

Nature of leases/General description
Leases for office accommodation Lease payments are subject to fixed annual rental increases. The initial periods of office accommodation are still current and there are no options in the lease agreement to renew.
Agreements for the provision of motor vehicles to senior executive officers No contingent rentals exist and there are no renewal or purchase options available to the Commission.
Lease agreement in relation to the provision of desktop computer equipment and printers The lessor provides all desktop computer equipment and software. The lease agreement allows for variations to the duration of the rental period and to the equipment being provided.
Other commitments Consists of agreements with other entities for the provision of goods and services, outgoing and agreements equally proportionately unperformed.

The above statement should be read in conjunction with the accompanying notes.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

SCHEDULE OF CONTINGENCIES

as at 30 June 2007

	2007 S'000	2006 S'000
Contingent assets	-	-
Contingent liabilities	-	-
<i>Net contingent assets/(liabilities)</i>	<u>-</u>	<u>-</u>

Details of each class of contingent liabilities and assets, including those not included above because they cannot be quantified, are disclosed in Note 10: Contingent Liabilities and Assets.

The above schedule should be read in conjunction with the accompanying notes.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 1: Summary of Significant Accounting Policies

1.1 Objectives of the Human Rights and Equal Opportunity Commission

The Human Rights and Equal Opportunity Commission (the Commission) is an Australian Public Service organisation. The objective of the Commission is to ensure that Australians have access to independent human rights complaint handling and public inquiries processes and benefit from human rights education, promotion, monitoring and compliance activities.

The Commission is structured to meet the following outcome:

"An Australian society in which the human rights of all are respected, protected and promoted."

Commission activities contributing toward these outcomes are all classified as departmental. Departmental activities involve the use of assets, liabilities, revenues and expenses controlled or incurred by the Commission in its own right.

Departmental activities are identified under one output:

"Australians have access to independent human rights complaint handling and public inquiries processes and benefit from human rights education, promotion and monitoring and compliance activities."

The continued existence of the Commission in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for the Commission's administration and programs.

1.2 Basis of Preparation of the Financial Report

The Financial Statements and notes are required by clause 1(b) of Schedule 1 to the *Financial Management and Accountability Act 1997* and are a General Purpose Financial Report.

The Financial Statements and notes have been prepared in accordance with:

- ↳ Finance Minister's Orders (FMOs) reporting periods ending on or after 1 July 2006; and
- ↳ Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board that apply for the reporting period.

The financial report has been prepared on an accrual basis and is in accordance with historical cost convention, except for certain assets at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial report is presented in Australian dollars and values are rounded to the nearest thousand dollars unless disclosure of the full amount is specifically required.

Unless an alternative treatment is specifically required by an Accounting Standard or the FMOs, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to the Commission and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an Accounting Standard. Liabilities and assets that are unrealised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable or remote contingencies, which are reported at Note 11).

Unless alternative treatment is specifically required by an accounting standard, revenues and expenses are recognised in the Income Statement when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

1.3 Significant Accounting Judgements and Estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

1.4 Statement of Compliance

Australian Accounting Standards require a statement of compliance with International Financial Reporting Standards (IFRSs) to be made where the financial report complies with these standards. Some Australian equivalents to IFRSs and other Australian Accounting Standards contain requirements specific to not-for-profit entities that are inconsistent with IFRS requirements. The Commission is a not for profit entity and has applied these requirements, so while this financial report complies with Australian Accounting Standards including Australian Equivalents to International Financial Reporting Standards (AEIFRSs) it cannot make this statement.

Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the effective date in the current period.

The Commission is required to disclose Australian Accounting Standards and Interpretations which have been issued but are not yet effective that have not been early adopted by the Commission. The following adopted requirements have resulted in a change to the Commission's accounting policies or have affected the amounts reported in the current or prior periods or are estimated to have a financial affect in future reporting periods.

Restriction of the fair value option under AASB 139

The AASB through 2005-4 Amendments to Australian Accounting Standards [AASB 139, AASB 132, AASB 1, AASB 1023 and AASB 1038] restricted the option to designate a financial asset or liability at fair value through profit and loss.

The change was introduced with effect from the beginning of the comparative reporting period (1 July 2005). The Commission designates all financial assets and liabilities at their nominal value and the amendment has had no affect on the Commission's financial statements.

