



*Human Rights and Equal
Opportunity Commission*
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Human Rights and Equal Opportunity Commission

Annual Report
2007-2008

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Annual Report

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

18 September 2008

The Hon. Robert McClelland 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 2008, 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

Human Rights and Equal Opportunity Commission

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2007-08 Milestones

- Ms Elizabeth Broderick was appointed as Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination on 10 September 2007 for a five year term. Ms Broderick succeeded President John von Doussa, who had been acting in the position since 4 November 2006.
- The Human Rights and Equal Opportunity Commission (HREOC) 1997 *Bringing Them Home* Report was a landmark document which played an important part in two major developments in Indigenous affairs during the reporting period: the National Apology to the stolen generations and the government's commitment to the *Statement of Intent to Close the Gap*.
- During 2007-08, three national Indigenous Legal Advocacy courses, of which HREOC is the copyright holder, were re-accredited for a five year period: the Certificate III, Certificate IV and the Diploma courses. These are the only courses in Australia that provide training to Indigenous legal advocates.
- HREOC welcomed the commencement of the government's investigation into captioning and media access with the release of a discussion paper by the Department of Broadband, Communications and the Digital Economy in April 2008. HREOC also welcomed the inclusion of a trial of electronically assisted voting for people with a print disability in the 2007 Federal Election. HREOC also participated in consultations for the initial five year review of the *Disability Standards for Accessible Public Transport*, the report of which is currently being finalised for submission to the Attorney-General and the Minister for Infrastructure.
- HREOC launched the *Same Sex: Same Entitlements* Inquiry Report at the end of the preceding reporting period. On 30 April 2008, HREOC welcomed the government's announcement that discrimination against same sex couples and their children would be removed, not only from the 58 laws identified in HREOC's report, which deal with financial and workplace related benefits, but from at least 40 additional pieces of legislation that discriminate in other areas.
- An investigation began into areas of concern for sex and gender diverse individuals, which flowed directly from the *Same Sex: Same Entitlements* Inquiry. The conclusion of the reporting period saw the investigation focussing on the ability of gender diverse people to change identity documents such as birth certificates, passports and drivers licences.

- During the reporting period, HREOC implemented its *Community Partnerships for Human Rights Program*, a National Action Plan funded set of initiatives that aim to assist the achievement of social inclusion for Australia's Muslim communities and to help decrease marginalisation and discrimination on the basis of race or religion. Under one of these initiatives, the *Community Police Partnership Project*, 19 partnerships between police and Muslim communities were announced in April 2008. These partnerships aim to work with young Muslim Australians and law enforcement agencies to help address discrimination and vilification.
- The Sex Discrimination Commissioner conducted a nationwide Listening Tour. The objective of the tour was to hear directly from people all around Australia about the key themes of: economic independence of women; balancing work and family across the life cycle; and freedom from discrimination, harassment and violence. The findings from the Listening Tour will be published early in the next reporting period.
- HREOC implemented *Mature Workers Mean Business*, a print media and web-based public awareness campaign that promotes the benefits of employing mature age workers.
- HREOC continued its most substantial international program through 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 participated in the annual *Vietnam-Australia Dialogue on International Organisations and Legal Issues*, including Human Rights.
- HREOC contributed to policy development and legislative review through the many submissions made during the reporting period. Submissions were made on a range of issues including the Northern Territory National Emergency Plan, the *Stolen Generations Compensation Bill 2008*, development of a new national Indigenous representative body, employment and disability, adoption of a federal charter of rights, multiculturalism, the Australian Citizenship Test, the new proposed *National Employment Standards* and paid maternity, paternity and parental leave.
- Between 1 July 2007 and 30 June 2008, the President reported to the Attorney-General on two matters under the *Human Rights and Equal Opportunity Act 1986* (Cth).
- During the reporting period, HREOC was involved as intervener in four matters. Commissioners were granted leave to appear as *amicus curiae* in three unlawful discrimination cases.
- Each year HREOC hosts seminars on current issues of interest in domestic and international human rights law. Three Human Rights Law seminars were held in 2007-08.
- During the reporting period, HREOC's Complaint Information Service dealt with 18 765 enquiries, a 32 per cent increase in comparison with the average number of enquiries received over the past four years and a 13 per cent increase in comparison with the number of enquiries received in the previous reporting period.

- HREOC received 2 077 complaints in 2007-08, a 28 per cent increase in comparison with the average number of complaints received over the past four years and a 17 per cent increase in comparison with the number of complaints received in the previous reporting period.
- The Complaint Handling Section finalised 93 per cent of matters within 12 months of lodgement, 48 per cent of finalised complaints were conciliated and 74 per cent of all matters, where conciliation was attempted, were successfully resolved. These figures represent a significant increase on the rate of conciliation of finalised complaints over the previous reporting period.
- In 2007-08, HREOC issued 154 media releases and alerts. The President and Commissioners had 20 opinion pieces published in major metropolitan newspapers across Australia and conducted hundreds of media interviews.
- In August 2007, the HREOC website was redesigned in order to provide: a common navigation and style across the site; improved accessibility and usability features; improved comprehension by using plain English to revise existing content; new sections; and improved interactivity through the use of on-line blogs and video and audio downloads.
- During 2007-08, there were approximately 11 195 404 page views and 73 246 868 hits on the HREOC website. This equates to 3 728 515 unique visits.
- During 2007-08, there were 939 141 page views of HREOC's on-line human rights education resources, which are widely used by educators, both nationally and internationally.
- In addition to all HREOC publications being available on HREOC's website, over 66 000 publications were dispatched in hard copy during 2007-08.
- The most popular publications were *The Human Rights Commission's Complaint Process*, *Face the Facts*, *The Good, the Bad and the Ugly: Design and Construction for Access* and the general *Human Rights and Equal Opportunity Commission* brochure.

Statement from the President

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



As a record, the Annual Report of the Human Rights and Equal Opportunity Commission (HREOC) is a testament to the vital role that our Commissioners and staff play in promoting and protecting human rights. In that light, the 2007-08 reporting period has seen a number of significant national developments in Australia that have provided high profile validation for these efforts.

The human rights of Indigenous Australians

I had the immense privilege of being at Parliament House in Canberra on Wednesday 13 February 2008 when the historic National Apology to the stolen generations was made by the Prime Minister. This moment was cause for great celebration and pride at HREOC, not only because it was official acknowledgement of the gross violations of fundamental human rights caused to Indigenous Australians by the separation of their children from their families and culture in the past, but because an apology was one of the recommendations of our 1997 *Bringing Them Home* Report. It was also a source of pride for HREOC that Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner, Tom Calma, delivered the official response to the Prime Minister's apology on behalf of the stolen generations.

As I said on the day, however, the apology is only one step on the journey to reconciliation, which still has a long way to go. It is now a time for action. It is imperative that all governments in Australia work to eliminate the gap between the life advantages of non-Indigenous and Indigenous

Australians, with particular priority given to addressing the pressing issues of health, housing, education and employment.

It was extremely encouraging when the government affirmed its commitment to the *Statement of Intent to Close the Gap* in Indigenous health inequality at the culmination of the Indigenous Health Equality Summit held in Canberra in March 2008. This partnership between the Australian government, Indigenous and non-Indigenous health experts and the reconciliation movement is a great step forward on the road to making health equality a reality for Indigenous Australians by 2030. I pay tribute to Commissioner Calma, who was a driving force behind the Summit and was instrumental in bringing the multitude of organisations together.

The release of the *Social Justice Report 2007* in late March provided a timely and specific blueprint for HREOC's input into the federal government's review of the Northern Territory Emergency Response. The Report, produced annually by HREOC through the Aboriginal and Torres Strait Islander Social Justice Commissioner, articulated a 10 point plan and outlined proposed changes to the Northern Territory intervention legislation so that it maximised protection of children and families, while respecting the human rights of Indigenous people and treating them with dignity.

Equality for same-sex couples and their children

Just prior to the commencement of the reporting period, on 21 June 2007, HREOC tabled its *Same Sex: Same Entitlements* Inquiry Report in Parliament. The report was the culmination of HREOC's 2006 inquiry which consisted of examination of federal legislation, submissions received in response to two discussion papers, public hearings, community forums, and consultation with federal government departments and agencies. It found that 58 federal laws denied same-sex couples and their children basic financial and work-related entitlements available to opposite-sex couples and their children.

So it was with great enthusiasm that Human Rights Commissioner Graeme Innes and HREOC welcomed the government's announcement on 30 April 2008 that discrimination against same sex couples and their children would be removed from, not only those 58 laws, but from more than 40 additional pieces of legislation that were found to discriminate in other areas. There has been much parliamentary debate about the way in which this outcome will be achieved. So, as we keenly observe this activity, it remains important for all of us to remember that Article 26 to the *International Covenant on Civil and Political Rights* provides that 'all people are equal before the law and are entitled without any discrimination to the equal protection of the law'.

Immigration detention

Throughout my term as President of HREOC, one of the great human rights issues Australia has had to grapple with has been that of immigration detention and its impacts on the human rights of detainees. Over this period, HREOC has been active in voicing its concern through issuing a major report about our Inquiry into children in immigration detention in 2004, *A Last Resort: A National Inquiry into Children in Immigration Detention*, consistently making submissions to a large number of parliamentary Inquiries, conducting annual immigration detention centre inspections, voicing concern about the 457 visa scheme and temporary protection visas, as well as pointing to the human rights abuses inherent in the so-called Pacific Solution.

On this front, 2007-08 has been revelatory. We have witnessed the end of Pacific Solution in February, with the closure of Nauru and the settlement of its last detainees – 21 Sri Lankan men – in Australia. The Federal Budget in May heralded the end of the Temporary Protection Visa system and, as our reporting period closed, the government announced proposals to reform the temporary skilled migration 457 visa regime. Together, these moves point to an Australia that is looking toward a future with a more compassionate attitude to people who are coming to our shores to escape fear and persecution.

Sex and age discrimination and work and family balance

In September 2007, I had the great pleasure of welcoming our new Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination, Ms Elizabeth Broderick. During the first ten months of her tenure, Ms Broderick made a great impact on the human rights stage. Her major initiative has been the very successful Listening Tour, which took her the length and breadth of Australia, talking to both women and men in metropolitan and regional areas. These discussions aimed to find out what issues are most important to Australians to progress economic independence for women, balancing work and family and issues of discrimination, harassment and domestic violence.

Prior to Ms Broderick's commencement, I had been acting as the Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination. Our *It's About Time: Women, Men, Work and Family* Final Paper was a result of community forums held around the country about work life balance and the issues of balancing paid work and unpaid family care responsibilities. The paper was launched in early 2007 and contained 45 broad ranging recommendations. In 2007-08 it has been heartening to see a number of these recommendations being reflected in government policy initiatives that are considering issues such as early childhood education, work and family balance and paid leave for new parents.

Social cohesion

Social cohesion, with its emphasis on cultural, religious and racial understanding, has emerged as one of the most important philosophies in the achievement of social stability and strong community relations in the new century. To this end, HREOC has continued its endeavours to support Muslim and Arab communities in response to anti-Muslim prejudice and vilification. 2007-08 has been a fulfilling year for HREOC in this regard, with a number of projects being initiated under the *Community Partnerships for Human Rights Program*.

These projects have been developed and implemented by our Education and Partnerships Section, which was established in the Race Discrimination Unit in early 2007. HREOC has a particular focus in working with young Muslim Australians and addressing issues that relate to law enforcement and the administration of justice. In April 2008, in collaboration with the Australian Multicultural Foundation, we were able to announce 19 partnerships between Muslim communities and police around the country under the *Community Policing Partnerships Project*. Such projects are integral to building trust and relationships between Muslim communities and police at the local level and thus, social cohesion and community capacity. We look forward to further projects, dealing with freedom of religion and belief and the human rights of African Australians, which are set to be rolled out in 2008-09.

The rights of people with disability

During the previous reporting period, HREOC applauded the Australian Government for being among the first countries to sign the *Convention on the Rights of Persons with Disabilities* on the first day it opened for signature. During 2007-08, it has been gratifying to receive indication from the government that it intends to develop a new national Disability Strategy based on the Convention. This is to include development of a national strategy on disability and employment. Such a strategy was the principal recommendation of HREOC's *National Inquiry into Employment and Disability*, tabled in 2006.

Other government developments in the disability arena that have been welcomed by HREOC include the commencement of an investigation into captioning and media access, an inquiry into the issues faced by people with disability in using consumer electronics products and a trial of electronically assisted voting for people with a print disability during the 2007 Federal Election. HREOC also assisted the Australian Banker's Association in development of *Guiding Principles on Accessible Authentication*.

Policy development, international engagement and education

HREOC has contributed to policy development and legislative review of human rights issues through the many public submissions it has made during the reporting period. Through our Legal Section, we have intervened or appeared as *amicus curiae* in a number of significant matters before the courts. We launched the 2008 edition of the *Federal Discrimination Law* publication, complete with on-line version, and hosted three Human Rights Law seminars which were all extremely well attended. The high quality of these submissions and *Federal Discrimination Law* is self-evident and a great credit to the many staff members who contributed to their preparation.

Though our work is primarily concerned with the promotion and protection of human rights within Australia, HREOC engages internationally with the United Nations Human Rights Council in Geneva, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and the Asia Pacific Forum of National Human Rights Institutions (APF). This engagement is important to keep abreast of international human rights developments and best practice.

The Rules of Procedure for the Human Rights Council, which were settled in June 2007, established wide rights for National Human Rights Institutions to participate in the work of the Council and its subsidiary mechanisms. It is proposed that the burden of exercising these participation rights can be shared by increasing the capacity of the ICC to represent National Institutions in Geneva. In April this year National Institutions agreed to a new governance structure for the ICC, including its incorporation, to enable the employment of a full time Geneva representative. HREOC, in conjunction with the APF, is assisting the ICC to carry out these reforms.

In September 2007, HREOC assumed the Chair of the APF, and hosted its very successful Twelfth Annual Conference in Sydney which was attended by over 120 representatives of National Human Rights Institutions, the Office of the UN High Commissioner for Human Rights, and many NGOs.

HREOC has also continued an international education and training role, which centres mainly on agencies within the Asia Pacific region. Domestic violence, police conduct, prison management, investigation techniques and access to legal aid are

the sort of practical human rights issues in which we strive to assist. Two major international programs in which HREOC is involved are the *China-Australia Human Rights Technical Cooperation Program* and the *Vietnam-Australia Human Rights Technical Cooperation Program*.

Education is one of the statutory requirements of HREOC. During 2007-08, our education activities have advanced considerably as we continue to develop curriculum-linked human rights education resources specifically for use in upper primary and secondary schools and with a dedicated focus on provision of on-line resources through our website.

Complaint handling and budget

At home, complaints and enquiries are a significant part of the day-to-day work of HREOC. Managing this facet of our work is an enormous task that is essentially the machine room of our organisation. The year under review has seen an increase in the workload of the Complaints Handling Section of approximately one third in the volume of both enquiries and complaints. It is a great credit to the Section that it has completed 93 per cent of all matters within 12 months, and has significantly increased to 48 per cent the number of matters that are resolved through conciliation.

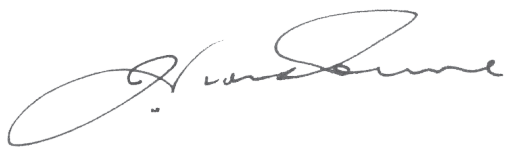
In April this year, as part of the wind back of Work Choices, HREOC suffered a withdrawal of ongoing funding that had hitherto supported fourteen staff in the Complaints Handling Section. These staff members had been engaged to handle the increase in complaints that HREOC received after the unfair dismissal laws were changed under Work Choices. Although the funding was withdrawn, the number of complaints being received continues to grow. In exercise of my statutory role I decided that the loss of funding should be shared across all aspects of HREOC, and not confined to cuts in the operations of the Complaints Handling Section. As a result, it has been necessary to cut the funding of every Unit in HREOC by 14.5 per cent. It is most regrettable that this will inevitably curtail the work programs of each of the policy units and impact on the allocated timeframes for complaints.

Looking to the future

This annual report will be my last, as my term as President of HREOC soon comes to an end. As my term ends, we are seeing a rapidly emerging set of human rights challenges in the response Australia and the world takes to climate change. Border protection has been an issue that has challenged us in response to the global threat of terrorism. Yet the sheer volume of people that will be displaced as sea levels rise, will present even greater challenges to us all in the future.

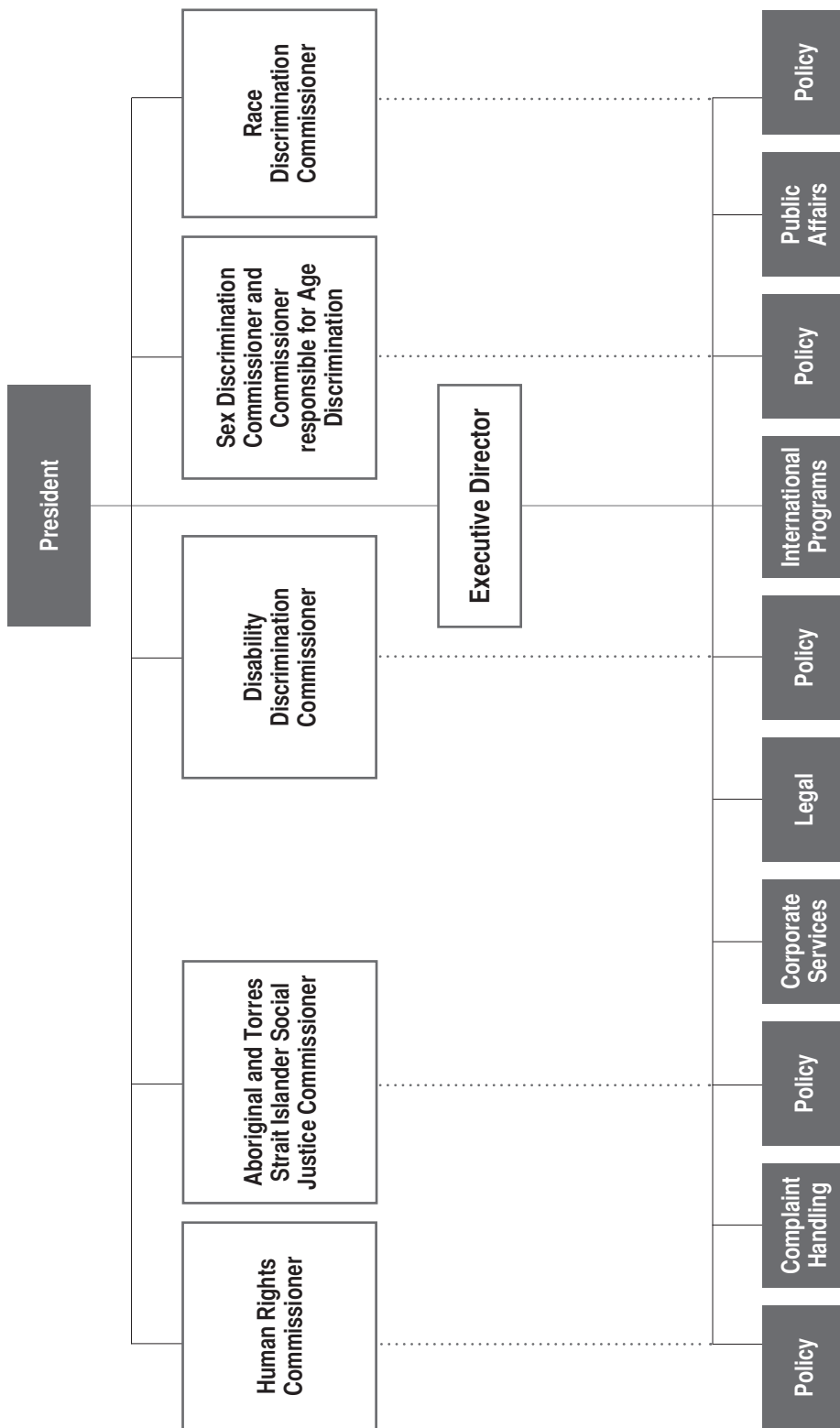
The conclusion of my term as President is also occasion for me to acknowledge the immense expertise, professionalism and dedication with which the staff and Commissioners at HREOC undertake their work. My experience of this commitment and enthusiasm was reinforced greatly at the culmination of HREOC's strategic planning process, the HREOC 21 Summit held over two days in February and attended by all staff, as well as a number of important external stakeholders. As a cohesive team, we worked extremely hard to reshape our way forward into the future so that HREOC can deliver on its strategic human rights objectives even better than it has in the past. It is a matter of regret to me that I leave as budget restraints are seriously limiting the research and policy initiatives that could otherwise be undertaken to enhance the understanding and enjoyment of human rights in Australia and our near Pacific neighbours.

Once again, I express my admiration for the skills and dedication of the staff of HREOC. It has been a privilege to work with them throughout my tenure as President. And finally I wish my successor every success in carrying on the work of the Commission.

A handwritten signature in black ink, appearing to read 'John von Doussa', written in a cursive style.

John von Doussa QC

Figure 1: The Human Rights and Equal Opportunity Commission organisation chart



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Chapter 1

The Human Rights and Equal Opportunity Commission

1.1 VISION

Human Rights: Everyone, Everywhere, Everyday

1.2 MISSION

Leading the promotion and protection of human rights in Australia by:

- making human rights values part of everyday life and language;
- empowering all people to understand and exercise their human rights;
- working with individuals, community, business and government to inspire action;
- keeping government accountable to national and international human rights standards;
- securing an Australian charter of rights.

We do this by:

- listening, learning, communicating and educating;
- being open, expert, committed and impartial;
- fostering a collaborative, diverse, flexible, respectful and innovative workplace.

1.3 HREOC21

On 14 and 15 February 2008, HREOC held a planning summit at Jones Bay Wharf, Pyrmont Point in Sydney, entitled HREOC21. The 21 refers to the number of years that have passed since HREOC was established by an act of federal Parliament in 1986.

The summit was the culmination of an intensive consultation process, which involved discussions with HREOC staff and with external stakeholders, such as media, community organisations, educators and government representatives. The objective of the summit was to initiate a HREOC-wide strategic planning process by creating a refreshed vision for HREOC's future and a concrete plan of action that would make the vision happen.



.....
President John von Doussa addresses staff and other attendees at the HREOC21 Summit in February 2008

The HREOC21 Summit was attended by all HREOC staff and 14 influential external participants from various stakeholder areas.

The summit methodology used the Appreciative Inquiry (AI) strengths-based approach to problem solving. This approach to strategic planning has been used successfully in hundreds of small and large organisations worldwide, including the United Nations. AI identifies the 'positive core' in people and organisations – their capacities, capabilities, resources and strengths – to arrive at positive solutions. By inquiring into success and achievements, new possibilities for change, action and innovation are created – success is replicated and there is energy for change. This approach can be contrasted with traditional problem solving approaches which tend to focus on resolving problems and conflicts.

There are three major outcomes for HREOC as a result of the summit:

- a new vision and mission for HREOC
- a new strategic plan for HREOC
- a new 15 month full-time position to assist in the implementation of these outcomes.

A re-branding process was undertaken during the remainder of the reporting period. The new corporate image and branding will be launched during the new reporting period.

HREOC's new vision and mission appear at the beginning of this chapter.

1.4 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.

1.4.1 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. This appointment was extended until 8 September 2008.

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 Queens 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 9 September 2007, when the new Commissioner's term commenced.

1.4.2 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 Kungarakana tribal group and the Iwaidja tribal group, whose traditional lands are south west of Darwin and on the Coburg Peninsula in 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 35 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 community 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 (later, 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.

(Mr Calma was appointed as the Race Discrimination Commissioner on 2 July 2008).

1.4.3 Human Rights Commissioner and Acting Disability Discrimination Commissioner – Mr Graeme Innes, AM



Lawyer, mediator and company director, Mr 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, as well as nationally. He was Deputy Disability Discrimination Commissioner with the HREOC from 1999 to 2005.

Mr Innes 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 HREOC. He 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.

Mr Innes was the first blind President of 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 to organisations such as Westpac, Qantas, and Sydney Water on disability issues 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.

(Mr Innes was appointed Disability Discrimination Commissioner on 2 July 2008).

1.4.4 Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination – Elizabeth Broderick (from 10 September 2007)

The Hon. John von Doussa, QC (until 9 September 2007)



Ms Elizabeth Broderick was appointed Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination on 10 September 2007 for a five year term.

Lawyer and business woman, Ms Broderick was the 2001-02 Telstra NSW Business Woman of the Year and Australian Corporate Business Woman of the Year.

Prior to her appointment as Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination, Ms Broderick was a partner at one of Australia's leading law firms, Blake Dawson, and developed the firm's business case for flexibility in the workplace.

Her efforts contributed to creating a workplace where more than 20 per cent of the law firm's workforce now uses flexible work arrangements.

She established the first Legal Technology Group within a law firm in Australia and is widely recognised as a leader in the delivery of on-line legal services to educate individuals about the law.

More recently, she has travelled the length and breadth of Australia listening to women's and men's concerns about gender equality and age discrimination. In 2008, she was part of Australia's delegation to the United Nations for HREOC on the status of women.

Ms Broderick has developed mentoring programs for teenage girls at State High Schools in Sydney and a mentoring program for female university students.

She has a particular interest in issues related to gender equality, women in business, work and life balance and corporate social responsibility. She is a regular speaker at international and domestic conferences.

Ms Broderick is married and has two young children.

1.5 LEGISLATION

HREOC is responsible for administering the following Acts:

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

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*.

1.5.1 Human Rights and Equal Opportunity Commission Act

The Human Rights and Equal Opportunity Commission Act established HREOC and outlines its 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.*

1.5.2 Racial Discrimination Act

The Racial Discrimination Act 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.

1.5.3 Sex Discrimination Act

The Sex Discrimination Act 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.

1.5.4 Disability Discrimination Act

The objectives of the Disability Discrimination Act 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.

1.5.5 Age Discrimination Act

The objectives of the Age Discrimination Act 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.

1.6 FUNCTIONS AND POWERS

HREOC's responsibilities fall within four main areas:

- Human rights education and promotion
- Inquiring into discrimination and human rights complaints
- Human rights monitoring
- Policy development and legislative reform.

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 its 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 its 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.

1.7 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.

1.7.1 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.

1.7.2 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, prepares an annual report 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.

1.7.3 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.

1.7.4 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.

1.8 THE MINISTER

The Attorney-General, the Honourable Robert McClelland 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.

1.9 OUTCOME 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 the 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.

Table 1: Resources for outcome			
	Budget 2007-08 \$'000	Actual Expenses 2007-08 \$'000	Budget 2008-09 \$'000
Total Administered Expenses	–	–	–
Price of Department Output	18,575	19,788	17,144
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.	18,575	19,788	17,144
Subtotal Output Group 1.1	18,575	19,788	17,144
Revenue from Government (Appropriation) for Departmental Output	14,981	14,981	13,550
Revenue from other sources	3,594	4,604	3,594
Cash reserves applied to a revenue deficiency	–	203	–
Total Price of Output	18,575	19,788	17,144
Total for Outcome (Total Price of Output and Administered Expenses)	18,575	19,788	17,144

	Actual 2007-08	Estimated Actual 2008-09
Staff years (number)	116	99

Chapter 2

Human Rights Education and Promotion

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A central function of HREOC 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.

2.1 EDUCATION AND COMMUNICATION STRATEGY

Education is a crucial area of HREOC's work. At a basic level, everything HREOC does – from resolving individual complaints to holding national inquiries – is about human rights education and communication.

The aims of HREOC's education and communications program are to:

- raise awareness about human rights and responsibilities, within the Australian context
- stimulate discussion around key human rights issues

- promote community ownership of human rights
- promote awareness of HREOC's complaint process and rights protected under its laws
- provide information to the widest possible audience in a range of accessible formats.

HREOC uses a range of strategies to communicate its key messages, including:

- media engagement, with metropolitan, regional and specialist press, radio and television outlets
- the President, Commissioners and staff holding consultations with a range of Non Government Organisations (NGOs) (including peak bodies), community groups, parliamentarians, business and industry groups, academics and government officers
- an extensive and accessible website which includes human rights information and education materials for students, teachers, employers, government, media, community groups and individuals
- curriculum-linked human rights education materials for teachers and students which are promoted on-line and at education/teaching conferences, workshops and forums around the country
- new web technologies and social networking sites (such as Facebook and YouTube) and popular media (such as blogs, bulletin boards and e-forums)
- publishing and distributing plain English reports, discussion papers, brochures, posters and other resources (CD-Roms and DVDs) on human rights and discrimination issues
- hosting conferences, seminars, forums and events, such as the annual *Human Rights Medal and Awards* ceremony.

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

2.2 MEDIA ENGAGEMENT

HREOC has consistently engaged with the media to promote human rights issues. This is a crucial element of HREOC's public education function.

Each year the President and Commissioners give hundreds of interviews to newspaper, television, radio and on-line media outlets, as well as specialist, Indigenous and ethnic media.

Extensive coverage of major HREOC reports has been critical in drawing public attention to important human rights issues and bringing about positive change in attitudes, laws and policies.

All HREOC media releases, opinion pieces and speeches are available at: www.humanrights.gov.au/about/media

In 2007-08, HREOC issued 154 media releases and alerts. The President and Commissioners had 20 opinion pieces published in major metropolitan newspapers throughout Australia and conducted hundreds of media interviews resulting in a significant range of press, radio and television coverage. Several thousand media enquiries were received.

Social Justice Report 2007



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During 2007-08, Commissioners engaged with the media on a diverse range of issues. Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, was extensively interviewed after the *Social Justice Report 2007* and *Native Title Report 2007* were tabled in Parliament on 20 March 2008



Aboriginal & Torres Strait
Islander Social Justice
Commissioner



Human Rights and Equal
Opportunity Commission
humanrights.gov.au

HREOC's President and three Commissioners contributed to public debate through the media on a diverse range of human rights, equality and discrimination issues.

President von Doussa engaged in public debate on a range of human rights issues, including: anti-terrorism laws, work and family balance and paid maternity leave issues following the launch of the *It's About Time* report and a charter of rights.

Human Rights Commissioner Graeme Innes was interviewed and quoted in a range of media for the state launches of the *Same-Sex: Same Entitlements* Inquiry and report and on the removal of discrimination against gay and lesbian people from all federal legislation.

Commissioner Innes also appeared in the media on issues related to refugees and asylum seekers, including: immigration detention centres, the end of temporary protection visas for refugees and the government's decision to end the Pacific Solution.

As Acting Disability Discrimination Commissioner, Mr Innes commented on access issues in relation to transport and buildings, DVD and cinema captioning, and employment issues for people with disability.

He made media comment on the implications under the Disability Discrimination Act for taxi drivers who refused to carry people with a disability and was interviewed about the government's decision to sign the *International Convention for Rights of Persons with Disabilities*.

In conjunction with the Australian Electoral Commission, Mr Innes also promoted electronically assisted voting for vision-impaired people in electorates around the country where this initiative was being trialled in the lead up to, and on the day of, the Federal Election.

Sex Discrimination Commissioner Elizabeth Broderick promoted the findings of the *It's About Time* report and had ongoing media exposure in every state and territory as she undertook her national Listening Tour.

Commissioner Broderick also promoted debate in the media about the introduction of a paid maternity leave scheme. This involved working with external organisations, such as the Australian Industry Group and the Australian Council of Trade Unions (ACTU), for the organisation of a joint opinion piece for publication in major metropolitan press, a joint media release and promotion of HREOC's submission to the *Productivity Commission Inquiry into Paid Maternity, Paternity and Parental Leave*.

Ms Broderick also completed a range of interviews on sexual harassment, the 'glass ceiling' for women in work and gender pay issues.

In her capacity as Commissioner responsible for Age Discrimination, Commissioner Broderick completed a range of interviews dealing with issues related to age discrimination.

Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma's *2007 Social Justice Report* and *2007 Native Title Report* were tabled in federal Parliament on 20 March.

Commissioner Calma completed a range of media interviews about these reports and other major milestones such as: the National Apology, the first-ever Indigenous Health Equality Summit and the signing of a *Statement of Intent to Close the Gap* in life expectancy rates between Indigenous and non-Indigenous people with the Prime Minister. He also appeared in a range of media in relation to the 10th anniversary of the *Bringing Them Home* Report and the 40th anniversary of the 1967 Referendum.

Mr Calma made an address at the National Press Club on 4 July and engaged in media debate about issues such as: the United Nations *Declaration on the Rights of Indigenous Peoples*, alcohol management plans, 99-year land leases, changes to the *Community Development Employment Projects* scheme and a proposal for a new national Indigenous representative body.

As acting Race Discrimination Commissioner, Commissioner Calma completed a range of interviews about racial vilification and discrimination issues. In these interviews he addressed issues such as: HREOC's position paper on multiculturalism, the Government's Citizenship Test, protests against a proposed Islamic school in Camden, racism in sport and HREOC's *Community Policing Partnerships Project*, which invites Muslim communities and Police to establish viable projects to help build relationships and trust at the local level.

Mr Calma also commented on the federal government's 'emergency response' in the Northern Territory which breached the Racial Discrimination Act.

Each year HREOC promotes the annual 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 completed interviews both prior to and after the event to assist in its promotion.

2.3 COMMUNITY CONSULTATIONS

Community consultations provide a valuable two-way exchange of information between HREOC and the many different organisations with which it works.

During 2007-08 the President, Commissioners and their staff met with a wide range of peak bodies, community groups, NGOs, government agencies, business and industry groups, parliamentarians, lawyers and academics.

Community consultations have been the foundation of recent projects that have aimed to investigate prejudice against Arab and Muslim Australians, develop strategies to strike the work-life balance in employment and to respond to concerns regarding changes in Indigenous affairs.

HREOC also employs seminars and workshops as a means of sharing information about its activities, such as its complaint handling role, or to discuss emerging issues in human rights law.

Consultations held during the reporting period included:

- The **Disability Discrimination Commissioner** and staff were involved in numerous 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** (and former Acting Commissioner John von Doussa) were involved in approximately 220 meetings. 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 67 meetings, including 38 meetings with key organisations and individuals in Victoria, and 29 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 50 meetings/consultations, including the convening of the National Indigenous Health Equality Summit.
- The **Human Rights Commissioner** and staff held approximately 65 meetings, which included consultations with people who are sex and gender diverse, regarding human rights issues that affect them.

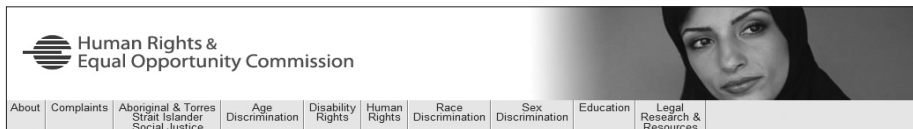
- In this reporting year, over 59 organisations throughout all states and territories either attended information sessions on the law and the complaint process run by CHS staff or were visited by CHS staff. These organisations included: community legal centres; professional associations and unions; Aboriginal legal centres; multicultural organisations; youth organisations; legal centres; neighbourhood centres and disability groups. Locations visited included Darwin, Alice Springs, Perth, Kalgoorlie, Melbourne, Launceston, Adelaide, Brisbane, Townsville, Sydney, Lismore, Ballina, Mudgee, Coffs Harbour and Port Macquarie.

2.4 HREOC WEBSITE – www.humanrights.gov.au

HREOC’s website was established in 1998. Since that time it has become the organisation’s primary source of information dissemination. It is widely used by government, the media, schools, individuals, legal, community and employer organisations to obtain information about human rights and responsibilities and anti-discrimination law and practice.

The HREOC website is maintained to ensure that the most up-to-date information is posted daily. All reports, submissions, media releases and other HREOC publications are available on-line in a variety of formats.

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



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 The HREOC website was completely redesigned in August 2007 in order to provide a superior service and common navigation and style across the entire site

Electronic mailing lists

HREOC offers subscription electronic mailing lists, maintained by Public Affairs, to communicate up-to-date information about current human rights issues, both at a domestic and international level.

Interested parties can subscribe to a variety of mailing lists offered on the basis of specific interests, including human rights education, information for employers, legal and complaints, human rights, Indigenous, disability rights updates, and racial discrimination and sex discrimination. Subscribers can also join a priority list and receive the entire set of information sent to all lists.

At the end of the reporting period there were 18 628 subscribers across the various electronic mailing lists.

HREOC also maintains on-going communication with teachers and education bodies through an electronic mailing list, providing regular updates about:

- the most recent human rights education activities
- reviews and links to human rights education resources
- reviews of particular sections of HREOC's website that would be useful to educators
- upcoming human rights education events.

2.4.1 Major additions and improvements in 2007-08

Website redesign

In August 2007, the HREOC website was redesigned in order to provide improved architecture and a common navigation and style across the site. Introductions to each section of the site were rewritten in a plain English style to be concise and easy to understand. New additions included a 'mature age' section, a Community Partnerships for Human Rights section, on-line blogs and audio and video files to download. The 'Education', 'Legal Research and Resources' and 'About HREOC' sections were also made more prominent.

Accessibility/usability features

The HREOC website redesign employed Cascading Style Sheets to incorporate accessibility issues covered by web standards such as: the *W3C Web Content Accessibility Guidelines 1.0* (1999), *AGIMO Web Publishing Guide: Accessibility* (2007) and the *HREOC WWW Access: Disability Discrimination Act Advisory Note* version 3.2 (2002).

In addition to the new visual design, the updated website includes new accessibility features such as:

- a facility to increase text size across the site
- access keys (keyboard based shortcuts)
- navigation (not graphical) text based headings for screen readers and people with visual impairment
- new 'print friendly' features
- a simplified process for joining mailing lists, and
- an improved, more intuitive website search function, powered by the Funnelback search engine.

Major on-line publications

Major publications produced and added on-line during the reporting period included:

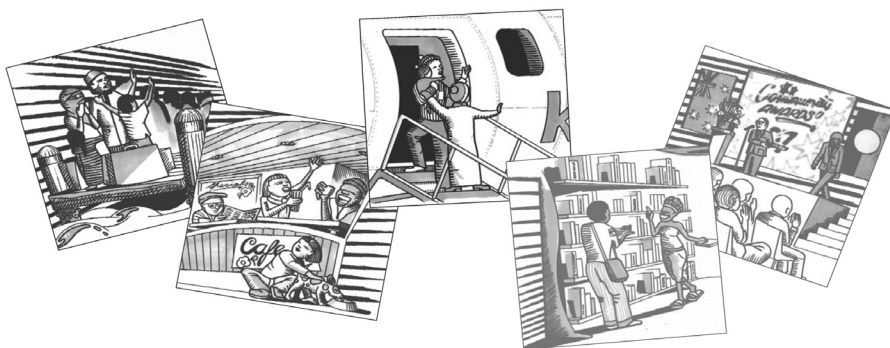
- information sheets, such as *Discrimination: Don't Cop it*, a resource for young people, and *Human Rights Explained*
- updates and additions to curriculum-linked human rights education resources, such as:
 - *Bringing Them Home*: education resources about the stolen generations
 - *Face the Facts: Questions and Answers about Refugees, Migrants and Indigenous Peoples*

- Commission reports and publications, such as:
 - *Social Justice Report 2007*
 - *Native Title Report 2007*
 - *Us Taken-Away Kids* – Commemorating the 10th anniversary of the *Bringing Them Home* Report
 - *Achieving Aboriginal and Torres Strait Islander Health Equality Within a Generation*
 - *Living Spirit: Report on HREOC's Muslim Women's Projects*
 - gay, lesbian, bisexual, transgender and intersex equality pages
 - speeches and other presentations by the President and Commissioners
 - Human Rights Medal and Awards website section to promote HREOC's annual Human Rights Medal and Awards, and
 - a range of legal submissions made to the Parliament and other bodies by HREOC.