Reimbursement rights

The AASB through 2005-5 Amendments to Australian Accounting Standards [AASB 1 & AASB 139] excluded from the scope of AASB 139 *Financial Instruments: Recognition and Measurement* rights for reimbursement for expenditure required to settle a present or former provision recognised under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*. The right to reimbursement is now required to be accounted for under AASB 137.

The application of this amendment is applied from the beginning of the comparative period (1 July 2005). The Commission does not have any reimbursement rights and therefore this amendment has had no impact on the Commission's financial statements.

Financial guarantee contracts

The AASB through 2005-9 Amendments to Australian Accounting Standards [AASB 4, AASB 1023, AASB 139 & AASB 132] now require financial guarantee contracts to be recognised and measured at inception under AASB 139 *Financial Instruments: Recognition and Measurement*. Initially these items are measured at fair value and subsequently at the higher of the amount determined in accordance with AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* and the initial amount recognised less, when appropriate, cumulative amortisation recognised in accordance with AASB 118 *Revenue*.

The Commission does not have any financial guarantee contracts and therefore this amendment has no affect on the Commission's financial statements.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Other effective requirement changes

The following amendments, revised standards or interpretations have become effective but have had no financial impact or do not apply to the operations of the Commission.

Amendments:

- 2005-1 Amendments to Australian Accounting Standards [AASBs 1, 101, 124]
- 2005-6 Amendments to Australian Accounting Standards [AASB 3]
- 2006-1 Amendments to Australian Accounting Standards [AASB 121]
- 2006-3 Amendments to Australian Accounting Standards [AASB 1045]

Interpretations:

- UIG 4 Determining whether an Arrangement contains a Lease
- UIG 5 Rights to Interests arising from Decommissioning, Restoration and Environmental Rehabilitation Funds
- UIG 7 Applying the Restatement Approach under AASB 129 Financial Reporting in Hyperinflationary Economies
- UIG 8 Scope of AASB 2
- UIG 9 Reassessment of Embedded Derivatives

UIG 4 and UIG 9 might have impacts in future periods, subject to existing contracts being renegotiated.

Future Australian Accounting Standard requirements

The following new standards, amendments to standards or interpretations have been issued by the Australian Accounting Standards Board but are effective for future reporting periods. It is estimated that the impact of adopting these pronouncements when effective will have no material financial impact on future reporting periods.

Financial instrument disclosure

AASB 7 Financial Instruments: Disclosures is effective for reporting periods beginning on or after 1 January 2007 (the 2007-08 financial year) and amends the disclosure requirements for financial instruments. In general AASB 7 requires greater disclosure than that presently. Associated with the introduction of AASB 7 a number of accounting standards were amended to reference the new standard or remove the present disclosure requirements through 2005-10 Amendments to Australian Accounting Standards [AASB 132, AASB 101, AASB 114, AASB 117, AASB 133, AASB 139, AASB 1, AASB 4, AASB 1023 & AASB 1038]. These changes have no financial impact but will affect the disclosure presented in future financial reports.

Other

The following standards and interpretations have been issued but are not applicable to the operations of the Commission.

- AASB 1049 Financial Reporting of General Government Sectors by Governments
- UIG 10 Interim Financial Reporting and Impairment

1.5 Revenue

Revenue from Government

Amounts appropriated for departmental outputs appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Agency or Authority as a consequence of a restructuring of administrative arrangements.

Resources received free of charge are recorded as either revenue or gains depending on their nature ie whether they have been generated in the course of the ordinary activities of the Commission.

Other Types of Revenue

Revenue from the sale of goods is recognised when:

- ↳ the risks and rewards of ownership have been transferred to the buyer;
- ↳ the seller retains no managerial involvement nor effective control over the goods;
- ↳ the revenue and transaction costs incurred can be reliably measured; and
- ↳ it is probable that the economic benefits associated with the transaction will flow to the Commission.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- ↳ The amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- ↳ The probable economic benefits with the transaction will flow to the Commission.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collectability of the debt is no longer probable.

1.6 Gains

Other Resources Received Free of Charge

Resources received free of charge are recognised as gains when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government Agency or Authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.7).

Resources received free of charge are recorded as either revenue or gains depending on their nature ie. whether they have been generated in the course of the ordinary activities of the Commission.