Teaching resources and worksheets for use in Australian classrooms

face the facts

Questions and Answers about Refugees, Migrants and Indigenous Peoples



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A number of major HREOC publications, such as the *Face the Facts: Questions and Answers about Refugees, Migrants and Indigenous Peoples* teaching resources and worksheets, were added on-line during 2007-08

Listening Tour

In November 2007, HREOC developed its first blog to support the consultation process of the national Listening Tour, conducted by Sex Discrimination Commissioner Elizabeth Broderick. The blog included an on-line diary from the Commissioner, featuring reflections of her meetings with groups of people around Australia, as well as forums in which users could write about their own experiences on the themes of the tour. During the reporting period the blog received 51 982 page views, which equates to approximately 85 379 hits and 7 647 unique visits. A selection of blog quotes were used in the community guide of the Listening Tour.

Information for employers/employees

There is an ongoing need to educate employers and employees about their rights and responsibilities under federal anti-discrimination laws, especially in today's changing industrial relations environment. On-line resources, such as *Work Out Your Rights* and *Good Practice, Good Business*, provide practical information about dealing with discrimination and harassment in the workplace. Information for employers is available at www.humanrights.gov.au/info_for_employers and information for employees at www.humanrights.gov.au/complaints_information/WOYR

2.4.2 Statistics

HREOC uses a web statistics system that tracks both the number of visitors to the site and the way visitors use the site. This allows HREOC to identify materials that are particularly successful or popular and other areas that have room for improvement.

The site received approximately 11 195 404 page views on the server during 2007-08. This equates to approximately 73 246 868 hits on the site in total and 3 728 515 unique visits.

A summary of statistical information is provided below:

Section	Views of section home page	Views of all pages in section
HREOC Homepage www.humanrights.gov.au	280 576	n/a
Aboriginal and Torres Strait Islander Social Justice www.humanrights.gov.au/social_justice/	78 202	963 871
Complaints Information www.humanrights.gov.au/complaints_information/	48 185	299 631
Disability Rights www.humanrights.gov.au/disability_rights/	74 760	1 470 096

Human Rights www.humanrights.gov.au/human_rights/	71 186	983 912
Legal Information www.humanrights.gov.au/legal/	47 143	588 544
Racial Discrimination www.humanrights.gov.au/racial_discrimination/	53 139	315 148
Sex Discrimination www.humanrights.gov.au/sex_discrimination/	166 560	687 302
Age Discrimination www.humanrights.gov.au/age/	42 149	59 322
Information for Employers www.humanrights.gov.au/info_for_employers/	23 663	204 223
Publications www.humanrights.gov.au/about/publications/	71 160	n/a
Media Releases Index www.humanrights.gov.au/about/media/	49 100	679 275
Job Vacancies www.humanrights.gov.au/about/jobs/	51 438	58 522
Human Rights Education Resources www.humanrights.gov.au/education/	n/a	939 141

2.5 HUMAN RIGHTS EDUCATION PROGRAM

HREOC's Human Rights Education Program aims to help students develop a critical understanding of human rights and responsibilities, as well as develop the attitudes, behaviours and skills to apply them in everyday life. It is guided by a clear set of education principles and learning outcomes.

HREOC's approach supports the goals and direction of the *World Programme for Human Rights Education*. The first phase of the World Programme (2005-2009) is focused on supporting human rights education in primary and secondary schools.

HREOC works with Australia's state and territory education departments, schools, organisations and facilitators to promote an understanding of and commitment to human rights education.

Many schools, principals and individual teachers have made concerted efforts to integrate human rights education into their teaching practice, classroom activities and school communities.

HREOC produces a wide range of human rights education resources for teachers, which are free to download. There are resource sheets, worksheets and interactive activities, along with links to useful Australian and international websites.

HREOC also offers professional development seminars that support teachers with ideas and approaches to teaching human rights and responsibilities.

Human rights education principles

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

The teaching and learning activities that are published by HREOC are designed to be:

- contextual: human rights are discussed in social contexts relevant to the learners
- skills-oriented: human rights education develops skills, and is linked with literacy, numeracy and decision making skills
- cross-curricular: human rights, as human experience, are relevant to all aspects of learning
- discursive: learning is based on discussion, exchanging ideas and values, understanding human communication
- inclusive: allow all students, regardless of their learning styles/abilities, to participate.

Educational outcomes

HREOC's human rights education resources are designed to assist students in developing:

- an understanding of what human rights are and an understanding of the origins of modern human rights
- an appreciation of the meaning and significance of the *Universal Declaration of Human Rights* and other human rights instruments
- an understanding of how human rights instruments are applied in Australian law and society
- an ability to apply the concepts of human rights to their daily lives
- an understanding of issues concerning asylum seekers and refugees, migrants and multiculturalism and Aboriginal and Torres Strait Islander peoples
- research and fact-sourcing skills, and an ability to think creatively and to communicate information to others
- decision making skills, within an individual, group and class context
- literacy skills, including critical literacy, code breaking and comprehension skills, through reading and responding to a variety of texts, both orally and through writing
- skills in describing, reflecting, interpreting, analysing, evaluating and higher order thinking.

Educational content

HREOC has linked its core human rights education modules with curriculum frameworks from Education Department's across each Australian State and Territory. Links have been established in a range of key learning areas including Studies of Society and Environment (especially Aboriginal Studies and Australian Studies), English, Civics and Citizenship/Discovering Democracy, Geography, History, and Drama.

The resources provide significant flexibility for delivery – teachers can incorporate individual activities into an existing program or teach the module as a whole.

Educational resources

HREOC's *Human Rights Education Program* includes a range of interactive, resource-rich, web-based learning modules for use in the classroom with students ranging in age from 10-17.

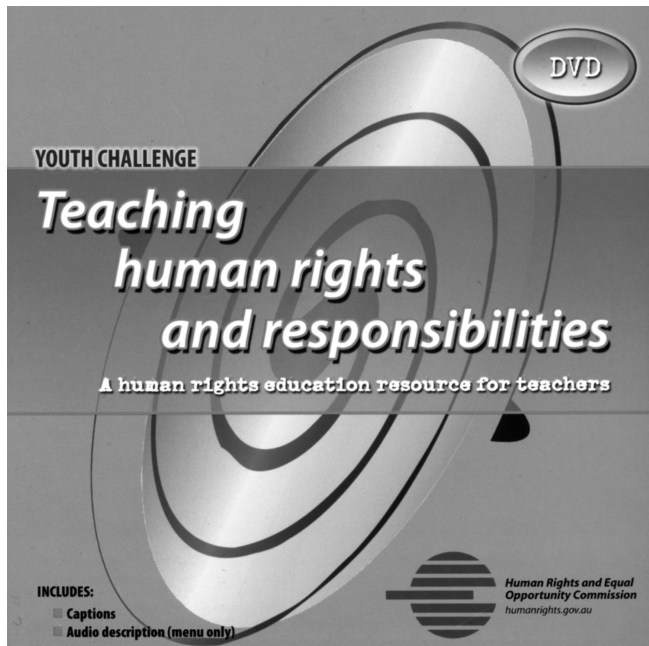
The resources are designed to introduce Australian students to human rights concepts in an engaging, relevant way, and provide useful resources and lesson plans to teachers for use in the classroom. These include:

Youth Challenge: Teaching Human Rights and Responsibilities

The *Youth Challenge* Program includes a website, CD-Rom, DVD and teaching strategies and worksheets for use in the classroom.

Youth Challenge assists students to focus on real life issues such as sex, race and disability discrimination, sexual harassment and rights in the workplace and encourages them to explore the relevance of human rights to their own experiences and communities.

.....
HREOC's Human Rights Education Program includes a range of interactive, resource-rich web-based learning modules for use in the classroom



The *Youth Challenge* Program is broken into four distinct units:

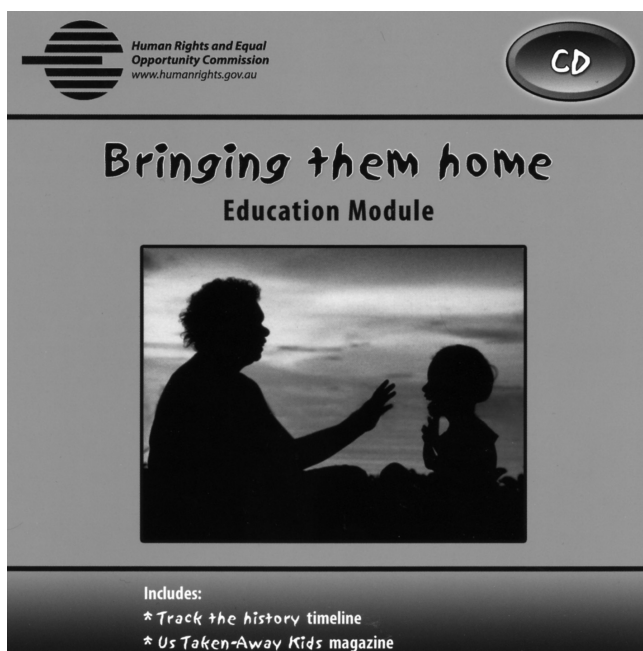
- *Unit 1: Human Rights in the Classroom*
- *Unit 2: Disability Discrimination – ‘But what about Doug’s rights?’*
- *Unit 3: Young People in the Workplace*
- *Unit 4: Tackling Sexual Harassment in Your Classroom*

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.

The education resources were updated in 2007 to reflect changes over the 10 years since the *Bringing Them Home* Report was released. The updated version has activities that are based on the complementary poster, DVD and magazine ‘*Us Taken-Away Kids*’. The activities have been modified so that they are more user-friendly for teachers.

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Education modules such as the *Bringing Them Home* CD provide students with the opportunity to research issues and engage in debate in an informed way



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. The education module complements the *Voices of Australia* magazine and audio collection of stories.

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 on-line resources and further reading, for research, analysis and debate of the issues facing different groups in Australian society.

Activities to celebrate Human Rights Day

In 2007-08, a series of teaching and learning activities for the classroom were developed to help teachers increase students' understanding of the origin of Human Rights Day. The activities provide a fun way for students to engage in the discussion and visual interpretation of human rights.

See HREOC's education resources on-line at: www.humanrights.gov.au/education/modules.html

Human Rights Explained fact sheets

In 2007-08, HREOC adapted the on-line *Human Rights Explained* resource into a series of fact sheets to assist university students, senior high school students and their teachers to understand human rights.

The *Human Rights Explained* fact sheets are an essential information resource about the development of human rights law. They provide background to issues concerning human rights in Australia and in the international arena.

There are a total of eight fact sheets available on the HREOC website at www.humanrights.gov.au/education/hr_explained/index.html

They are:

- Defining human rights
- Human rights origins
- Human rights philosophies
- The emergence of rights in law
- The international bill of rights
- How States commit to human rights treaties
- Australia and human rights treaties
- Promoting and protecting human rights in the UN system.

The fact sheets are supported by:

- Case studies: Complaints about Australia to the Human Rights Committee, and
- Human rights secondary sources reference list.

Information for students webpage

Information for students is an on-line education resource for secondary school students intended 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 section 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 about 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:

- *Youth Challenge* education modules
- *Voices of Australia* education module
- *The Face the Facts* publication
- *Bringing Them Home* education module
- *Information for Employers* resources

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

Find out about human rights

Human rights can be traced back through many centuries of history

Did you know....

- 1689: British Bill of Rights is adopted
- 1791: U.S. Bill of Rights incorporates notions of freedom of speech, press, and fair trial into the new U.S. Constitution
- 1893: Women in New Zealand are given the vote - the first in the world
- 1962: In Australia, the Commonwealth Electoral Act was amended to grant all Aborigines the right to vote in federal elections
- 1975: In Australia, the *Racial Discrimination Act 1975* comes into force
- 1981: In Australia, the *Human Rights Commission Act 1981* is enacted, which establishes the national Human Rights Commission (HRC)
- 1984: In Australia, the *Sex Discrimination Act* comes into force
- 1986: The *Human Rights and Equal Opportunity Commission Act* replaces the HRC with HREOC
- 1992: In Australia, the *Disability Discrimination Act* comes into force
- 2004: In Australia, the *Age Discrimination Act* comes into force

To find out more check out:
www.humanrights.gov.au/info_for_students

Human Rights and Equal Opportunity Commission

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Information for students is an on-line education resource for secondary school students, intended to help them gain an awareness and understanding of human rights issues

Promotion and distribution of educational resources

The Education Manager promotes HREOC's resources nationally at conferences, forums and university pre-service lectures. The President and Commissioners often provide keynote addresses to educational conferences.

HREOC regularly promotes its human rights resources by sending postcards, CD-Roms, DVDs and other hard copy education materials to professional teachers associations and schools, together with order forms.

HREOC has also developed partnerships with educational groups and institutions that distribute information and resources to teachers and students.

Usage of on-line educational resources

HREOC's on-line human rights education resources are widely used by educators, both nationally and internationally. During the 2007-08 financial year, the resources received 939 141 page views.

Human Rights Education Resources	Page views
Voices of Australia	68 720
Youth Challenge Education Module	87 704
Bringing Them Home Education Module	96 731
Information for Teachers	392 974
Information for Students	116 860
Face the Facts Education Module	34 000
Face the Facts Publication	65 607
Human Rights Explained	44 817
A last resort? Teaching Resources	6 440
A last resort? Summary Guide	25 288

2.6 HREOC PUBLICATIONS AND RESOURCES

In 2007-08, a total of 66 058 publications were sent out to 4 692 requests. This is a reduction in the number of publications distributed in 2006-07 and is a reflection of HREOC's commitment to making more publications available electronically as downloads from the website. These figures do not take into account the number and location of resources distributed by Commissioners and Commission staff as part of consultations, seminars and other public engagements.

The most popular publications were: *The Human Rights Commission's complaint process* (4 658), *Face the facts* (2 555), *The Good, the Bad and the Ugly: Design and Construction for Access* CD-Rom (2 222) and the general *Human Rights and Equal Opportunity Commission* brochure (4 085). This illustrates the popularity of CDs as a stand-alone format rather than just an alternative format.

Most HREOC publications can also be downloaded in electronic format from the website. The on-line publications page provides links to lists of publications by subject area, an order form and a list of recent publications.

A list of publications released during 2007-08 can be found at Appendix 2 of this Report.

Translations

HREOC publishes material in a wide range of formats to a diverse group of people and communities. In 2008, HREOC produced a poster with complaints information in 16 languages which has been distributed to 3 000 multicultural centres around Australia. In 2007, HREOC produced and distributed a HREOC DVD which has been translated into seven languages.

HREOC has also provided on-line translations of some core publications in various languages, including the general *Human Rights and Equal Opportunity Commission* brochure and *The Human Rights Commission's Complaint Process* brochure.

Accessibility

HREOC makes sure that, where possible, resources are published in formats that are accessible to people with disability. Requests for publications in large print, Braille, or audio are referred to the Public Affairs section.

When producing CDs and DVDs, HREOC considers a range of principles regarding accessibility requirements. Public Affairs ensures DVDs have audio description menus and/or captions, and DVD covers are marked to reflect the accessibility features available.

2.7 2007 HUMAN RIGHTS MEDAL AND AWARDS

Each year since 1987, the prestigious Human Rights Medal has recognised individuals who have made an outstanding contribution to the promotion and protection of human rights in Australia. Additionally, seven different award categories recognise and acknowledge outstanding contributions to human rights, social justice and equality made by individuals and organisations in seven specific vocations.

The 20th Human Rights Medal and Awards ceremony was held in the Grand Ballroom at Sydney's Sheraton on the Park hotel on Friday, 10 December from midday to 3pm.

390 people attended the gala awards ceremony. President von Doussa delivered the annual Human Rights Day Oration, available on-line at www.humanrights.gov.au/about/media/speeches/speeches_president/2007/20071210_HumanRightsOration.html Journalist and personality, Julie McCrossin, was the MC.

A photographic exhibition, *Land is Life*, by award winners, the Northern Land Council, was displayed in the foyer.

The Human Rights Medal winner, award winners and highly commended nominees from a strong field for each of the seven categories were announced at the ceremony.

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.

Information about the award winners, including audio of acceptance interviews, is available on the HREOC website at www.humanrights.gov.au/about/hr_awards/index.html

2.7.1 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.

Winner: Mr Jeremy Jones AM

The Human Rights Medal was awarded to Mr Jones because of his dedication and consistently outstanding achievements in the human rights arena over the last three decades.

Mr Jones is an advocate who has dedicated his life to promoting freedom from racial discrimination, persecution, harassment and freedom of religion. Over his 30 year career Mr Jones has tirelessly undertaken voluntary work within Indigenous, Jewish and Muslim communities as well as other minority groups. His commitment to human rights has seen him travel the world to speak publicly and to meet and work with others opposing racism. He has been the Co-Chair of the Australian National Dialogue of Christians, Muslims and Jews since 2004, was the Australian delegate to the World Jewish Congress in 2006 and President of the Executive Council of Australian Jewry from 2001-2004.

For more than 20 years Mr Jones has provided expert analysis and commentary to the national and international media on racism issues in Australia. In addition, he has given hundreds of lectures to schools, universities, service organisations and other forums, using education as a means of building tolerance.

In 2004, he was awarded the Federation of Ethnic Communities' Medal for his contribution to multiculturalism. In 2005, he was made a member of the Order of Australia. In 2006, he was made an Honorary Life Member of the Executive Council of Australian Jewry.

2.7.2 Law Award (Sponsored by the Law Council of Australia)

Winner: Redfern Legal Centre

Redfern Legal Centre, in Sydney, was established in 1977 and has been providing free legal advice, legal services and legal education to disadvantaged people, and the groups who advocate for them, ever since. The centre has also campaigned tirelessly to reduce inequalities and defects in the legal system and the administrative and social practices that impact upon disadvantaged people.

The centre operates on a very limited budget. It relies heavily on volunteer labour and pro-bono assistance from legal professionals to service a heavy caseload and clients that number in the thousands. A very high proportion of the centre's clients are from Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse communities.

One of the centre's major achievements has been the coordination of the innovative Redfern Women's Domestic Violence Court Assistance Scheme, which aims to ensure that women seeking a restraining order have access to both legal assistance and to any other support services they may require (such as housing, income support and counselling). The scheme is widely recognised as a successful model for providing women who suffer domestic violence with the support that they need.



.....
Mr Jeremy Jones AM is presented with the 2007 Human Rights Medal by the 2006 winner, Father Chris Riley AM

Much of the centre's activities are concerned with domestic violence, disability discrimination, racial discrimination and Indigenous issues.

2.7.3 Community Award (Individual)

Winner: Dr Jamal Rifi

Dr Rifi received this award because of his deeply-felt commitment to achieving practical outcomes for community harmony in a number of different ways, particularly through sport.

Dr Rifi is a GP, an active community volunteer and President of the Lakemba Sports and Recreation Club. Under his Presidency, the club has provided disadvantaged community members with equal opportunity to participate in affordable sporting activities, and membership has grown from 100 members in 2003 to over 600 in 2007. He has seen the club become the base for community meetings (including the women's group for Islamic studies and fitness and senior citizens social group evenings). He has also mounted innovative projects such as training 22 young Muslim people to become surf lifesavers in the wake of the Cronulla riots.

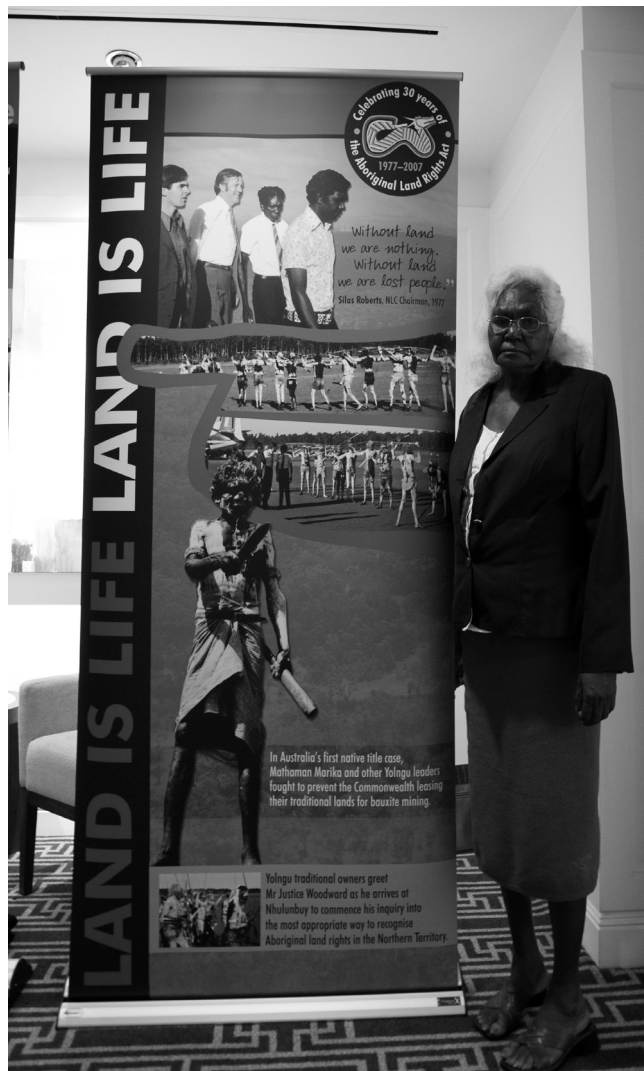
Dr Rifi has donated his time to many community and government agencies, contributing expertise to advisory committees such as the Youth Partnership with Arabic Speaking Communities and the National Action Plan to Build on Social Cohesion, Harmony and Security. He is also a founding member of Muslim Doctors Against Violence and the Muslim Christian Friendship Society.

2.7.4 Community Award (Organisation)

Winner: Northern Land Council

The Northern Land Council (NLC) received this award for its hard work and dedication to overcoming Indigenous disadvantage and to achieving outcomes that will enhance the human rights of traditional Aboriginal owners.

THE NLC was established as an independent statutory authority in 1973 to advocate for Aboriginal people of the Top End. It assists Aboriginal people in the northern region of the Territory to acquire and manage their traditional lands and seas. It provides its services to over 40 000 Aboriginal people (70 per cent of NT Indigenous population), and has been at the forefront of many struggles to protect sacred sites as well as economic and political interests.



.....
The Northern Land Council's photographic exhibition, *Land is Life*, was displayed at the 2007 Human Rights Medal and Awards ceremony

Among its other achievements have been the *West Arnhem Land Fire Abatement Project*, which won the Australian Museum's inaugural Eureka Prize for Innovative Solutions to Climate Change; and the *Carpentaria Ghost Net Project*, which aims to rid the Gulf of lost or abandoned fishing nets. Additionally, during 2006-07, NLC placed 80 Aboriginal people in full-time employment with secure career prospects.

2.7.5 Radio Award

Winner: *Positive Teens* produced by Julie Kimberley – ABC Radio National, *Life Matters*

Positive Teens dealt with the prejudice, secrecy and stigma faced by young HIV positive people who had contracted the virus from their mothers. In exploring what is a sometimes hidden and not well understood issue, the people interviewed talked openly about discovering they were HIV positive, of losing their mothers (and fathers and siblings) to the illness at very young ages, and of having to make decisions about trust and disclosure almost every day – often having to move schools and break friendships in the process to keep their secret safe.

It was considered that, through airing the complex realities of life for these young people, *Positive Teens* powerfully educated listeners about the injustices and hardship caused by attitudes that discriminate against those who are different. The candour, bravery and honesty with which the young people concerned told of their deepest feelings was considered a testament, not only to them, but to the interviewing skills of the journalist, Julie Kimberley.

2.7.6 Print Media Award

Winner: *Dead Men Working* (series) by Matthew Moore and Malcolm Knox, *Sydney Morning Herald*

Dead Men Working ran in the *Sydney Morning Herald* on 28 and 29 August 2007. It was a special investigation that exposed blatant breaches of the 457 skilled worker visa scheme which allowed employers to sponsor thousands of foreigners to come here to do jobs that Australians cannot or will not do. It delved deeply into the hidden world of exploited guest workers who are too afraid of being sacked or sent home to speak out about abuses to which they were being subjected. The articles focused public attention on the fact that some of the worst of human rights breaches – discrimination, abuse, exploitation and slavery – are actually taking place in our country today.

It was felt that the Human Rights Print Media Award should go to this series because it exemplified the contribution the print media can make to better awareness and protection of human rights in Australia. In writing these articles, the journalists contributed to government action, and an increase in public demand for, the introduction of reforms to the temporary visa system that would better protect the rights of all people coming to Australia.

2.7.7 Arts Non-Fiction Award

**Winner: *Alone on the Soaks – The Life and Times of Alec Kruger*,
by Alec Kruger and Gerard Waterford**

Alone on the Soaks – The Life and Times of Alec Kruger is a sweeping story of dispossession, discrimination and disappointment and of pride, determination and triumph. It recounts Mr Kruger’s life story from the time when he became a stolen child, barely surviving, to the position he is in today as a wise and respected man with a large and successful family. The book documents how, as a stolen child, he not only had his family life taken from him, but his language, his culture, his wages, and time and time again, his human rights.

It takes its title from an event early in Mr Kruger’s life when he was left alone in the bush, without supplies, gun or bush skills, to maintain a soak for watering cattle.

Mr Kruger was a key informant of the 1997 *Bringing Them Home* Report that followed the two-year Royal Commission into the removal of Aboriginal children from their families. He was also among the first people who took their need for recognition further. He did this by testing, in the High Court, the legality of the Aboriginal ordinances that allowed the authorities to remove Aboriginal children throughout the 20th Century.

It was felt that the events of Mr Kruger’s life, as depicted in this memoir, help us to understand not only what has happened over the last 80 years, but also the impact of events on individual Australian communities. It shows that the first step toward achieving social justice is talking about, and listening to, each other’s stories. The second step is recognising that these stories make a difference for others and ultimately to the system itself.



.....
Mr Alec Kruger is interviewed by MC, Ms Julie McCrossin about his memoir, *Alone on the Soaks – The Life and Times of Alec Kruger*

2.7.8 Television Award

Winner: *The Circuit*, produced by Ross Hutchens and Colin South, Media World Pictures, screened on SBS Television

The Circuit is a six part drama series that follows a magistrate and an entourage of court officers and lawyers on a regular five-day, 2000 kilometre round trip to dispense justice to the remote communities of north Western Australia.

Aaron Perderon plays Drew Ellis, the latest lawyer to join the Kimberley Circuit Court. The challenges he faces include injustices, abuses of power, corruption, gay rights, single parenthood, alcohol abuse, sexual abuse and inter-racial relationships. An Indigenous man from the city, Ellis comes to realise that one law for two cultures does not always equal a fair go.

The Circuit, which screened on SBS Television from 8 July to 12 August 2007, is the first Australian drama series where Indigenous Australians have taken a lead in co-producing, writing, and directing. The production process saw the filmmakers engage with the local community, use Indigenous writers and co-producers and provide cross-cultural training to the cast and crew.

It was felt *The Circuit* was worthy of this award because of the way the production remains engaging and educational, while addressing a range of social issues in a nuanced and powerful manner that does not preach to the audience.

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 2007-08 are listed in this chapter. 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.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 Legal and Constitutional Affairs Committee on the Australian Citizenship Amendment (Citizenship Testing Bill) 2007

HREOC has made three submissions at various stages during the Australian Government's introduction and implementation of a formal test for applying for Australian citizenship. Throughout these submissions, HREOC has argued that testing for citizenship should not be introduced because of the discriminatory impact it is likely to have, especially on people from non-English speaking backgrounds and with low literacy levels.

On 6 July 2007, HREOC made a submission to the Legal and Constitutional Affairs Committee in its Inquiry into the Australian Citizenship Amendment (Citizenship Testing) Bill 2007 (the Bill). The Bill introduced the citizenship test as an amendment to the *Australian Citizenship Act 2007* (Cth).

In addition to its threshold argument that the test was likely to have a discriminatory impact on many applicants, HREOC argued that the Bill gave too much discretion to the Minister for Immigration and Citizenship in determination of the nature and form of the citizenship test. In addition, the amendments provided insufficient alternatives for applicants who, because of their particular circumstances, were disadvantaged by the test.

The citizenship test was introduced in October 2007. The new Australian Government issued a report on the operation of the test in the first six months after its implementation, entitled *Australian Citizenship Test: Snapshot Report, April 2008*. It also established the Australian Citizenship Test Review Committee. The report showed that applicants from Non-English Speaking Background (NESB) and applicants with low literacy levels are disadvantaged by the test in its current form.

HREOC's submission to the Review Committee, dated 5 June 2008, recommended that the content and the format of the test should be modified to diminish its discriminatory impact.

A copy of HREOC's submissions on the citizenship test are available at www.humanrights.gov.au/legal/submissions/indexsubject.html

3.1.2 Senate Legal and Constitutional Affairs Committee on the Northern Territory National Emergency Response Legislation

On 10 August 2007, HREOC made written and oral submissions to the Senate Legal and Constitutional Affairs Committee in its inquiry into legislation implementing the Northern Territory 'National Emergency Response' (the NTNER laws).

HREOC strongly supported the aims of the laws, namely to improve the well being of certain communities in the Northern Territory and to protect children. However, HREOC stressed that the laws and action taken under the laws must be consistent with the fundamental right to racial equality. HREOC opposed the removal of the provisions of the NTNER laws that are discriminatory. It also opposed the NTNER laws being exempted from the Racial Discrimination Act.

HREOC noted that the NTNER laws have a number of significant actual and potential negative impacts upon the rights of Indigenous people which are discriminatory. HREOC also identified a number of unintended negative consequences of the NTNER measures that adversely impact upon the rights of Indigenous people.

HREOC argued that the absence of effective consultation with the intended beneficiaries of the NTNER laws meant that they could not be justified as 'special measures'. HREOC also noted that the success of the laws and their implementation depended upon effective consultation.

HREOC therefore recommended ongoing monitoring and an independent and public parliamentary review after 12 months to seek to ensure that the goals of the proposed legislation are achieved in a manner that is consistent with human rights. HREOC stressed that monitoring must actively involve the Indigenous peoples in relevant communities and be able to measure the progressive realisation of the economic and social rights of Indigenous people.

The submission is available at www.humanrights.gov.au/legal/submissions/2007/NTNER_Measures20070810.html

3.1.3 The United Nations Committee Against Torture

HREOC made submissions to the United Nations Committee Against Torture in February 2007 and March 2008.

These submissions were made to help the Committee assess Australia's compliance with its obligations under the *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment* (CAT).

HREOC recommended that Australia:

- ratify the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment* (OPCAT);
- introduce a system of complementary protection for asylum seekers;
- introduce an offence of torture with extraterritorial jurisdiction; and
- end the practice of offshore processing and close offshore processing centres.

Many of HREOC's recommendations were reflected in the Committee concluding observation on Australia's compliance with the CAT.

The Australian Government has indicated it intends to ratify OPCAT and is considering introducing an offence against torture. The practice of offshore processing has ended and HREOC is hopeful that its recommendations to introduce a system of complementary protection for asylum seekers that require protection under CAT will be acted upon by government.

The submissions are available on our website at www.humanrights.gov.au/legal/submissions/united_nations/index.html.

3.1.4 The Senate Legal and Constitutional Affairs Committee Inquiry into the Stolen Generation Compensation Bill 2008

In April 2008, HREOC made a submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Stolen Generation Compensation Bill 2008 (Cth).

The submission:

- commended the Bill, which proposed to introduce a uniform national scheme to compensate members of the stolen generations and their families;
- noted the joint responsibility of state, territory and Commonwealth Governments for the removal of Aboriginal and Torres Strait Islander children from their families and communities;
- recommended that the Commonwealth, through the Council of Australian Governments (COAG), engage with state and territory governments to develop a nationally consistent approach with joint funding mechanisms in the provision of financial redress for the stolen generations; and

- recommended the additional allocation of funding to healing centres as a collective approach to redress for stolen generations members and their families and communities.

A copy of the Commission's submission is available at www.humanrights.gov.au/legal/submissions/2008/080409_compensation.html

The Senate Legal and Constitutional Affairs Committee tabled its report in the Senate on 16 June 2008.

3.1.5 The Clarke Inquiry into the case of Dr Haneef

In May 2008, HREOC made a submission to the Clarke Inquiry into the case of Dr Mohamed Haneef.

The Clarke Inquiry was established to inquire into the circumstances surrounding the prosecution of Dr Haneef in July 2007, the cancellation of his Australian visa and the issuing of a criminal justice stay certificate.

HREOC raised the following concerns in its submission to the Clarke Inquiry:

- That pre-charge detention under Part IC, Division 2 of the *Crimes Act 1914* (Cth) permits violations of:
 - the prohibition on arbitrary detention (article 9(1), *International Covenant on Civil and Political Rights* (ICCPR))
 - the right of an individual to be informed, at the time of arrest, of the reasons for his or her arrest and be promptly informed of any charges against him or her (article 9(2), ICCPR); and
 - the right of any person arrested or detained to be brought promptly before a judge or other officer authorised to exercise judicial power to rule on the lawfulness of that detention (article 9(3), ICCPR).
- That section 102.7 of the Criminal Code, which outlines the offence of providing support to a terrorist organisation, is unduly broad, particularly in respect of the lack of a materiality threshold for the provision of 'support' or 'resources' to a terrorist organisation.
- That s 501(3) of the *Migration Act 1958* (Cth) grants the Minister for Immigration and Citizenship an overly broad power to cancel a visa on the ground of character, and a decision by the Minister to cancel a visa on the basis of s 501(3) is subject to only limited grounds of review.
- That the Clarke Inquiry should recommend the establishment of an Independent Reviewer for Australia's terrorism law regime. In the Commission's view, an Independent Reviewer should:
 - have the power to obtain, from any agency or person, information that he or she considers is relevant to the review, including intelligence agencies; and
 - be required to consider the human rights impact of counter terrorism laws.

A copy of the submission is available at www.humanrights.gov.au/legal/submissions/2008/200805_haneef.html

The Clarke Inquiry is due to issue its report on 14 November 2008.

3.1.6 Productivity Commission Inquiry into Paid Maternity, Paternity and Parental Leave

In June 2008 HREOC made a submission to the Productivity Commission's *Inquiry into Paid Maternity Leave, Paternity Leave and Parental Leave*.

The submission outlined the key national objectives that a national scheme of paid leave for parents should meet, including: ensuring the health and well being of mothers, babies and fathers; addressing women's workplace disadvantage as a result of their maternal role; and promoting gender equality by fostering shared responsibility between men and women for the care of children.

HREOC proposed a two-staged approach to progressively realise a comprehensive national scheme of paid leave for parents. Stage One would provide 14 weeks of federally-funded paid maternity leave, and two weeks of supporting parent leave, to be implemented immediately. Following an independent review two years after implementation, the Commission recommended that Stage Two introduce an additional parental leave component of 38 weeks, of which four weeks are reserved for the supporting parent on a 'use it or lose it' basis.

HREOC also recommended that the Productivity Commission model the economic impact of both stages in its draft report, due September 2008.

A copy of the submission is available at www.humanrights.gov.au/legal/submissions/2008/20080602_productivity.html

3.1.7 Other submissions

During 2007-08, submissions were also made to:

- the NSW Attorney-General's Department seeking responses to its discussion paper on *The Law of Consent and Sexual Assault* and an Exposure Draft of the Crimes Amendment (Consent—Sexual Assault Offences) Bill 2007;
- the United Nations Committee against Torture on a draft general comment on article 2 of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*;
- the United Nations Committee Against Torture on the Committee's review of Australia's compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- the Department of Human Services on its exposure drafts of the Human Services (Enhanced Service Delivery) Bill 2007 and the Human Services (Enhanced Services Delivery) (Consequential Provisions) Bill 2007;
- the Consultation Committee for a proposed WA Human Rights Act on the *Human Rights for WA* Discussion Paper and Draft Human Rights Bill 2007;
- the Australian Law Reform Commission on its discussion paper entitled *Review of Australian Privacy Law*;
- the Australian Law Reform Commission's *Inquiry into Client Legal Privilege and Federal Investigatory Bodies*;
- the 2020 Summit on its *Inquiry into Future Directions for the Australian Economy – Education, Skills, Training, Innovation and Productivity*;
- the Attorney-General's Department on its *Homeland and Border Security Review*;

- the Legislative Instruments Act Review Committee on its review of the *Legislative Instruments Act 2003* (Cth);
- the Joint Standing Committee on Electoral Matters *Inquiry into the 2007 Federal Election*;
- the Joint Standing Committee on Migration *Inquiry into Immigration Detention*;
- Australian Government Department of Education, Employment and Workplace Relations on discussion paper, *National Employment Standards Exposure Draft (2008)*;
- the Senate Standing Committee on Environment, Communications and the Arts on the *Inquiry into the Sexualisation of Children in the Contemporary Media Environment*;
- the NSW Legislative Council's Standing Committee on Law and Justice on the *Inquiry into the Prohibition on the Publication of Names of Children Involved in Criminal Proceedings*.

Chapter 4

Complaint Handling Section

4.1 OVERVIEW OF THE WORK OF THE COMPLAINT HANDLING SECTION

The President of 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. In 2007-08, 18 765 enquiries were dealt with by the Complaint Information Service. This is a 32 per cent increase in comparison with the average number of enquiries received over the past four years and a 13 per cent increase in comparison with enquiries received in the previous reporting period.

Investigation/Conciliation Officers within the CHS manage complaints that have been accepted by HREOC. In 2007-08 the CHS received 2 077 complaints. This is a 28 per cent increase in comparison with the average number of complaints received over the past four years and a 17 per cent increase in comparison with the number of complaints received in the previous reporting year.

The CHS aims to provide an efficient and effective complaint service. In 2007-08, the CHS exceeded all its stated performance standards, including those relating to timeliness of service, complaint outcome and service satisfaction.

In many cases, the investigation of a complaint involves the President writing to the person or organisation being complained about in order to obtain their version of events. Where it is considered appropriate, complaints then proceed to conciliation. In some cases, when a person or organisation is advised of the complaint, either verbally or in writing, they may indicate that they wish to try to resolve the matter straight away.

In some situations HREOC may also suggest that the parties consider conciliation very early in the process, for example, where the parties are in an ongoing employment relationship. 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 is satisfactorily resolved, the complaint is withdrawn and closed. In 2007-08, 48 per cent of finalised complaints were conciliated and 74 per cent of complaints, where conciliation was attempted, were successfully resolved.

Where a complaint of unlawful race, sex, disability or age discrimination cannot be resolved through conciliation, 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 would be 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 of Australia.

Complaints which allege a breach of human rights or discrimination under the Human Rights and Equal Opportunity Commission Act 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/HREOCA_reports.html

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

In summary, in 2007-08:

- 2 077 complaints were received;
- 1 883 complaints were finalised;
- 48 per cent of finalised complaints were conciliated;
- 93 per cent of complaints were finalised within 12 months of lodgement; and
- the average time from lodgement to finalisation of a complaint was 6 months.

4.1.1 Key performance indicators and standards

The CHS has developed key performance indicators and standards which form the basis for ongoing assessment of the complaint service. These indicators, and CHS performance in 2007-08 in relation to these indicators, are summarised below.