Sale of Assets

Gains from disposal of non-current assets is recognised when control of the asset has passed to the buyer.

1.7 Transactions with the Government as Owner

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) are recognised directly in Contributed Equity in that year.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Australian Government Agency or Authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

Other distributions to owners

The FMOs require that distributions to owners be debited to contributed equity unless in the nature of a dividend.

1.8 Employee Benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Commission is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration, including the Commission's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined in accordance with applicable FMOs issued by the Department of Finance and Administration as at 30 June 2007. The estimate of the present value of the liability takes into account attrition rates and pay increases prescribed by the Commission's Certified Agreement.

Separation and Redundancy

Provision is made for separation and redundancy benefit payments. The Commission recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

Staff of the Commission are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course.

The Commission makes employer contributions to the Employee Superannuation Scheme at rates determined by an actuary to be sufficient to meet the cost to the Government of the superannuation entitlements of the Commission's employees. The Commission accounts for the contributions as if they were contributions to defined contribution plans.

From 1 July 2005, new employees are eligible to join the PSSap scheme.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased non-current assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

1.10 Cash

Cash means notes and coins held and any deposits held at call with a bank or financial institution. Cash is recognised at its nominal amount.

1.11 Financial Risk Management

The Commission's activities expose it to normal commercial financial risk. As a result of the nature of the Commission's business and internal and Australian Government policies, dealing with the management of financial risk, the Commission's exposure to market, credit, liquidity and cash flow and fair value interest rate risk is considered to be low.

1.12 Derecognition of Financial Assets and Liabilities

Financial assets are derecognised when the contractual rights to the cash flows from the financial assets expire or the asset is transferred to another Entity. In the case of a transfer to another Entity, it is necessary that the risks and rewards of ownership are also transferred.

Financial liabilities are derecognised when the obligation under the contract is discharged, cancelled or expires.

1.13 Impairment of Financial Assets

Financial assets are assessed for impairment at each balance date.

Financial Assets held at Amortised Cost

If there is objective evidence that an impairment loss has been incurred for loans and receivables or held to maturity investments held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the Income Statement.

Financial Assets held at Cost

If there is objective evidence that an impairment loss has been incurred on an unquoted equity instrument that is not carried at fair value because it cannot be reliably measured, or a derivative asset that is linked to and must be settled by delivery of such an unquoted equity instrument, the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

**Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements**

for the period ended 30 June 2007

1.14 Supplier and other payables

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.15 Contingent Liabilities and Contingent Assets

Contingent Liabilities and Contingent Assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent an existing liability or asset in respect of which settlement is not probable or the amount cannot be reliably measured. Remote contingencies are part of this disclosure. Contingent assets are reported when settlement is probable, and contingent liabilities are recognised when settlement is greater than remote.

1.16 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor Agency's accounts immediately prior to the restructuring.

1.17 Infrastructure, Plant and Equipment

Asset Recognition Threshold

Purchases of infrastructure, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'makegood' provisions in property leases taken up by the Commission where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Commission's leasehold improvements with a corresponding provision for the 'make good' taken up.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset	Fair value measured at:
Computer, plant and equipment	Market selling price
Leasehold improvements	Depreciated replacement cost

Following initial recognition at cost, infrastructure, plant and equipment is carried at fair value less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised through surplus and deficit. Revaluation decrements for a class of assets are recognised directly through surplus and deficit except to the extent that they reverse a previous revaluation increment for that class.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation and amortisation

Depreciable infrastructure, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Commission using, in all cases, the straight-line method of depreciation.

Depreciation and amortisation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation and amortisation rates applying to each class of depreciable asset are based on the following useful lives:

	<u>2007</u>	<u>2006</u>
Leasehold improvements	Lease term	Lease term
Computer, plant and equipment	4 to 10 years	4 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2007. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Commission were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

1.18 Intangibles

The Commission's intangibles comprise:

- ↳ internally developed software for internal use; and
- ↳ internally customised software for internal use.

These assets are carried at cost.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Commission's software are 2 to 5 years (2006: 2 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2007.

1.19 Taxation

The Commission is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST:

- except where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- except for receivables and payables.