- *Timeliness* – the section's stated performance standard is for 80 per cent of complaints to be finalised within 12 months of receipt. In 2007-08, the CHS finalised 93 per cent of matters within 12 months. This is similar to figures for the previous four reporting periods. A detailed breakdown of timeliness statistics by jurisdiction is provided in Table 15.
- *Conciliation rate* – the section's stated performance standard is for 30 per cent of finalised complaints to be conciliated. In 2007-08, the CHS achieved a 48 per cent conciliation rate which is 10 per cent higher than the conciliation rate for the previous reporting period.

- *Customer satisfaction* – the section's stated performance standard is for 80 per cent of parties to complaints to be satisfied with the service they receive. In 2007-08, 93 per cent of surveyed parties reported that they were satisfied with the service and 64 per cent rated the service as 'very good' or 'excellent'. Further details of survey results for this reporting period are provided below.

4.1.2 Customer satisfaction survey

The CHS asks for feedback on aspects of the service 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 2007-08, 56 per cent of those who could be contacted (173 complainants and 216 respondents) agreed to participate in the survey. Survey results for this reporting year are summarised below:

- 93 per cent of complainants and 96 per cent of respondents felt that staff explained things in a way that was easy for them to understand;
- 92 per cent of complainants and 94 per cent of respondents felt that forms and correspondence from HREOC were easy to understand;
- 94 per cent of complainants and 82 per cent of respondents felt that HREOC dealt with the complaint in a timely manner; and
- 91 per cent of complainants and 94 per cent 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. 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

In 2007-08, HREOC received one complaint about its service under the formal complaint process provided in the Charter.

4.1.4 Access to complaint services

HREOC aims to facilitate broad community access to complaint information and services through the following measures:

- **Complaint Information Service.** The Complaint Info line (1300 656 419 – local call charge), which is open Monday to Friday between 9.00 am and 5.00 pm, allows people from all areas of Australia to call and obtain information about the law and the complaint process. They can also send an e-mail to complaintsinfo@humanrights.gov.au

- **CHS webpage:** www.humanrights.gov.au/complaints_information/index.html. The webpage provides a range of information about HREOC's complaint service including detailed information about the complaint process and how to lodge a complaint. The Complaints webpage received 299 631 page views during this reporting year.
- **Publications in community languages.** *The Complaint Guide* and an information poster are available in 14 community languages. These publications can be ordered from the Complaint Information Service or downloaded from the HREOC website www.humanrights.gov.au/about/languages/index.html
- **Interpreter and translation services.** In this reporting year the CHS utilised a range of interpretation and translation services. The main language groups assisted in 2007-08 were Mandarin, Turkish, Vietnamese and Macedonian. Auslan interpreters were used on 16 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. HREOC has similar informal arrangements with the Tasmanian Anti-Discrimination Commission and the Australian Capital Territory Human Rights Commission.
- **Conciliation DVD.** The captioned audio-visual resource, *Pathways to Resolution* provides information about conciliation for the general public and those involved in the complaint process. The DVD explains the conciliation 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 Complaint Information Service. Clips from the DVD can also be viewed on HREOC's webpage at www.humanrights.gov.au/complaints_information/pathways_to_resolution/index.html
- **Conciliation circuits.** Conciliation officers travel throughout Australia to conduct conciliation conferences. In 2007-08, along with conferences conducted in the greater Sydney area, CHS officers conducted: 22 conferences in regional NSW (including Taree, Coffs Harbour, Ballina, Griffith, Grafton, Mudgee, Wagga Wagga, Dubbo, Albury, Lismore, Port Macquarie, Armidale and Newcastle); 120 in Victoria (including Melbourne and Mildura); 93 in Adelaide; 42 in Queensland (including Brisbane, Rockhampton, Cairns, Gold Coast and Townsville); 24 in Western Australia (including Perth and Port Hedland); three in the Northern Territory (including Alice Springs and Darwin) and 12 in Canberra.

4.1.5 Community education

Through its community education activities, the CHS contributes to HREOC's function of promoting awareness, knowledge and understanding of human rights and responsibilities.

During the reporting period, over 59 organisations throughout all states and territories either attended information sessions on the law and the complaint process that were 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; legal centres; neighbourhood centres and disability groups. Locations visited included Darwin, Alice Springs, Perth, Kalgoorlie, Melbourne, Launceston, Adelaide, Brisbane, Townsville, Sydney, Lismore, Ballina, Mudgee, Coffs Harbour and Port Macquarie.

Information kits about the law and the complaint process were also sent to more than 3 000 organisations around Australia.

4.1.6 Staff training and training as provider

HREOC has two specialised training programs which provide knowledge and skills in statutory investigation and conciliation. All CHS staff are required to undertake these courses.

During 2007-08, three investigation training courses were run for HREOC staff. In September 2007 and May 2008, statutory conciliation training courses were run in Sydney for HREOC staff and staff from anti-discrimination agencies in New South Wales, South Australia, Tasmania, the Australian Capital Territory, Queensland and the Northern Territory. Additionally, a series of 'refresher' conciliation skill workshops were run for CHS staff during the year.

In 2007-08, CHS staff participated in management skills training run by the Australian Public Service Commission and attended in-house workshops on culturally sensitive service delivery, case/time management and plain English writing skills. Five CHS staff undertook studies to obtain the Certificate IV in Training and Assessment qualification and two staff participated in the *Mawul Rom Cross Cultural Mediation and Leadership Training Program* held in Arnhem Land, Northern Territory.

The CHS also provides investigation and conciliation training for other organisations on a fee for service basis. In July 2007, the CHS conducted a three-day investigation and conciliation training course for staff of the Office of the Privacy Commissioner and in June 2008, conducted a two-day complaint investigation workshop for staff of a private education authority.

4.1.7 Research and conference presentations

The CHS regularly undertakes research with a view to better understand and improve HREOC's complaint service. In 2007, the CHS commenced a research project to obtain information about the level to which: involvement in the complaint process may increase knowledge and understanding of the law; conciliation agreements include elements which are likely to have impact beyond an individual complainant; and respondents may implement changes to policies and practices as a result of involvement in the complaint process. This project is due to be finalised in the second half of 2008. Information on previous research conducted by the CHS is available on HREOC's webpage at www.humanrights.gov.au/complaints_information/papers.html.

In 2007-08 CHS staff attended and/or presented papers at the following conferences: the National Legal, Conciliation and Education Officer Conference held in Hobart in November 2007; the NSW Community Legal Centre State Conference held in Sydney in April 2008; and the Human Rights Law and Policy Conference held in Melbourne in June 2008.

4.1.8 International conference presentations, training and consultation

In 2007-08, CHS staff presented papers at the following international conferences: the All China Women's Federation – Women's Labour Rights Workshop held in Fuzhou, China in November 2007; and the Asia Pacific Mediation Forum Conference held in Kuala Lumpur, Malaysia in June 2008.

In July 2007, CHS staff developed and presented two training programs in Hong Kong for staff of the Hong Kong Equal Opportunities Commission. The first course provided basic training in investigation and conciliation for new employees. The second course dealt with the implementation of race discrimination legislation including knowledge and skills relating to the investigation and resolution of race discrimination complaints.

During the reporting period, HREOC was contracted by the Asia Pacific Forum of National Human Rights Institutions to provide training for staff of the National Human Rights Commission of Korea. This project involved CHS staff developing and presenting two three-day training courses in human rights investigation. The training took place in Seoul on 31 October – 2 November 2007 and 5 November – 7 November 2007. 47 staff from the National Human Rights Commission of Korea completed the training.

The CHS is often asked to provide information about HREOC's complaint work to visiting delegations. During 2007-08, CHS staff provided information to representatives of human rights institutions and government departments visiting from Bangladesh, China, Malaysia, Iraq, Ireland and New Zealand.

4.2 CONCILIATION CASE STUDIES¹

4.2.1 Racial Discrimination Act

In 2007-08, HREOC received 376 complaints under the Racial Discrimination Act. The majority of these complaints related to employment (50 per cent). The CHS finalised 366 complaints under this Act and 54 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Racial Discrimination Act are provided later in this chapter.

Alleged racial hatred and racial discrimination in employment

The complainant, who is Maori, said he commenced employment with the respondent building company as a casual labourer and then became a permanent employee. The complainant claimed that during the 10 months he worked with the company, co-workers used offensive race-based terms in his presence such as '*blacks*', '*niggers*', and '*coons*'. He also alleged that co-workers spoke to him aggressively and called him a '*f***** abo*'. The complainant said that after he complained to the company

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

director, his co-workers refused to work with him, he reverted back to being a casual employee and was eventually not offered any more work.

The complainant's co-workers admitted making some of the alleged race-based comments, but claimed that these were jokes and not directed at the complainant. The company director said that when he became aware of the complainant's concerns, he spoke to the complainant's co-workers and advised that such behaviour was unacceptable. The company denied that the complainant's employment status changed from permanent to casual after his internal complaint. The company claimed that it had attempted to contact the complainant to offer him additional work, but the complainant did not respond.

The complaint was resolved through a conciliation process. The parties agreed that the company would pay the complainant \$7 000 compensation, provide him with a written reference and arrange anti-discrimination training for staff.

Complaint of race discrimination in the provision of accommodation

The complainant, who is Indigenous, alleged that the operators of a boarding house refused to provide him with accommodation because of his race. The complainant claimed that the terms of the rental agreement had been pre-arranged; however, when he arrived at the boarding house the caretaker said, *'We don't take anyone who is Aboriginal because there have been problems in the past. This is a management policy'*.

In response to the complaint, the owners of the boarding house confirmed that they were reluctant to provide accommodation to Aboriginal people because of previous bad experiences with some Aboriginal tenants. However, they denied there was an 'official policy' not to accept Aboriginal tenants and agreed that the caretaker's remark to the complainant was unacceptable.

To resolve the complaint, the respondent agreed to provide the complainant with accommodation and also provide him with an apology and \$3 000 compensation. The respondent also agreed to develop an anti-discrimination policy.

Alleged race and disability discrimination in employment

The complainant advised that he is an international student from India and had been employed by the respondent fast food company. He claimed that one night at work, he was injured when his arms were hit by a machine. He alleged that, following the accident, his manager discriminated against him on the ground of his race and disability. In particular, he claimed that the manager: abused him and said he would send him back to India; failed to call a company doctor to attend to his injury; and refused to pay his medical allowances. He alleged that his employment was finalised one week after the work accident.

HREOC contacted the company by telephone and advised of the complaint. While the company disputed some of the complainant's allegations, they advised that they were willing to participate in a conciliation conference prior to providing any written response to the allegations.

The complaint was resolved at the conciliation conference with an agreement that the company would reinstate the complainant to a comparable position at a different location; provide him with assistance to lodge a worker's compensation claim and pay him \$3 100 in lost wages. The complainant's previous manager also agreed to provide a letter of apology to the complainant.

Complaint of race discrimination and sexual harassment in employment

The complainant is Indigenous and worked as a cook in a bistro. He alleged that his manager racially discriminated against him in employment by saying: *'Are all black c**** as dumb as you?'*; *'Can you pass me the Abocado?'*; and *'Abo's want everything for nothing'*. He also claimed that his manager sexually harassed him by making comments such as: *'Whilst you're down there.'*; *'Do you want me to f*** you'*; and *'I always knew you were gay'*. The complainant said he resigned from his employment because of the way the manager treated him.

The respondent, who is the owner of the company, denied that he discriminated against the complainant because of his race or that he sexually harassed him. The respondent claimed that the workplace was one where a certain level of banter between employees was tolerated and the complainant had also engaged in such banter.

A conciliation conference was held. The complaint was resolved with an agreement between the parties that the respondent would pay the complainant \$10 000 compensation and provide him with a Statement of Service.

4.2.2 Sex Discrimination Act

In 2007-08, HREOC received 438 complaints under the Sex Discrimination Act. The majority of complaints related to employment (87 per cent). 22 per cent of complaints alleged pregnancy discrimination and 18 per cent of complaints alleged sexual harassment. The CHS finalised 421 complaints under this Act and 53 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Sex Discrimination Act are provided later in this chapter.

Alleged sex and pregnancy discrimination in employment

The complainant was employed as a driver with a large private transport company. After taking maternity leave, the complainant sought to return to work on a part-time basis to accommodate her family responsibilities. The complainant alleged that her employer told her that she must return to full-time work or resign.

The respondent company did not provide a formal response to the complaint, but agreed to participate in conciliation discussions. The complaint was resolved, within six weeks of being lodged, with an agreement that the complainant would return to work on a part-time basis.

Complaint of sexual harassment

The complainant advised that she was employed as a trainee with a car dealership. The complainant claimed that a volunteer, who regularly visited the workplace, sexually harassed her. She alleged that this person kissed and hugged her, touched her backside and placed his hand up her skirt. The complainant said she complained to management about the behaviour and was dissatisfied with management's response, so resigned.

The volunteer denied sexually harassing the complainant. He claimed that he kissed female colleagues when greeting them and also hugged male colleagues to be friendly. The company advised that it commenced an investigation into the complainant's allegations and asked the volunteer not to come to the workplace. The company said the complainant resigned prior to the completion of their investigation.

The complaint was resolved at conciliation with an agreement between the parties that the company would pay the complainant \$20 000 compensation and also reimburse legal costs she had incurred in pursuing the complaint.

Alleged sex discrimination in employment

The complainant was employed as a factory worker and worked the night shift with the respondent manufacturing company. The complainant said she applied for a day shift position which was a promotion but was also similar to her current role. The complainant's application was unsuccessful. She alleged that this was because of her sex. The complainant claimed there were very few women in management positions in the factory.

The respondent company denied the complainant had been discriminated against on the basis of her sex. The company confirmed that a male employee had been appointed to the position the complainant applied for. The company claimed that in comparison with the complainant, this male employee was considered more suitable for the position as: he was already working at a comparable level; had more experience with the company and had rated higher on some of the selection criteria. The company acknowledged that there was a predominance of males in supervisory positions in the factory and indicated they were taking steps to address this.

The complaint was resolved by means of a conciliation teleconference. The terms of agreement included undertakings by the company that: selection committees for positions would always include a human resources representative and a female officer; they would expand their EEO statement on job vacancy notices; they would refer to their EEO policies in their next newsletter; and they would provide internal applicants with a contact point and an opportunity to debrief after interviews.

Complaint of sexual harassment, age and disability discrimination in employment

The complainant advised that she is 65 years old and had been employed at a local recreation club doing reception and other general duties. The complainant alleged that a manager at the club sexually harassed her by making comments such as *'You have not got very big tits have you'* and *'It would be a lot better if you came over here and sat on my face'*. The complainant said she injured her back in a work related incident and undertook light duties for approximately 12 months. The complainant claimed she was treated less favourably than other workers because of her age and her disability and that her supervisor made comments such as *'I don't know what you're doing back at your age – it's not going to get any better'*. She said her employment was eventually terminated.

The respondent club said the complainant's employment was finalised because her back injury prevented her from performing the inherent requirements of her job. The club advised that the complainant had not made any complaints about sexual harassment during her employment. The manager accused of sexual harassment claimed that he always treated the complainant with respect and said the complainant had never told him that she found anything he said offensive.

The complaint was resolved between the parties with an agreement that the club would pay the complainant \$40 000 compensation.

Alleged sex and pregnancy discrimination in employment

The complainant was employed as a project manager with a company that provided education services. She claimed that while on maternity leave, her position had been restructured in a manner which reduced her responsibilities and increased her requirement to travel. She also claimed that her request to return to work on a part-time basis had been refused. The complainant lodged her complaint only weeks prior to the date she was to return to work and, in the complaint, advised that she no longer wanted to work with the company.

The company did not provide a formal response to the complaint, but agreed to participate in conciliation discussions. The complaint was resolved, within a month of being lodged, with an agreement that the company would pay the complainant her outstanding entitlements, four weeks pay in lieu of notice and provide her with a \$9 000 ex gratia payment.

4.2.3 Disability Discrimination Act

In 2007-08, HREOC received 988 complaints under the Disability Discrimination Act. The majority of these complaints concerned employment (46 per cent) and the provision of goods, services and facilities (31 per cent). The CHS finalised 815 complaints under this Act and 48 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Disability Discrimination Act are provided later in this chapter.

Complaint of disability discrimination in the provision of goods, services and facilities

The complainants, a husband and wife, both have hearing impairments. The complainants said they wanted to attend a film festival awards night and in order to follow the proceedings, they would have required real time captioning and a hearing loop or use of an infra red hearing system at the venue. They claimed they contacted the film festival office to inquire about provision of these adjustments and were told that they could not be provided at the venue.

The company organising the event confirmed that the adjustments the complainants requested were not provided. The company claimed that the adjustments were too expensive and too difficult to arrange at the particular venue.

The complaint was resolved with an agreement that the company would: provide real time captioning at all live events; ensure future events are in venues equipped with an induction hearing loop and other facilities for people with hearing impairments; and advertise facilities and features for people with hearing impairments on its website.

Alleged disability discrimination in employment

The complainant, who has an intellectual disability, was employed by the respondent food production company. The complainant claimed that his supervisors and co-workers harassed him over a number of years. Specifically, he alleged that: his co-workers called him derogatory names relating to his intellectual disability, such as 'stupid' and 'f***** dickhead'; pinched his arms and stomach and kicked his legs; deflated the tyres of his pushbike; and tied up his bike so he could not access it. The complainant said that he asked his co-workers to stop the behaviour and reported the incidents to a supervisor, but the behaviour continued. The complainant claimed that he could not continue to work because of stress arising from the harassment.

Following lodgement of the complaint with HREOC, the complainant's disability discrimination claim and another work-related claim were resolved with an agreement that the company would pay the complainant \$57 000 and provide him with an expression of regret.

Complaint of disability discrimination in education

The complaint was lodged by a support person on behalf of a high school student who is legally blind. The complaint claimed that reasonable adjustments, such as extra lighting in corridors and stairwells, white or yellow marking on the stairs, zoom text on computers and extra classroom support had been requested prior to the student commencing at the state government school in 2006. It was alleged that these adjustments had not been provided within a reasonable time, not adequately provided or not provided at all. It was also alleged that the school did not adequately consult the student and her associate about required adjustments.

The education department denied disability discrimination. The department claimed that a range of appropriate adjustments had been provided for the student since she commenced at the school. The department also said that there had been adequate consultation with the student and her associate regarding the required adjustments.

The complaint was resolved with an agreement that the department would: conduct a site inspection of the school with the complainant and an advocacy group; provide any necessary additional lighting; install zoom text on every level of the school where computer rooms were available to students; provide a new teacher's aide for the student; provide ongoing reasonable adjustments; and arrange specific people who the complainant and her associate can contact if they have any future concerns.

Alleged disability discrimination in the provision of airlines services

The complainant advised that her adult sister has Down Syndrome and has undertaken air travel on her own on a number of occasions. The complainant alleged that when she was assisting her sister to check into a flight with the respondent airline, a staff member said that her sister could not travel alone because children cannot fly unattended. The complainant further alleged that the staff member openly stared at her sister.

On being advised of the complaint, the airline confirmed its willingness to participate in conciliation. The parties agreed to resolve the complaint on the basis that the company would provide the complainant's sister with verbal and written apologies and provide the complainant and her sister with four return flights to various locations in Australia.

Complaint of discrimination in access to premises and provision of goods and services

The complainant has a physical disability and uses a wheelchair. She alleged that her local council office was not accessible to her or other people with mobility disabilities. Specifically, she claimed that the toilets and the ramp into the building did not comply with Australian Standards.

The respondent council agreed that there were accessibility issues with the premises and confirmed its willingness to rectify the problems. During the complaint process, the council advised that it had completed work to ensure accessibility of the toilets and that work on the ramp to the building had also commenced.

The complainant advised HREOC that the action taken by the council resolved her complaint.

Alleged disability discrimination by restaurant

The complainant, who has vision impairment and uses a guide dog to assist with mobility, attended the respondent restaurant with his family. He alleged that he was discriminated against because of his disability in that he and his family were advised that they could not enter the restaurant with the guide dog, but could eat at an outside table if they wanted to. The complainant said that he and his family left without eating at the restaurant.