Note 2: Events after the Balance Sheet Date

The Commission is not aware of any significant events that have occurred since balance date which warrant disclosure in these financial statements.

**Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements**

for the period ended 30 June 2007

Note 3: Income

	2007	2006
	\$'000	\$'000

Revenue

Note 3A: Revenue from Government

Appropriation:

Departmental outputs	14,820	12,702
Total revenue from Government	14,820	12,702

Note 3B: Sale of goods and rendering of services

Provision of goods - related entities	1	2
Provision of goods - external entities	11	16
Total sale of goods	12	18
Rendering of services - related entities	4,085	3,528
Rendering of services - external entities	230	259
Total rendering of services	4,315	3,787
Total sale of goods and rendering of services	4,327	3,805

Note 3C: Other revenue

Deferred revenue	48	44
Resources received free of charge	45	42
Total other revenue	93	86

Note 4: Expenses

	2007	2006
	\$'000	\$'000

Note 4A: Employee benefits

Wages and salaries	7,234	6,250
Superannuation	1,113	1,128
Leave and other entitlements	800	392
Separation and redundancies	284	-
Other employee expenses	57	59
Total employee benefits	9,488	7,829

Note 4B: Suppliers

Provision of goods – related entities	7	11
Provision of goods – external entities	846	757
Rendering of services – related entities	883	1,559
Rendering of services – external entities	4,938	2,878
Operating lease rentals:		
Minimum lease payments	1,806	1,662
Workers compensation premiums	33	35
Total supplier expenses	8,513	6,902

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 4: Expenses (continued)

	2007	2006
	\$'000	\$'000
Note 4C: Depreciation and amortisation		
Depreciation:		
Infrastructure, plant & equipment		
Computer, plant & equipment	230	143
Total depreciation	230	143
Amortisation:		
Infrastructure, plant & equipment		
Leasehold improvements	190	189
Deferred costs - Make Good	36	36
	226	225
Intangibles:		
Computer software	2	2
Total amortisation	228	227
Total depreciation and amortisation	458	370

Depreciation and amortisation expenses are \$178,114 lower (2006: \$188,595 lower) than they would have been as a result of the independent asset revaluation decrement.

Note 4D: Finance costs

Unwinding of discounted cashflows for Make Good provision	15	15
Total finance costs	15	15

Note 4E: Write-down and impairment of assets

Financial assets		
Bad debts expense	-	1
Non-financial assets		
Infrastructure, plant and equipment - written off	10	-
Infrastructure, plant and equipment - revaluation decrement	61	51
Total write-down and impairment of assets	71	52

Note 4F: Losses from assets sales

Infrastructure, plant and equipment		
Proceeds from sale	-	-
Carrying value of assets sold	-	3
Selling expense	-	-
Total losses from assets sales	-	3

Note 5: Financial Assets

	2007	2006
	\$'000	\$'000
Note 5A: Cash and cash equivalents		
Cash on hand or on deposit	1,282	914
Total cash and cash equivalents	1,282	914

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 5: Financial Assets (continued)

	2007	2006
	\$'000	\$'000
Note 5B: Trade and other receivables		
Goods and services	63	1,237
Appropriations receivable:		
for existing outputs	5,750	3,000
Total appropriations receivable	5,813	4,237
GST receivable from the Australian Taxation Office	47	30
Total trade and other receivables (gross)	5,860	4,267
Less Allowance for doubtful debts:		
Goods and services	-	-
Total trade and other receivables (net)	5,860	4,267
Receivables are aged as follows:		
Not overdue	5,849	3,146
Overdue by:		
Less than 30 days	-	1,118
30 to 60 days	9	3
61 to 90 days	-	-
More than 90 days	2	-
Total receivables (gross)	5,860	4,267
The allowance for doubtful debts is aged as follows:		
Not overdue	-	-
Overdue by:		
Less than 30 days	-	-
30 to 60 days	-	-
61 to 90 days	-	-
More than 90 days	-	-
Total allowance for doubtful debts	-	-

All trade and other receivable assets are current.

All receivables are with entities external to the Commission. Credit terms for all receivables are 30 days. (2006: 30 days)

Note 6: Non-Financial Assets

Note 6A: Infrastructure, plant and equipment

Computer, plant and equipment		
- at fair value	599	528
- accumulated depreciation	-	-
Total Computer, plant and equipment	599	528
Leasehold improvements		
- fair value	1,763	1,779
- accumulated amortisation	-	-
Total Leasehold improvements	1,763	1,779
Total infrastructure, plant and equipment (non-current)	2,362	2,307

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 6: Non-Financial Assets (continued)

All revaluations are conducted in accordance with the revaluation policy stated at Note 1. In 2006-07, an independent valuer (AON Valuation Services) conducted the revaluations.

A revaluation decrement of \$15,900 for leasehold improvements (2006: decrement of \$114,780) has been credited to the asset revaluation reserve by asset class and included in the equity section of the balance sheet; a revaluation decrement of \$60,592 for computer, plant and equipment has been expensed (2006: \$50,641 expensed).

No indicators of impairment were found for infrastructure, plant and equipment.

	2007	2006
	\$'000	\$'000
Note 6B: Intangibles		
Computer software at cost:		
Internally developed – in use	410	410
Internally customised – in use	11	11
Accumulated amortisation	(412)	(410)
Total intangibles (non-current)	9	11

No indicators of impairment were found for intangible assets.

Note 6C: Other non-financial assets

Prepayments	153	235
Other:		
Deferred costs -		
Make Good	388	268
Accumulated amortisation - Make Good	(176)	(96)
Total other non-financial assets	365	407

Other non-financial assets are represented by:

Current	153	235
Non-current	212	172
Total other non-financial assets	365	407

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 6: Non-Financial Assets (continued)

Note 6D: Analysis of infrastructure, plant and equipment

TABLE A – Reconciliation of the opening and closing balances of infrastructure, plant and equipment (2006-07)

Item	Infrastructure, plant & equipment		
	Computer, plant & equipment \$'000	Leasehold improvements \$'000	Total \$'000
As at 1 July 2006			
Gross book value	528	1,779	2,307
Accumulated depreciation/amortisation and impairment	-	-	-
Net book value 1 July 2006	528	1,779	2,307
Additions:			
by purchase	372	190	562
Net revaluation decrement recognised through equity	-	(16)	(16)
Depreciation/amortisation expense	(230)	(190)	(420)
Net revaluation decrement recognised in the operating result	(61)	-	(61)
Disposals:			
Other disposals	(10)	-	(10)
Net book value 30 June 2007	599	1,763	2,362
Net book value as of 30 June 2007 represented by:			
Gross book value	599	1,763	2,362
Accumulated depreciation/amortisation and impairment	-	-	-
	599	1,763	2,362

TABLE A – Reconciliation of the opening and closing balances of infrastructure, plant and equipment (2005-06)

Item	Infrastructure, plant & equipment		
	Computer, plant & equipment \$'000	Leasehold improvements \$'000	Total \$'000
As at 1 July 2005			
Gross book value	387	2,055	2,442
Accumulated depreciation/amortisation and impairment	-	-	-
Net book value 1 July 2005	387	2,055	2,442
Additions:			
by purchase	339	27	366
Net revaluation decrement recognised through equity	-	(114)	(114)
Depreciation/amortisation expense	(143)	(189)	(332)
Net revaluation decrement recognised in the operating result	(51)	-	(51)
Disposals:			
Other disposals	(4)	-	(4)
Net book value 30 June 2006	528	1,779	2,307
Net book value as of 30 June 2006 represented by:			
Gross book value	528	1,779	2,307
Accumulated depreciation/amortisation and impairment	-	-	-
	528	1,779	2,307

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 6: Non-Financial Assets (continued)

Note 6E: Intangibles

Table B: Reconciliation of the opening and closing balances of intangibles (2006-07)

Item	Intangibles	
	Computer software \$'000	Total \$'000
As at 1 July 2006		
Gross book value	421	421
Accumulated depreciation/amortisation and impairment	(410)	(410)
Net book value 1 July 2006	11	11
Additions	-	-
Amortisation	(2)	(2)
Net book value 30 June 2007	9	9
Net book value as of 30 June 2007 represented by:		
Gross book value	421	421
Accumulated depreciation/amortisation and impairment	(412)	(412)
	9	9

Table B: Reconciliation of the opening and closing balances of intangibles (2005-06)

Item	Intangibles	
	Computer software \$'000	Total \$'000
As at 1 July 2005		
Gross book value	410	410
Accumulated amortisation and impairment	(408)	(408)
Net book value 1 July 2005	2	2
Additions:		
by purchase	11	11
Amortisation	(2)	(2)
Net book value 30 June 2006	11	11
Net book value as of 30 June 2006 represented by:		
Gross book value	421	421
Accumulated depreciation/amortisation and impairment	(410)	(410)
	11	11

Note 7: Payables

	2007 \$'000	2006 \$'000
Note 7A: Suppliers		
Trade creditors	241	525
Total supplier payables	241	525

All supplier payables are current liabilities.