The respondent restaurant denied that the complainant and his family were excluded because of the guide dog. Rather, the restaurant claimed that no tables were available inside the restaurant at the time the complainant and his family arrived.

The complaint was resolved through conciliation with an agreement that the restaurant would: review its anti-discrimination policy, particularly in relation to guide dogs; provide the complainant with a copy of the policy; and display a copy of the policy in the restaurant. The respondent also: invited the complainant to the restaurant for a meal; provided the complainant with a personal apology; and made an undertaking to host a guide dog collection box to raise money for the Guide Dog Association.

4.2.4 Age Discrimination Act

In 2007-08, HREOC received 126 complaints under the Age Discrimination Act. The majority of these complaints concerned employment (76 per cent). The CHS finalised 114 complaints under this Act and 45 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Age Discrimination Act are provided later in this chapter.

Complaint of age discrimination in employment

The complainant advised that she is 16 years old and currently employed by a recreational centre on a casual basis as a customer service attendant. The complainant claimed she had not been given shifts for approximately 4 months and alleged this was because she had been replaced by younger workers.

The respondent company confirmed that it had employed new workers, but claimed they were the same age as the complainant and were not employed to replace her. The company also confirmed that the complainant had not been given shifts for a period of time, but denied that this was because of her age. The company claimed that there were concerns about the complainant's work performance. The company was of the view that the complainant was not interested in ongoing work as she had not contacted her employer to inquire about future shifts.

The complaint was resolved through a conciliation process with an agreement that the complainant would be transferred to work in a different branch of the company.

Alleged age and sex discrimination in employment

The complainant is 56 years of age and worked as an Office Manager with the respondent livestock company. She alleged that, during her employment, a director of the company discriminated against her because of her age and sex by making comments such as: *'You would not be suitable for the position due to your age and gender'*; *'Women and men should be treated differently'*; and *'You are not suitable for work as you are approaching menopause'*. The complainant also claimed that the director undermined her role within the organisation by sending an e-mail to other directors which included, among other things, a comment that she was an untrained *'office girl'*. The complainant alleged that she resigned because the company did not adequately address her concerns about the treatment she received.

The company denied age and sex discrimination, but agreed to participate in a conciliation process.

The complaint was resolved on the basis that the company and the named director would provide the complainant with apologies and the company would pay her \$20 000 compensation.

Complaint of age discrimination in the provision of a traineeship

The complainant is 42 years of age and had applied for a traineeship with a federal government training institution. The complainant was not shortlisted for interview and claimed that, when he telephoned to seek feedback on why he was not shortlisted, one of the selection panel members told him that the main reason was his age.

The respondent institution denied that the complainant's age was the reason why he was not shortlisted. The panel member agreed that the complainant's age was referred to in the telephone conversation, but said this was in the context of a discussion about the complainant's current career experience and the post traineeship employment level and salary. The respondent institution also claimed that the application process was highly competitive and the complainant's application did not satisfy all the essential criteria.

The complaint was resolved at a conciliation conference. The institution agreed to arrange for the complainant to undertake up to three of their training courses to the value of \$5 000. The institution also agreed to provide the complainant with a statement of regret.

Complaints of age discrimination in employment

Four employees brought complaints of age discrimination against a large retail company. The complainants, who were all over 21 years of age, alleged that when the store underwent a staffing restructure, management changed the status of its older workers from permanent part-time to casual, reduced their working hours and hired more junior staff.

The respondent company denied that it had discriminated against the complainants on the basis of their age. While the company agreed that the complainants' hours had been reduced, the company advised that this was due to an overestimation of staffing requirements in the particular service area where the complainants worked.

All of the complaints were resolved through conciliation. The company agreed to pay compensation to the complainants ranging from \$6 000 – \$1 000, with reference to their specific circumstances. The company also undertook to review its anti-discrimination policy and conduct staff training on anti-discrimination.

4.2.5 Human Rights and Equal Opportunity Commission Act

In 2007-08, 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 (46 per cent) and alleged breaches of the International Covenant on Civil and Political Rights (21 per cent). The CHS finalised 167 complaints under this Act and 24 per cent 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.

Alleged discrimination in vocational training on the ground of criminal record

The complainant had enrolled in an aged care training course with a government vocational training provider and then, three months later, was convicted of fraud. He said the conviction related to incidents that had occurred in his employment a few years before. The complainant claimed that the training provider advised him that, because of his criminal record, his application for enrolment may not be accepted.

In response to the complaint, the training provider advised that the complainant was required to undertake vocational placements as part of the course. The provider said that, in its view, the complainant's criminal record would mean that he would not be able to locate vocational placements and therefore, would be unable to complete course requirements.

The complaint was resolved through conciliation with an agreement that the provider would accept the complainant's enrolment and the complainant would be responsible for locating vocational placements during the course.

Complaint of religious discrimination in employment

The complainant applied for an accountancy position with a small manufacturing company, via a recruitment agency. After interviews with both the recruitment agency and the company, the complainant was offered the position. The complainant said she advised the recruitment agency that she was Muslim and needed to arrange a room at the workplace where she could conduct daily prayers. The complainant said she explained that she would need about three 10 minute prayer breaks during the day and could undertake one set of prayers during her lunch break. The complainant claimed that the recruitment agency subsequently advised her that the company had withdrawn the offer of employment and that a reason for this was her need to pray.

The company denied that they had discriminated against the complainant on the ground of her religion. The company advised that there were two reasons why the offer of employment had been withdrawn. Firstly, the company said it had concerns about the complainant's honesty as, in the interview, she had not disclosed her need for additional breaks, despite being asked if there was anything which would impact on her working normal office hours. The company said that despite these concerns, they had attempted to find a suitable location for the complainant to conduct her prayers but, as the office was open plan and within a warehouse, the only options available were the meeting room, which had a glass wall, or a nearby park. The company said the complainant had rejected these suggestions.

The complaint was resolved at a conciliation conference. The company agreed to pay the complainant \$3 500 compensation and provide her with a statement of regret.

Alleged criminal record discrimination in employment

The complainant applied for a caretaker's position with a horticultural society. He claimed he was offered the job, subject to a police check, and was told that he could move into the caretaker's residence. The complainant said he advised the society that he had prior convictions for drugs and driving offences and was told, *'everything should be fine'*. He accepted the offer of employment and moved into the residence. The complainant claimed that his employment was terminated five weeks later, after the society received details of his criminal record. The complainant said there had been no complaints about his work performance during the five weeks he was employed.

When advised of the complaint by telephone, the society confirmed that the complainant's employment had been terminated after five weeks. The society said the complainant's police record check had revealed a list of offences, including 'obtaining money by deception'. The society advised that, in their view, the complainant could not continue in the position as his duties included collecting money for the society and after-hours office access. The society said the complainant had not yet vacated the caretaker's residence as he said he had been unable to locate alternative accommodation.

The complaint was resolved within two days of being lodged. The parties agreed that the society would pay the complainant the equivalent of four weeks pay (\$2 500) and assist him with relocation and accommodation costs. The complainant also agreed that he would vacate the residence by a specified date.

Complaint of discrimination on the ground of sexual preference and sexual harassment in employment

The complainant was employed as a sales representative with a private company and worked in the company's call centre. He alleged that the manager of the call centre discriminated against him on the basis of his sexual preference and sexually harassed him. Specifically he alleged that the manager would repeatedly call him '*big gay bird*' and '*poof*' and, on one occasion, said to him, '*Get away from my arse, you poof.*' He claimed that, because of the manager's behaviour, other staff also called him these names. He said that he raised his concerns directly with the manager, who replied that it was '*just a joke*'. The complainant said the company subsequently terminated his employment on the basis that he had failed to deal with a staff member's breach of policy. The complainant disputed the basis for his termination.

The individual respondent and the company agreed to participate in conciliation discussions prior to providing any formal response to the allegations. The complaint was resolved at conciliation with an agreement that the respondents would pay the complainant \$5 000 compensation.

4.3 COMPLAINT HANDLING STATISTICS

4.3.1 Preliminary comments

The following complaint statistics provide information on enquiries received, an overview of complaints received and finalised, and specific information about 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

Enquiries and complaints received

Over the previous four reporting periods, HREOC received an average of 14 160 enquiries per period. In 2007-08, HREOC received 18 765 enquiries, which represents a 32 per cent increase in comparison with the average and a 13 per cent increase in comparison with the number received in the previous reporting period.

Over the previous four reporting periods, HREOC received an average of 1 623 complaints per period. In 2007-08, HREOC received 2 077 complaints, which represents a 28 per cent increase in comparison with the average and a 17 per cent increase in comparison with the number received in the previous reporting period.

In 2007-08, 48 per cent of complaints received were lodged under the Disability Discrimination Act, 21 per cent under the Sex Discrimination Act, 18 per cent under the Racial Discrimination Act, 7 per cent under the Human Rights and Equal Opportunity Commission Act and 6 per cent under the Age Discrimination Act. For the past four reporting periods, the majority of complaints received have been lodged under the Disability Discrimination Act and the Sex Discrimination Act. There has been an 89 per cent increase in the number of disability discrimination complaints received over the past four reporting periods.

As in previous reporting periods, employment was the main area of complaint under all federal anti-discrimination legislation. In 2007-08, complaints regarding employment constituted: 50 per cent of complaints under the Racial Discrimination Act; 87 per cent of complaints under the Sex Discrimination Act; 46 per cent of complaints under the Disability Discrimination Act; and 76 per cent 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 reporting periods. Over this period, complaints regarding criminal record discrimination have almost tripled. In 2007-08, 73 criminal record discrimination complaints were received which represents a 35 per cent increase in comparison with the number received in the previous reporting period.

Conciliation of complaints

Of the complaints finalised in 2007-08, 48 per cent were conciliated. This is 10 per cent higher than the conciliation rate for the previous reporting period. Of those matters where conciliation was attempted in 2007-08, 74 per cent were able to be resolved. The conciliation success rate has increased from 67 per cent to 74 per cent over the past four reporting periods.

Complaints under the Racial Discrimination Act had the highest conciliation rate this reporting period (54 per cent) and a high conciliation success rate (74 per cent). This high conciliation rate for race discrimination complaints, in comparison with previous periods, is partly due to the resolution of a group of complaints against the same respondent relating to the same subject matter. Complaints under the Sex Discrimination Act had the second highest conciliation rate (53 per cent) and a conciliation success rate of 72 per cent. Complaints under the Disability Discrimination Act had a conciliation rate of 48 per cent and a conciliation success rate of 73 per cent. In 2007-08, complaints under the Age Discrimination Act had a conciliation rate of 45 per cent and a high conciliation success rate of 81 per cent, while 24 per cent of finalised complaints under the Human Rights and Equal Opportunity Commission Act were successfully resolved.

Demographic data

Information on the geographical location and ethnicity of complainants is provided in Tables 10, 12 and 13.

Demographic data obtained during the complaint process indicates that 51 per cent of complaints were lodged by individual females, 42 per cent by individual males and 7 per cent by other categories, for example, multiple complainants and organisations or individuals on behalf of others.

Forty per cent of complainants reported that they knew about HREOC prior to lodging their complaint. The main identified sources of information for others were legal centres or private lawyers (12 per cent) and family members or friends (9 per cent).

The majority of complainants (66 per cent) indicated that their main source of income at the time of the alleged act was from full-time, part-time or casual employment.

Approximately 37 per cent of complainants indicated that they were represented at the beginning of the complaint process. Of this group, 47 per cent were represented by privately funded solicitors. Other forms of representation were other advocate groups, such as working women's centres or disability advocacy services (18 per cent), community legal centres such as Indigenous or disability legal services (15 per cent), family members or friends (11 per cent) and trade unions or professional associations (9 per cent).

Data collected on respondent categories indicates that, in the last reporting period, approximately 48 per cent of complaints were against private enterprise, 14 per cent were against state departments/statutory authorities and 9 per cent were against Commonwealth departments/statutory authorities. These have been the main respondent organisation categories for the last four reporting periods. Complete information on respondent categories is provided in Table 14, below.

4.3.3 Complaint Information Service

Table 4: Website enquiries	
Complaint Handling Section webpage views	299 631

Table 5: Telephone, TTY, e-mail, in-person and written enquiries received	
Enquiry type	Total
Telephone	15 564
TTY	29
E-mail	2 254
In-person	115
Written	803
Total	18 765

Table 6: Enquiries received by issue	
Issue	Total
Race	2 162
Race – racial hatred	656
Sex – direct	885
Sexual harassment	1 050
Sex – marital status, family responsibilities, parental status, carers responsibilities, breast feeding	492
Sex – pregnancy	852
Sexual preference, transgender, homosexuality, lawful sexual activity	185
Disability – impairment	2 959
Disability – HIV/AIDS/Hepatitis	54
Disability – workers compensation	295
Disability – mental health	698
Disability – intellectual/learning disability	211
Disability – maltreatment/negligence	37
Disability – physical feature	230
Age – too young	182
Age – too old	572

Age – compulsory retirement	14
Criminal record/conviction	383
Political opinion	31
Religion/religious organisations	229
Employment – personality conflicts/favouritism	297
Employment – union/industrial activity	128
Employment – unfair dismissal/other industrial issues	6 631
Employment – workplace bullying	1 891
Human rights – children	156
Human rights – civil, political, economic, social	752
Immigration – detention centres	86
Immigration – visas	289
Prisons/prisoners	235
Police	298
Court – family court	307
Court – other law matters	454
Privacy – data protection	184
Neighbourhood disputes	118
Advertising	50
Local government – administration	94
State government – administration	492
Federal government – administration	561
Other	2 743
Total*	27 943

* One enquiry may have multiple issues.

State of origin	Total	Percentage (%)
New South Wales	7 102	38
Victoria	3 680	20
South Australia	1 382	7
Western Australia	903	5
Queensland	2 874	15
Australian Capital Territory	393	2
Tasmania	399	2
Northern Territory	303	2
Unknown/overseas	1 729	9
Total	18 765	100

4.3.4 Complaints Overview

	2004-05	2005-06	2006-07	2007-08
Received	1 241	1 397	1 779	2 077
Finalised	1 233	1 205	1 656	1 883

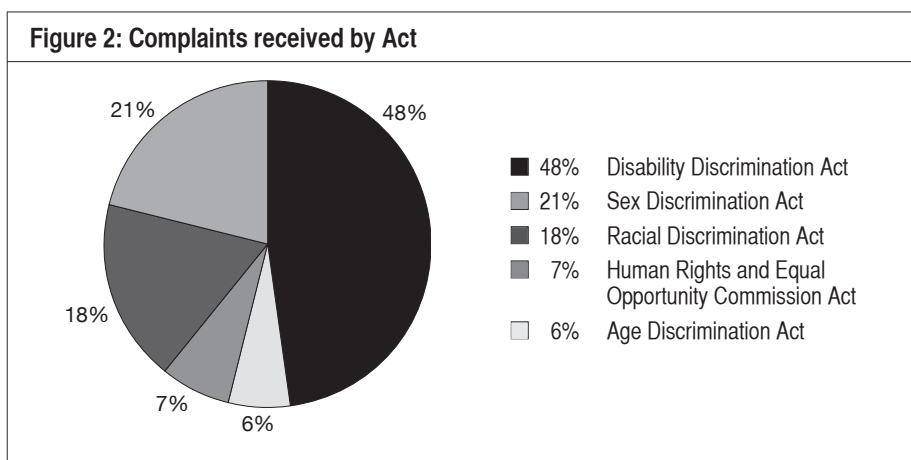
	2004-05 (%)	2005-06 (%)	2006-07 (%)	2007-08 (%)
Terminated/declined	46	44	48	39
Conciliated	38	39	38	48
Withdrawn	16	16	14	13
Reported (HREOCA only)	–	1	–	–

Table 10: State of origin of complainant at time of lodgement

State of origin	Total	Percentage (%)
New South Wales	769	37
Victoria	444	21
South Australia	219	11
Western Australia	139	7
Queensland	378	18
Australian Capital Territory	59	3
Tasmania	27	1
Northern Territory	18	1
Unknown/overseas	24	1
Total	2 077	100

Table 11: Complaints received and finalised by Act

Act	Received	Finalised
Racial Discrimination Act (RDA)	376	366
Sex Discrimination Act (SDA)	438	421
Disability Discrimination Act (DDA)	988	815
Age Discrimination Act (ADA)	126	114
Human Rights and Equal Opportunity Commission Act (HREOCA)	149	167
Total	2 077	1 883



	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Born in Australia	55	62	59	66	35	58
Born outside of Australia	41	13	14	28	30	21
Unknown/unspecified	4	25	27	6	35	21

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Aboriginal	46	4	2	1	3	11
Torres Strait Islander	–	–	–	1	–	–
None of the above	54	96	98	98	97	89

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Individual male	15	25	9	10	7	14
Individual female	5	5	5	4	3	5
Private enterprise	31	55	51	58	46	48
Commonwealth government department/statutory authority	7	5	9	15	20	9
State government department/statutory authority	33	2	13	4	14	14
Local government	1	1	3	1	1.5	2
Government Business Enterprise	1	1	2	1	2	1
Educational institution	2	3	5	2	3	4

Trade union/ professional association	–	1	–	–	1	–
Not for profit organisation/non government	3	1	1	1	1	1.5
Clubs/ incorporated associations	1	1	2	4	1.5	1.5
Other	1	–	–	–	–	–

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Cumulative Total (%)
0-3 months	32	21	17	20	13	21
3-6 months	33	27	30	36	26	51
6-9 months	19	28	29	26	26	77
9-2 months	11	18	17	13	21	93
More than 12 months	4	6	6	5	11	99
More than 24 months	1	–	1	–	3	100

4.3.5 Racial Discrimination Act

	Total
Received	376
Finalised	366

Racial Discrimination Act	Total	Percentages (%)
Colour	27	4
National origin/extraction	43	6
Ethnic origin	111	17
Descent	6	1
Race	400	60
Victimisation	7	1
Racial hatred	72	11
Aids, permits or instructs	2	–
Association	1	–
Total*	669	100

* One complaint may have multiple grounds.

Racial Discrimination Act	Total	Percentage (%)
Rights to equality before the law	4	1
Access to places and facilities	10	1
Land, housing, other accommodation	7	1
Provision of goods and services	88	13
Right to join trade unions	–	–
Employment	335	50
Advertisements	–	–
Education	12	2
Incitement to unlawful acts	6	1
Other – section 9	132	20
Racial hatred	75	11
Total*	669	100

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

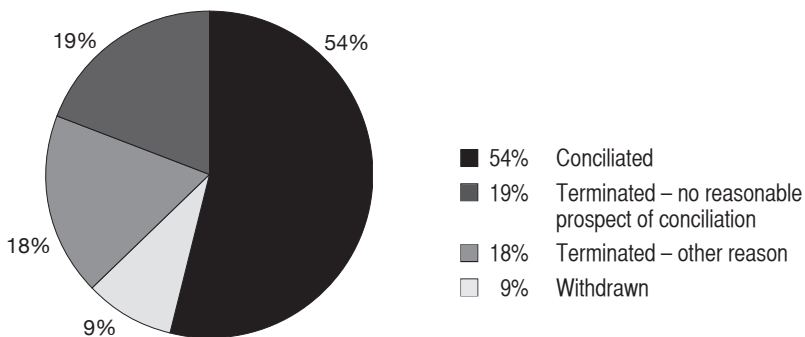
Racial Discrimination Act	Total	Percentage (%)
Media – press/TV/radio	17	30
Disputes between neighbours	5	9
Personal conflict	8	14
Employment	10	18
Racist propaganda	2	4
Internet – e-mail/webpage/chat room	5	9
Entertainment	–	–
Sport	3	5
Public debate	–	–
Provision of goods and services	6	11
Total*	56	100

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

Racial Discrimination Act	Total
Terminated	134
At complainant's request – s.46PE	–
Not unlawful	2
More than 12 months old	3
Trivial, vexatious, frivolous, misconceived, lacking in substance	56
Adequately dealt with already	3
More appropriate remedy available	1
Subject matter of public importance	–
No reasonable prospect of conciliation	69
Withdrawn	31
Withdrawn, does not wish to pursue, advised the Commission	30
Withdrawn, does not wish to pursue, settled outside the Commission	1
Conciliated	195
Administrative closure*	6
Total	366

* Not an aggrieved party, state complaint previously lodged.

Figure 3: Racial Discrimination Act – outcomes of finalised complaints



4.3.6 Sex Discrimination Act

Table 21: Sex Discrimination Act – complaints received and finalised

Sex Discrimination Act	Total
Received	438
Finalised	421

Table 22: Sex Discrimination Act – complaints received by sex of complainant

Sex Discrimination Act	Total	Percentages (%)
Female	369	84
Male	66	15
Joint/multiple	3	1
Total	438	100

Table 23: Sex Discrimination Act – complaints received by ground		
Sex Discrimination Act	Total	Percentages (%)
Sex discrimination	399	47
Marital status	43	5
Pregnancy	185	22
Sexual harassment	157	18
Parental status/family responsibility	56	6
Victimisation	17	2
Aids, permits, instructs (s.105)	–	–
Total*	857	100

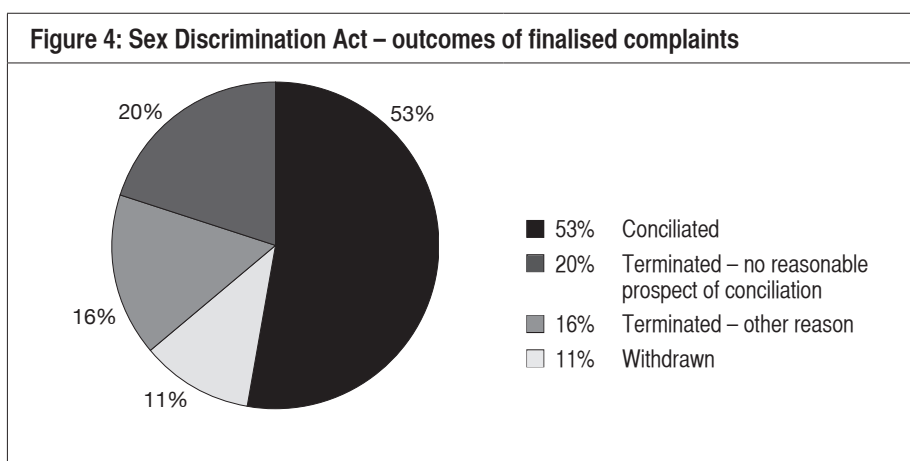
* One complaint may have multiple grounds.

Table 24: Sex Discrimination Act – complaints received by area		
Sex Discrimination Act	Total	Percentage (%)
Employment	746	87
Goods, services and facilities	75	9
Land	–	–
Accommodation	2	–
Superannuation, insurance	–	–
Education	7	1
Clubs	10	1
Administration of Commonwealth laws and programs	16	2
Application forms etc	1	–
Trade unions, accrediting bodies	–	–
Total*	857	100

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

Table 25: Sex Discrimination Act – outcomes of finalised complaints	
Sex Discrimination Act	Total
Terminated	142
At complainant's request – s.46PE	–
Not unlawful	2
More than 12 months old	1
Trivial, vexatious, frivolous, misconceived, lacking in substance	57
Adequately dealt with already	–
More appropriate remedy available	2
Subject matter of public importance	–
No reasonable prospect of conciliation	80
Withdrawn	46
Withdrawn, does not wish to pursue, advised the Commission	44
Withdrawn, does not wish to pursue, settled outside the Commission	2
Conciliated	209
Administrative closure*	24
Total	421

* Not an aggrieved party, state complaint previously lodged.



4.3.7 Disability Discrimination Act

Disability Discrimination Act	Total
Received	988
Finalised	815

Disability Discrimination Act	Total	Percentage (%)
Physical disability	224	21
A mobility aid is used (e.g. walking frame or wheelchair)	94	9
Physical disfigurement	18	2
Presence in the body of organisms causing disease (e.g. HIV/AIDS)	12	1
Presence in the body of organisms causing disease (other)	9	1
Psychiatric disability	179	17
Neurological disability (e.g. epilepsy)	60	6
Intellectual disability	21	2
Learning disability	25	2
Sensory disability (hearing impaired)	54	5
Sensory disability (deaf)	33	3
Sensory disability (vision impaired)	41	4
Sensory disability (blind)	15	1
Work-related injury	93	9
Medical condition (e.g. diabetes)	89	9
Other	86	8
Total*	1 053	100

* One complainant may have multiple disabilities.

Disability Discrimination Act	Total	Percentages (%)
Disability of person(s) aggrieved	1 888	92
Associate	64	3
Disability – person assisted by trained animal	43	2
Disability – accompanied by assistant	7	–
Disability – use of appliance	8	–
Harassment	9	1
Victimisation	10	1
Aids, permits or instructs	21	1
Total*	2 050	100

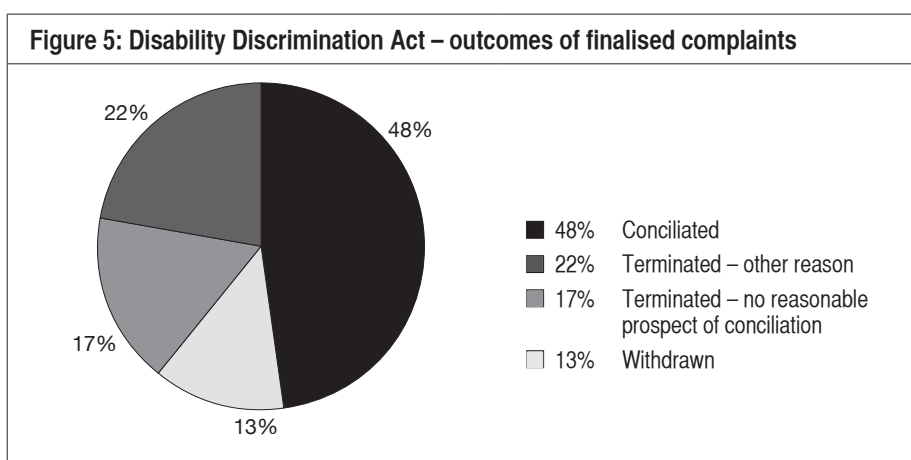
* One complainant may have multiple grounds.

Disability Discrimination Act	Total	Percentage (%)
Employment	942	46
Goods, services and facilities	640	31
Access to premises	62	3
Land	–	–
Accommodation	24	1
Incitement to unlawful acts or offences	–	–
Advertisements	–	–
Superannuation, insurance	14	1
Education	149	7
Clubs, incorporated associations	27	1
Administration of Commonwealth laws and programs	48	3
Sport	4	–
Application forms, requests for information	5	–
Trade unions, registered organisations	–	–
Unlawful to contravene Disability Standard	135	7
Total*	2 050	100

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

Table 30: Disability Discrimination Act – outcomes of finalised complaints	
Disability Discrimination Act	Total
Terminated	310
At complainants request – s.46PE	–
Not unlawful	10
More than 12 months old	6
Trivial, vexatious, frivolous, misconceived, lacking in substance	145
Adequately dealt with already	4
More appropriate remedy available	6
Subject matter of public importance	–
No reasonable prospect of conciliation	139
Withdrawn	103
Withdrawn, does not wish to pursue, advised the Commission	100
Withdrawn, does not wish to pursue, settled outside the Commission	3
Conciliated	385
Administrative closure*	17
Total	815

* Not an aggrieved party, state complaint previously lodged.



4.3.8 Age Discrimination Act

Table 31: Age Discrimination Act – complaints received and finalised	
Age Discrimination Act	Total
Received	126
Finalised	114

Table 32: Age Discrimination Act – complaints received by age group of complainant		
Age Discrimination Act	Total	Percentages (%)
0-14 years	1	1
15-24 years	12	10
25-34 years	9	7
35-44 years	11	9
45-54 years	28	22
55-64 years	37	29
> 65 years	14	11
Unknown	14	11
Total	126	100

Table 33: Age Discrimination Act – complaints received by area		
Age Discrimination Act	Total	Percentage (%)
Employment	182	76
Goods, services and facilities	41	17
Access to premises	–	–
Land	–	–
Accommodation	1	–
Incitement to unlawful acts or offences	–	–
Advertisements	–	–
Superannuation, insurance	2	1

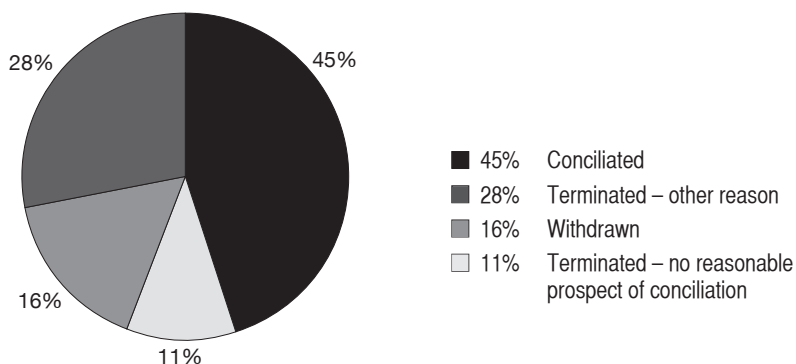
Area	Number of Complaints	Number of Complaints
Education	9	4
Clubs, incorporated associations	–	–
Administration of Commonwealth laws and programs	4	2
Sport	–	–
Application forms, requests for information	–	–
Trade unions, registered organisations	–	–
Total*	239	100

* One complaint may have multiple and different areas.

Age Discrimination Act	Total
Terminated	44
At complainants request – s.46PE	–
Not unlawful	3
More than 12 months old	3
Trivial, vexatious, frivolous, misconceived, lacking in substance	26
Adequately dealt with already	–
More appropriate remedy available	–
Subject matter of public importance	–
No reasonable prospect of conciliation	12
Withdrawn	18
Withdrawn, does not wish to pursue, advised the Commission	17
Withdrawn, does not wish to pursue, settled outside the Commission	1
Conciliated	50
Administrative closure*	2
Total	114

* Not an aggrieved party, state complaint previously lodged.

Figure 6: Age Discrimination Act – outcomes of finalised complaints



4.3.9 Human Rights and Equal Opportunity Commission Act

Table 35: Human Rights and Equal Opportunity Commission Act – complaints received and finalised

Human Rights and Equal Opportunity Commission Act	Total
Received	149
Finalised	167

Table 36: Human Rights and Equal Opportunity Commission Act – complaints received by ground

Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Race (ILO 111)	–	–
Colour (ILO 111)	–	–
Sex (ILO 111)	–	–
Religion (ILO 111)	19	12
Political opinion (ILO 111)	3	2
National extraction (ILO 111)	–	–
Social origin (ILO 111)	–	–
Age (ILO 111)	1	0.5
Medical record (ILO 111)	1	0.5
Criminal record (ILO 111)	73	46

Table 36: Human Rights and Equal Opportunity Commission Act – complaints received by ground (cont.)		
Impairment (including HIV/AIDS status) (ILO 111)	1	0.5
Marital status (ILO 111)	–	–
Disability (ILO 111)	–	–
Nationality (ILO 111)	–	–
Sexual preference (ILO 111)	15	9
Trade union activity (ILO 111)	11	7
International Covenant on Civil and Political Rights	33	21
Declaration on the Rights of the Child	–	–
Declaration on the Rights of Mentally Retarded Persons	–	–
Declaration on the Rights of Disabled Persons	–	–
Convention on the Rights of the Child	2	1
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	1	0.5
Not a ground within jurisdiction	–	–
Not a human right as defined by the Act	–	–
Total*	160	100

* One complaint may have multiple grounds.

Table 37: Human Rights and Equal Opportunity Commission Act – complaints received by area		
Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Acts or practices of the Commonwealth	32	20
Employment	126	79
Not act or practice of the Commonwealth (not employment cases)	2	1
Total*	160	100

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

Table 38: Human Rights and Equal Opportunity Commission Act – non-employment complaints received by sub-area

Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Prisons, prisoner	2	6
Religious institutions	–	–
Family court matters	–	–
Other law court matters	1	3
Immigration	20	59
Law enforcement agency	–	–
State agency	1	3
Other service provider (private sector)	–	–
Local government	–	–
Education systems	–	–
Welfare systems	2	6
Personal or neighbourhood conflict	–	–
Health system	–	–
Other	8	23
Total	34	100

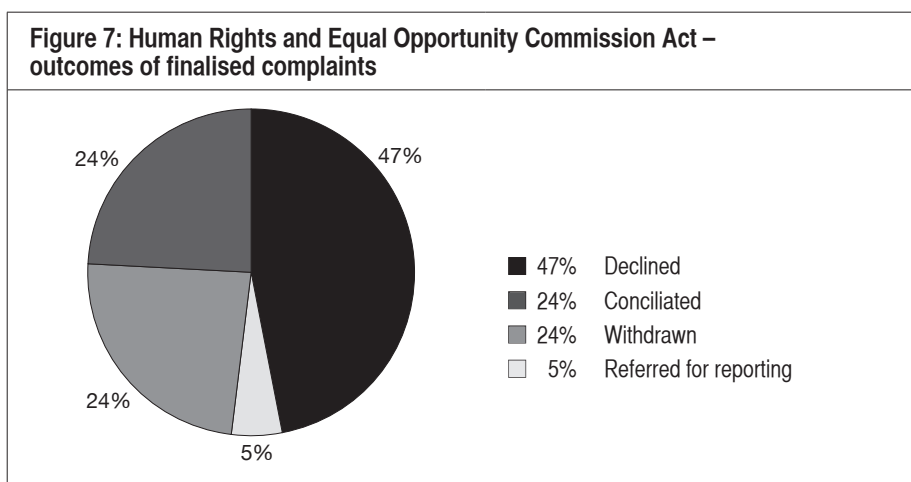
Table 39: Human Rights and Equal Opportunity Commission Act – outcomes of finalised complaints

Human Rights and Equal Opportunity Commission Act	Total
Declined	118
Does not constitute discrimination	22
Human rights breach, not inconsistent or contrary to any human right	7
More than 12 months old	2
Trivial, vexatious, frivolous, misconceived, lacking in substance	37
Adequately dealt with already	3
More appropriate remedy available	7
Withdrawn, does not wish to pursue, advised the Commission	9

Table 39: Human Rights and Equal Opportunity Commission Act – outcomes of finalised complaints (cont.)	
Withdrawn, does not wish to pursue, settled outside the Commission	2
Withdrawn or lost contact	29
Conciliated	41
Referred for reporting*	8
Administrative closure**	-
Total	167

* 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.



Chapter 5

Legal Services

5.1 RESPONSIBILITIES AND OVERVIEW

The Legal Section provides legal advice to and representation for 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 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;
- 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

The Human Rights and Equal Opportunity Act gives HREOC the function of inquiring into complaints concerning breaches of human rights by the Commonwealth (or persons/organisations acting on behalf of the Commonwealth) and 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 2007 and 30 June 2008, the President reported to the Attorney-General on two matters.

5.2.1 HREOC Report No. 38

Report of an Inquiry into a complaint by Mr Frank Ottaviano of discrimination in employment on the basis of criminal record against South Australia Police (State of South Australia)

In this matter, the President found that Mr Ottaviano was discriminated against by South Australian Police on the basis of his criminal record.

Mr Ottaviano was convicted in 1991 for receiving stolen goods. He was ordered to complete 200 hours of community service, which he completed at the Fort Largs Police Academy ('the Academy'), a division of SA Police. Following completion of that community service, he was employed by SA Police as a groundsperson at the Academy and subsequently promoted to a supervisory groundsperson position.

In 2001, Mr Ottaviano's position was made redundant. He was placed with the Police Security Services Branch ('the PSSB'), another division of SA Police, as a security guard. He obtained the necessary TAFE certification for the position and worked in a security guard role for three months. However, prior to being formally employed in the role, SA Police undertook a criminal record check as part of its standard employment procedures. This check revealed his conviction. He was advised that he would not be offered a position as a security guard because of that criminal record.

The President concluded that Mr Ottaviano possessed the requisite level of integrity and character for the position, notwithstanding his criminal record. Amongst other factors, Mr Ottaviano had provided approximately 10 years of service to SA Police, during which time his employment and integrity had been praised highly by his supervisors.

The President recommended that SA Police (or the State of South Australia):

- pay Mr Ottaviano \$20 000 in compensation;
- provide Mr Ottaviano with an apology; and
- not further exclude Mr Ottaviano from being considered for the position of security guard with the PSSB.

SA Police has indicated that it chooses not to make any public statement as to its response to HREOC's findings and recommendations.

The report is available on-line at www.humanrights.gov.au/legal/HREOCA_reports/hrc_report_38.html

5.2.2 HREOC Report No. 39

Complaint by Mr Huong Nguyen and Mr Austin Okoye against the Commonwealth of Australia (Department of Immigration and Citizenship, formerly the Department of Immigration and Multicultural and Indigenous Affairs) and GSL (Australia) Pty Ltd

In this matter, the President found that the Commonwealth and GSL (Australia) Pty Ltd ('GSL') breached the human rights of Mr Nguyen and Mr Okoye, as well as three other immigration detainees, in connection with their transfer between Maribyrnong Immigration Detention Centre and Baxter Immigration Detention Facility on 17 September 2004.

The President concluded that the vehicle in which the detainees were transported was inappropriate for the journey (lasting 6½ – 7 hours), particularly that:

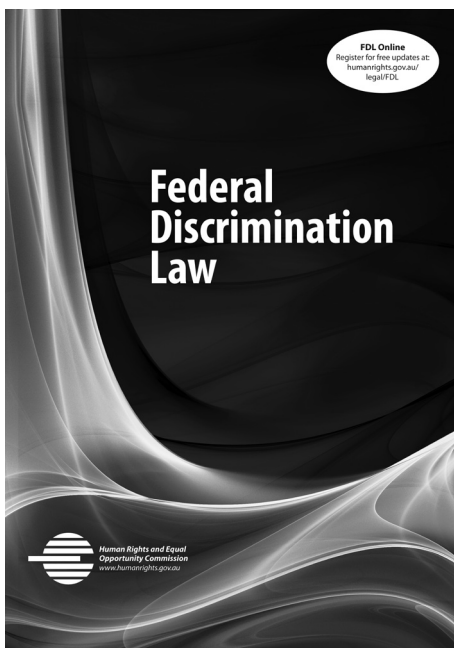
- the detainees were locked into separate, cramped and claustrophobic steel compartments in which they were unable to move around to any extent;
- the air-conditioning unit was not properly functioning and caused the compartments to overheat;
- there were no direct windows to the outside and the compartments were generally dark; and
- there were no toilet facilities on board.

Furthermore, the President concluded that the above conditions were exacerbated by the manner in which the transfer was carried out by the officers involved, including that:

- the officers did not provide the detainees with any food for the journey and, with the exception of two detainees, no water or other liquids;
- the officers failed to take any breaks during the journey to Mildura; and
- the officers ignored obvious and repeated pleas from the detainees for water; and toilet/rest breaks, including seeing detainees urinating in their compartments via the CCTV feed.

The President concluded that the above circumstances amounted to:

- degrading treatment, in breach of Article 7 of the *International Covenant on Civil and Political Rights*; and
- treatment of persons deprived of their liberty with a lack of humanity and respect for the inherent dignity of the human person, in breach of Article 10(1) of the *International Covenant on Civil and Political Rights*.