Settlement is generally made in accordance with the terms of the supplier invoice.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 7: Payables (continued)

	2007	2006
	\$'000	\$'000
Note 7B: Other payables		
Accrued expenses	424	133
Total other payables	<u>424</u>	<u>133</u>

Other payables are represented by:

Current	305	133
Non-current	119	-
Total other non-financial assets	<u>424</u>	<u>133</u>

All other payables are current liabilities.

Note 8: Non Interest Bearing Liabilities

	2007	2006
	\$'000	\$'000
Note 8A: Other non interest bearing liabilities		
Lease incentives	194	243
Total other non interest bearing liabilities	<u>194</u>	<u>243</u>

Other non interest bearing liabilities are represented by:

Current	49	49
Non-current	145	194
Total other non-financial assets	<u>194</u>	<u>243</u>

Note 9: Provisions

	2007	2006
	\$'000	\$'000
Note 9A: Employee provisions		
Salaries and wages	67	84
Leave	1,766	1,656
Superannuation	10	(4)
Other	35	-
Total employee provisions	<u>1,878</u>	<u>1,736</u>

Employee provisions are represented by:

Current	1,541	1,482
Non-current	337	254
Total employee provisions	<u>1,878</u>	<u>1,736</u>

The classification of current includes amounts for which there is not an unconditional right of deferral of one year, hence in the case of employee provisions the above classification does not equal the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in one year \$912,097 (2006: \$472,055), in excess of one year \$966,045 (2006: \$1,264,103).

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 9: Provisions (continued)

	2007	2006
	\$'000	\$'000
Note 9B: Other provisions		
Revenue received in advance	1,621	1,275
Restoration obligations	462	307
Provision for contract obligations	639	-
Total other provisions	2,722	1,582

Other provisions are represented by:

Current	1,720	1,275
Non-current	1,002	307
Total other provisions	2,722	1,582

	Revenue received in advance \$'000	Provision for restoration obligations \$'000	Provision for contract obligations \$'000	Total \$'000
Carrying amount 1 July 2006	1,275	307	-	1,582
Additional provisions made	346	140	639	1,125
Amounts used	-	-	-	-
Amounts reversed	-	-	-	-
Unwinding of discount	-	15	-	15
Closing balance 2007	1,621	462	639	2,722

The Commission currently has an agreement for the leasing of premises which has a provision requiring the Commission to restore the premises to their original condition at the conclusion of the lease. The Commission has made a provision to reflect the present value of this obligation.

Note 10: Cash Flow Reconciliation

	2007	2006
	\$'000	\$'000
Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement		
Report cash and cash equivalents as per:		
Cash Flow Statement	1,282	914
Balance Sheet	1,282	914
Difference	-	-

Reconciliation of operating result to net cash from operating activities:

Operating result	695	1,423
Depreciation / amortisation	458	370
Finance costs for restoration obligations	15	15
Net write down of non financial assets	71	51
Loss on disposal of assets	-	3
Adjustment for prior year accounting error	(14)	-
(Increase) / decrease in net receivables	1,156	(967)
(Increase) / decrease in prepayments	82	(140)
Increase / (decrease) in employee provisions	142	(384)
Increase / (decrease) in supplier payables	(284)	330
Increase / (decrease) in accrued expenses	292	133
Increase / (decrease) in other provisions	984	1,201
Increase / (decrease) in work in progress	-	260
Increase / (decrease) in non interest bearing liabilities	(49)	8
Net cash from / (used by) operating activities	3,548	2,303

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 11: Contingent Liabilities and Assets

Unquantifiable Contingencies

At 30 June 2007, the Commission (or officers of the Commission) were named as a respondent in nine applications before the High Court, Federal Court and Administrative Appeals Tribunal.

The Commission is also appearing in one matter as an intervener and Commissioners are appearing in five matters as *amicus curiae*.

It is not possible to estimate the amounts of the eventual payments that may be required in relation to the unresolved claims, though it is not common for costs to be awarded against the Commission (or its officers) in these matters.

Note 12: Executive Remuneration

	2007 Number	2006 Number
The number of senior executives who received or were due to receive total remuneration of \$130,000 or more:		
\$130 000 to \$144 999	3	1
\$145 000 to \$159 999	1	1
\$160 000 to \$174 999	1	-
\$175 000 to \$189 999	1	-
\$190 000 to \$204 999	-	1
\$230,000 to \$244,999	1	-
\$245,000 to \$259,999	1	-
\$260,000 to \$274,999	-	2
\$305,000 to \$319,999	1	-
Total	<u>9</u>	<u>5</u>
The aggregate amount of total remuneration of executives shown above:	\$1,702,401	\$1,007,976
The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above:	\$158,252	Nil

Note 13: Remuneration of Auditors

	2007 \$'000	2006 \$'000
Financial statement audit services are provided free of charge to the Commission.		
The fair value of the services provided was:		
Human Rights and Equal Opportunity Commission	<u>45</u>	<u>42</u>
	<u>45</u>	<u>42</u>
No other services were provided by the Auditor-General.		

Note 14: Average Staffing Levels

	2007	2006
The average staffing level for the Commission during the year was:	104	95

Human Rights and Equal Opportunity Commission
 Notes to and forming part of the financial statements
 for the period ended 30 June 2007

Note 15: Financial Instruments

Note 15A: Interest Rate Risk

Financial Instrument/ Note	Floating Interest Rate		Fixed Interest Rate Maturing In					Non-Interest Bearing		Total		Weighted Average Effective Interest Rate	
	2007 \$'000	2006 \$'000	1 Year or Less	1 to 5 Years		> 5 Years		2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000	2007 %	2006 %
Financial Assets													
Cash at bank								1,282	914	1,282	914	n/a	n/a
Receivables for goods and services (net)							110	1,266		110	1,266	n/a	n/a
Appropriation receivable							5,750	3,000		5,750	3,000	n/a	n/a
Total							7,142	5,180		7,142	5,180		
Total Assets													
Financial Liabilities													
Trade creditors										241	525	n/a	n/a
Lease incentives										194	243	n/a	n/a
Total										435	768		
Total Liabilities													
										5,459	4,219		

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 15: Financial Instruments (continued)

Note 15B: Fair Values of Financial Assets and Liabilities

	Notes	2007		2006	
		Total \$'000	Aggregate \$'000	Total \$'000	Aggregate \$'000
Departmental					
Financial Assets					
Cash	5A	1,282	1,282	914	914
Receivables for goods and services (net)	5B	110	110	1,266	1,266
Appropriation receivable	5B	5,750	5,750	3,000	3,000
Total Financial Assets		7,142	7,142	5,180	5,180
Financial Liabilities (Recognised)					
Trade creditors	7A	241	241	525	525
Lease Incentives	8A	194	194	243	243
Total Financial Liabilities (Recognised)		435	435	768	768

Note 15C: Credit Risk Exposures

The Commission's maximum exposures to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Balance Sheet.

The Commission has no significant exposures to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 16: Appropriations

Table A: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations and borrowings

Particulars	Departmental Output		Total	
	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000
Balance carried from previous period	3,914	1,958	3,914	1,958
Appropriation Act:				
Appropriation Act (No. 1)	13,725	12,093	13,725	12,093
Appropriation Act (No.3)	1,095	609	1,095	609
Departmental adjustments by the Finance Minister (Appropriation Acts)	-	-	-	-
Comcover receipts (Appropriation Act s13)	-	-	-	-
Advance to the Finance Minister	-	-	-	-
Reductions:				
- prior years	-	-	-	-
- current year	-	-	-	-
FMA Act:				
Refunds credited (FMA s 30)	-	-	-	-
Appropriations to take account of recoverable GST (FMA s 30A)	136	133	136	133
Annotations to 'net appropriations' (FMA s 31)	5,780	3,996	5,780	3,996
Adjustment of appropriations on change of entity function (FMA s 32)	-	-	-	-
Total appropriation available for payments	24,650	18,789	24,650	18,789
Cash payments made during the year (GST inclusive)	17,618	14,875	17,618	14,875
Appropriations credited to Special Accounts (excluding GST)	-	-	-	-
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations	7,012	3,914	7,032	3,914
Represented by:				
Cash at bank and on hand	1,262	914	1,262	914
Departmental appropriations receivable	5,750	3,000	5,750	3,000
Undrawn, unapplied administered appropriations	-	-	-	-
Total	7,012	3,914	7,012	3,914

Departmental and non-operating appropriations do not lapse at financial year end.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 16: Appropriations (continued)

Table B: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations

Particulars	Non – operating		Total	
	Equity		2007 \$'000	2006 \$'000
	2007 \$'000	2006 \$'000		
Balance carried from previous period	20	31	20	31
Appropriation Act:				
Appropriation Act (No.2)	44	-	44	-
Appropriation Act (No.4)	88	-	88	-
Departmental Adjustments	-	-	-	-
Advance to the Finance Minister	-	-	-	-
Reductions:				
- prior years	-	-	-	-
- current year	-	-	-	-
FMA Act:				
Refunds credited (FMA s30)	-	-	-	-
Appropriations to take account of recoverable GST (FMA s30A)	-	-	-	-
Adjustment of appropriations on change of entity function (FMA s32)	-	-	-	-
Total appropriations available for payments	152	31	152	31
Cash payments made during the year (GST inclusive)	132	11	132	11
Appropriations credited to Special Accounts (GST exclusive)	-	-	-	-
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Other Than Ordinary Annual Services Appropriations	20	20	20	20
Represented by:				
Cash	20	20	20	20
Total	20	20	20	20

Note 17: Special Accounts

The Commission has an 'Other Trust Monies' and a 'Service for Other Governments and Non Agency Bodies' special accounts. Both accounts were established under Section 20 of the *Financial Management and Accountability Act 1997* (FMA). For the year ended 30 June 2007 both of these accounts had nil opening and closing balances and there were no transactions debited or credited to them in the 2006-07 financial year.

The purpose of the 'Other Trust Monies' special account is for the expenditure of monies temporarily held on trust or otherwise for the benefit of a person other than the Commonwealth. Any money held thus is special public money under section 16 of the FMA.

The purpose of the 'Services for Other Governments and Non Agency Bodies' special account is for the expenditure in connection with services performed on behalf of other Governments and bodies that are not Agencies under the FMA.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2007

Note 18: Reporting of Outcomes

The Commission is structured to meet one outcome. The Commission's outcome and output structure is outlined in Note 1.1 to these financial statements. All resources available to be used by the Commission are directed towards the achievement of this outcome.

Note 18A: Net Cost of Outcome Delivery

	Outcome 1		Total	
	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000
Expenses				
Departmental	18,545	15,170	18,545	15,170
Total expenses	18,545	15,170	18,545	15,170
Costs recovered from provision of goods and services to the non government sector				
Departmental	241	275	241	275
Total costs recovered	241	275	241	275
Other external revenues				
Departmental	4,086	3,530	4,086	3,530
Total other external revenues	4,086	3,530	4,086	3,530
Net cost/(contribution) of outcome	14,218	11,365	14,218	11,365

Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to the Outcome Resourcing Table on page 21 of this Annual Report.

Note 18B: Major Classes of Departmental Revenues and Expenses by Output Groups and Outputs

Outcome 1	Output Group 1.1		Outcome 1 Total	
	2007 \$'000	2006 \$'000	2007 \$'000	2006 \$'000
Departmental expenses				
Employee benefits	9,488	7,829	9,488	7,829
Suppliers	8,513	6,901	8,513	6,901
Depreciation and amortisation	458	370	458	370
Finance costs	15	15	15	15
Other expenses	71	55	71	55
Total departmental expenses	18,545	15,170	18,545	15,170
Funded by:				
Revenues from Government	14,820	12,744	14,820	12,744
Sales of goods and rendering of services	4,327	3,805	4,327	3,805
Other revenues	93	44	93	44
Total departmental revenues	19,240	16,593	19,240	16,593

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