.....
HREOC released the 2008 edition of *Federal Discrimination Law* during the reporting period.
See 5.7 EDUCATION AND PROMOTION

The President further found that Mr Okoye suffered the additional indignity of drinking his own urine in an attempt to relieve his excessive thirst during the journey. In addition, the President found the following further breaches of the human rights of Mr Nguyen:

- arbitrary interference with his family life, in breach of Articles 17(1) and 23(1) of the *International Covenant on Civil and Political Rights*, by failing to give adequate consideration to his family ties in Melbourne before transferring him to Baxter; and
- use of excessive force, in breach of Article 10(1), immediately prior to the transfer to Baxter.

The President recommended that all five of the detainees involved in the transfer be paid \$15 000 in compensation, as well as an additional \$5 000 to Mr Okoye and Mr Nguyen in respect of the additional findings noted above. The President further recommended that the Commonwealth provide formal apologies to the detainees, as well as take steps to improve human rights training for relevant personnel. The President also endorsed a detailed series of recommendations contained in a separate independent investigation into the incident, which were aimed primarily at improving policies and procedures relating to the transfer of detainees.

The report is available on-line at www.humanrights.gov.au/legal/HREOCA_reports/hrc_report_39.html

5.3 INTERVENTIONS AND LEAVE GRANTED TO INTERVENE

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.

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/intervention_info.html

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 educational purpose, by bringing a human rights perspective to the attention of courts and parties to litigation. HREOC seeks to further pursue this educational purpose by placing all of its submissions on its website. These are available at www.humanrights.gov.au/legal/intervention_info.html

In 2007-08, HREOC was involved as intervener in four matters.

5.3.1 Qantas Airways Ltd v Gama

This matter was an appeal to the Full Federal Court 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.

The main focus of HREOC's submissions in the appeal was the standard of proof in discrimination proceedings and the 'principle in *Briginshaw*'. HREOC submitted that discrimination cases should be treated similarly to other civil proceedings, rather than starting from a position of discrimination being an 'inherently serious' allegation requiring evidence of a higher probative value, as had been held in some cases. HREOC also addressed an issue raised by Qantas in the appeal that a single racist remark was insufficient to constitute discrimination.

The Full Federal Court dismissed both the appeal and cross appeal (with the exception of one of Raphael FM's findings, which did not impact upon the result). The separate judgment of Branson J (with whom French and Jacobson JJ generally agreed) clarified the application of *Briginshaw*, consistently with HREOC's suggested approach.

Also consistent with HREOC's submissions, the Court accepted that a single racist remark in the workplace could constitute discrimination, even in the absence of additional evidence of adverse effects being felt within the workplace, such as lack of promotions or training. The Court held that, whilst it would depend on the facts of the case, the infliction of a racist insult was sufficient to adversely affect the conditions of employment so as to give rise to an act of discrimination.

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

The applicants in this matter sought 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 therefore raised issues that include the scope of parental power to consent to such treatment. In the alternative, the parents sought 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 intervened to make submissions on 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 and the matter was heard by a single judge of the Family Court from 5-9 November 2007.

Judgment was reserved at the time of publication.

Note that pursuant to s 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.

5.3.3 R v Wei Tang

HREOC was granted leave to intervene in the High Court in *The Queen v Wei Tang* on 14 May 2008.

HREOC sought leave to make submissions on a point of legal principle – the correct interpretation of the definition of slavery under the *Criminal Code Act 1995 (Cth)* in light of international prohibition on all forms of slavery. HREOC's submission did not comment on the facts of Wei Tang's case.

The slavery offences in the Criminal Code were introduced in 1999 and are intended to implement Australia's international treaty obligations to prohibit all forms of slavery.

The definition of slavery in the Criminal Code is based (in large part) on the definition of slavery in the 1926 Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices Similar to Slavery.

HREOC made written and oral submissions that the definition of slavery in the Code should be interpreted consistently with international law. HREOC argued international law recognises that the absolute prohibition on slavery has evolved from the historical concept of 'chattel slavery' to encompass various contemporary forms of slavery which are based on the exercise of any or all of the powers attaching to the right of ownership.

HREOC submitted that the indicia of contemporary forms of slavery may include the restriction of freedom of movement and the denial of personal autonomy. Deception, physical or psychological abuse, and false promises may render consent either irrelevant or impossible.

Judgment was reserved at the time of publication.

5.3.4 Bropho v Western Australia

HREOC was granted leave by the Full Federal Court to intervene in this matter on 14 November 2007. The proceedings were an appeal against the decision of Nicholson J in the Federal Court of Australia in *Bropho v State of Western Australia* [2007] FCA 519.

The applicant, on behalf of the members of the Swan Valley Nyungah Community Aboriginal Corporation, claimed that the *Reserves (Reserve 43131) Act 2003 (WA)* ('Reserves Act') and actions taken under that Act by an administrator breached sections 9, 10 and 12(1)(d) of the *Racial Discrimination Act 1975 (Cth)*. The effect of the Reserves Act and the actions of the administrator was to close the Reserve.

At first instance, Nicholson J found that neither the Reserves Act nor the administrator's actions were racially discriminatory. This decision was upheld on appeal. However, the Court corrected certain errors in the approach to sections 9 and 10 of the Racial Discrimination Act that had been identified by the submissions of HREOC.

The Court said HREOC's submissions were 'helpful' and had 'considerable force'. Significantly, the Court agreed with HREOC that the approach of Nicholson J to determining the content of the human right to own and manage property for the purposes of section 10 was too narrow. The Court found human rights to own property should be interpreted in light of international law which recognise the proprietary nature of communal rights in several Latin American Indigenous communities.

Ultimately, the Court held that section 10 did not apply to the Reserves Act because the property rights in question were not absolute. Therefore, it was not inconsistent with section 10 to limit property rights in accordance with the legitimate public interest to protect the safety and welfare of women residing at the Reserve.

5.4 AMICUS CURIAE

Section 46PV of 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/amicus_info.html

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

During 2007-08, Commissioners were granted leave to appear as *amicus curiae* in three matters, which are summarised below.

5.4.1 Vijayakumar v Qantas

The applicant, Mr Vijayakumar, requires the use of a number of disability aids which, cumulatively, weigh approximately 20 kilograms. He purchased a flight with Qantas from Sydney to Mumbai (India) return. The conditions of carriage included a term which limited him to carrying one mobility aid free of charge, but any other aids were included as part of his normal baggage limit.

Mr Vijayakumar alleged that, upon his return flight home, Qantas staff in India strictly applied the above terms of his conditions of carriage, by requiring him to pay excess baggage fees for his disability aids. As Mr Vijayakumar could not afford these fees, he was effectively required to abandon most of his personal belongings at the airport.

As a preliminary point, Qantas challenged the jurisdiction of the court to hear the matter on the basis that the alleged discrimination occurred in India and was therefore outside the territorial scope of the *Disability Discrimination Act 1992* (Cth). By contrast, Mr Vijayakumar alleged that the relevant discrimination occurred by virtue of the conditions of his flight, which was purchased in Australia.

The Acting Disability Discrimination Commissioner made written and oral submissions in the interlocutory hearing before Scarlett FM dealing with the jurisdictional challenge. The Commissioner submitted that no jurisdictional issue arose if part of Mr Vijayakumar's case involved alleged discrimination occurring within Australia. In particular, the relevant sections of the Disability Discrimination Act (sections 23 and 24) are breached upon the communication or imposition of discriminatory terms upon which the premises are made available or the service is provided which, in this case, appeared to have occurred in Australia, not India.

At the time of publication, the decision of Scarlett FM had not been handed down.

5.4.2 Darina Maslauskas v Queensland Nursing Council

The applicant alleged that she had been discriminated against by the Queensland Nursing Council ('QNC') on the ground of an imputed disability (a florid psychotic illness and delusional disorder) by suspending her registration as a nurse contrary to section 19 of the Disability Discrimination Act.

On 20 February 2008, the Acting Disability Discrimination Commissioner was granted leave to appear as an *amicus curiae*. The Commissioner had filed written submissions in relation to the following issues raised in a summary dismissal application that had been filed by the respondent:

1. the application of the Disability Discrimination Act to state qualifying bodies that are alleged to have breached section 19 of the Disability Discrimination Act;
2. the factors that a court should take into account when considering an application for summary dismissal; and
3. the proper 'comparator' for the purposes of direct disability discrimination.

On 16 April 2008, prior to the hearing of the summary dismissal application, the applicant decided not to proceed with the matter and, by consent, the application was dismissed with no order as costs.

5.4.3 Maddison v Qualtime Association Inc

This matter involved two related proceedings brought by two members of Qualtime Association Inc, an incorporated, not for profit, community-based association which provides respite and support services to people with disabilities in the northern suburbs of Brisbane. The application concerned the decision by Qualtime to cancel/ revoke the membership of the applicants on the asserted basis of their lack of legal capacity due to them having an intellectual disability. The applicants alleged that this constituted disability discrimination.

The Acting Disability Discrimination Commissioner was granted leave to appear in the matter to make submissions as *amicus curiae* on the correct interpretation and application of the Disability Discrimination Act, particularly section 27 and the relationship between sections 5 and 6. The Commissioner also proposed to address the broader issues arising in the case relating to the relationship between disability discrimination and legal capacity, as well as the relationship between the Disability Discrimination Act and the *Guardianship and Administration Act 2000* (Qld).

The matter settled on confidential terms shortly prior to hearing.

5.5 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.

5.5.1 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 2007-08. All applications were unsuccessful.

5.5.2 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.

There were no new applications for merits review of HREOC decisions during the reporting period.

5.6 INTERNATIONAL ACTIVITIES

5.6.1 China-Australia Human Rights Technical Cooperation Program: Women's Law Workshop

From 8-11 April 2008, a senior lawyer participated in a Women's Law Workshop held in Hefei, Anhui Province in China. The workshop was organised by the All China Women's Federation and the International Projects Unit in HREOC as part of the *China-Australia Human Rights Technical Cooperation Program*. The workshop was attended by Chinese participants from a range of women's federations, government agencies and academic institutions with responsibility for implementing the Law of the People's Republic of China on the Protection of Rights and Interests of Women.

Over the course of four days, presentations were conducted by a range of Chinese and Australian experts in the protection of women's rights. Participants also engaged in group discussions in women's rights and gender awareness. The HREOC representative presented a paper on the *Sex Discrimination Act 1984* (Cth), the process for dealing with complaints made under that Act and the work of the Sex Discrimination Commissioner.

5.7 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 listed below:

5.7.1 Federal Discrimination Law

On 26 June 2008, HREOC launched the 2008 edition of its publication *Federal Discrimination Law*, including the on-line version, *FDL On-line*. The publication was launched by the Hon. Justice Susan Crennan at a function in HREOC's offices in Sydney.

Federal Discrimination Law 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 and remedies, and costs.

For details, see www.humanrights.gov.au/legal/FDL

5.7.2 Human Rights Law Bulletin and Seminars

The Legal Section continues 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 e-mail list (see www.humanrights.gov.au/legal/mailing.html to subscribe).

The Legal Section also organises Human Rights Law seminars on topics of current interest in domestic or international human rights law. The seminars and speakers for 2007-08 were as follows:



.....
HREOC President, The Hon. John von Doussa QC and Hon. Justice Susan Crennan browsing *Federal Discrimination Law* at the launch on 26 June 2008



.....

The federal Attorney-General, the Hon. Robert McClelland MP, was one of two speakers at the Human Rights Law seminar on 23 May 2008 about Australia's international human rights engagement

17 September 2007: The Northern Territory Emergency Response Legislation: a Human Rights Analysis

This seminar focused on the Northern Territory Emergency Response. The panel consisted of two speakers; Ms Olga Havnen from the Combined Aboriginal Organisations of the Northern Territory and Dr Sarah Pritchard, a NSW Barrister. The session was chaired by Social Justice Commissioner Tom Calma.

7 April 2008: Homelessness and Human Rights

This seminar examined a human rights approach to homelessness. The panel consisted of three speakers: Cassandra Goldie, Director of the Sex and Age Discrimination Unit at HREOC, Robin Banks, Executive Director of the Public Interest Advocacy Centre and Sue Cripps, Executive Director of Homelessness NSW. The session was chaired by the Human Rights Commissioner, Graeme Innes.

23 May 2008: Australia's International Human Rights Engagement

This seminar explored the possibilities for Australia's engagement with international human rights mechanisms. It featured speeches by the federal Attorney-General, Robert McClelland and Professor Gillian Triggs, Dean of the University of Sydney Law School. The session was chaired by HREOC President John von Doussa QC.

Chapter 6

Aboriginal and Torres Strait Islander Social Justice



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

6.1 STATEMENT FROM THE COMMISSIONER

The past year has delivered some significant and promising new developments in Indigenous affairs. The National Apology to the stolen generations and the government's commitment to the *Statement of Intent to Close the Gap* in Indigenous health inequality both demonstrate a growing determination to face the challenges that confront Indigenous Australians. I am pleased to say that HREOC has had a part in these developments and continues to drive change for the benefit of Indigenous people.

The *Close the Gap* campaign is something that I worked to initiate in 2005. In my *Social Justice Report 2005*, I set out a 25 year plan to achieve health equality for Indigenous peoples within a generation. Last year, I co-hosted an historic meeting of Indigenous health peak bodies, professional associations and health experts, to advance the health equality objective. This year at the National Indigenous Health Equality Summit in March the Australian Government acknowledged its obligation to progressively realise some of the fundamental rights of Indigenous people by agreeing to benchmarks and targets in health equality.

The Apology this year was an opportunity for national healing. The Apology was some recognition of the pain, the courage and resilience of the many thousands of people who were affected by appalling government policies which sanctioned the forced removal of Indigenous children. HREOC had an important part in the path to the Apology. The *Bringing Them Home* report was a landmark document, alerting governments and communities to the devastating impact of these policies on Indigenous Australians.

These important developments are precursors to another development that is unfolding at the end of this annual reporting period. During 2007 and 2008, I worked in collaboration with the Australian National University (ANU) to develop an Issues Paper on a national Indigenous representative body. The Issues Paper, *Building a Sustainable National Indigenous Representative Body*, examines the effectiveness of previous Indigenous representative bodies, both nationally and internationally, and identifies key issues to consider in deciding on a new sustainable model. The Australian Government has just recently initiated a consultation process to seek the views of Aboriginal and Torres Strait Islander people on a proposed national Indigenous representative body.

It is hoped that a representative body will give us a platform to exercise some control over the development and direction of policies that affect us. I have major concerns about recent developments in Indigenous policy. Significant policy changes have been made at short notice with limited Indigenous involvement. Most significantly, the Northern Territory (NT) intervention was imposed upon communities through a process that treated Indigenous people as passive recipients of policy rather than active agents for change.

The *Social Justice Report 2007* was tabled in federal Parliament in March 2008. The *Social Justice Report 2007* provides a detailed analysis of the NT intervention. It outlines some of the ways in which Indigenous people can be the architects of policies and approaches to solve problems within our communities. In addition, the Social Justice Report focuses on family violence prevention. As well as looking at the extent of violence and abuse in Indigenous communities, it documents the programs and practices implemented by Indigenous communities to combat violence and abuse. It seeks to celebrate the success stories that exist in our communities and presents them as practices and approaches that can be adapted and replicated in other areas.

This year the Social Justice Unit was able to develop and deliver training to Community Legal Education workers employed in Family Violence Prevention Legal Services across Australia. This training focussed on up-skilling workers in community development approaches to family violence prevention. It aimed to ensure Indigenous Australians are informed about their legal rights, that we know how to access assistance and that we are encouraged to report incidents of violence and abuse. It also aimed to raise awareness amongst Indigenous Australians about Australian law and human rights in relation to family violence, and to clarify the relationship between Australian law and customary law.

It was also a significant year in terms of international activity. This year was the 7th session of the UN Permanent Forum on Indigenous Issues (UNPFII) and the first since the adoption of the UN *Declaration on the Rights of Indigenous Peoples*. Federal government funding assisted the attendance of 40 Indigenous delegates to the UNPFII. The themes for the session were climate change as well as Indigenous issues in the Pacific region. Climate change poses a significant risk to Indigenous peoples globally and it is an issue that I will cover in my forthcoming *Native Title Report 2008*.

Over the coming 12 months I will continue to work with governments, Indigenous organisations, communities and many other groups, on practical research and consultation projects. I will:

- work with stakeholders and governments to set targets to ‘Close the Gap’ in Indigenous health inequality;
- continue to 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;
- continue to monitor the effects of the NT intervention;
- monitor and provide analysis of native title and land rights in Australia; and
- follow up on the issues and recommendations in this year’s *Social Justice Report* and *Native Title Report*.

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 2007

Under section 46C(1)(a) of the Human Rights and Equal Opportunity Commission Act, the Commissioner 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*).

The 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 2007* was transmitted to the Attorney-General on 11 February 2008 and tabled in the House of Representatives on 20 March 2008. The report was officially launched on 31 March 2008 in Sydney at an event open to the media and the general community.

The *Social Justice Report 2007* focuses on the NT Intervention and the issues related to family violence and child abuse in Indigenous communities. In terms of violence and abuse in Indigenous communities, it reports on the patterns and extent of the problems and it puts forth potential solutions and examples of ‘promising practice’ in addressing violence and abuse. The Report outlines nineteen examples of community programs which have had success in using a range of approaches to respond to family violence.

In addition to family violence, the *Social Justice Report 2007* provides analysis of the Northern Territory Intervention of 2007. The *Northern Territory National Emergency Response Act 2007* is assessed in terms of its compliance with human rights standards. The Report identifies that the NT legislation is inappropriately classified as a ‘special measure’. This classification was made because not all of the provisions of the legislation are necessarily beneficial to Indigenous people and a number of



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Graeme Neate, President of the National Native Title Tribunal, Professor Marcia Langton from the University of Melbourne, Ron Merkel QC, Barrister-at-Law and Brian Wyatt, Chair of the National Native Title Council discussed *Whereto Native Title: How can the system deliver?* at the launch of the Social Justice Report 2007

the provisions are racially discriminatory. The Report is critical of the removal of anti-discrimination protections for Indigenous people through the removal of the application of the *Racial Discrimination Act 1975 (Cth)* and the Northern Territory Anti-Discrimination Act.

The report outlines a Ten Point Action Plan to modify the NT Intervention so that it respects the human rights of Indigenous people and complies with fundamental rights to racial equality. The Report argues that it is vital that all measures to address family violence and child abuse should themselves respect human rights.

The *Social Justice Report 2007*, a community guide, a media kit and other information are available on-line at www.humanrights.gov.au/social_justice/sj_report/sjreport07

6.2.2 Native Title Report 2007

Under section 209 of the Native Title Act (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 2007* was transmitted to the Attorney-General on 15 February 2008 and tabled in Parliament on 20 March 2008.

This year's report was dedicated to the memory of Eddie (Koiki) Mabo, commemorating 15 years since the landmark decision of the High Court in *Mabo v State of Queensland (No 2)*[1992] 175 CLR 1 which recognised Eddie Mabo's native

title rights and interests in his land, and which prompted the government to pass the Native Title Act.

In the year of the 15th anniversary of native title, the *Native Title Report 2007* focused on the current operation of native title and recent changes to the system from the perspective of the original objectives and intent of Parliament in enacting the Native Title Act.

Overall, the Commissioner found that:

Despite the successes of the system, I am concerned that the native title system is not delivering substantial recognition and protection of native title. The operation of the Native Title Act, and the system set up under it, are essentially not fulfilling the objects of the Act in accordance with the reasons the Australian Parliament passed the legislation. These reasons are set out in the preamble to the Native Title Act. The result is that Indigenous people are not able to fully exercise and enjoy human rights.

In detail, the Report considers the changes made to the legislative and administrative framework for native title in the 2006-07 year, and the effect these changes have had (or may have) on native title and the realisation of the human rights of Aboriginal peoples and Torres Strait Islanders.

The native title cases heard by the Federal Court during 2006-07 exemplify just how far removed the reality of today's native title system is from the intention of the Australian Parliament in passing the Native Title Act. These cases highlight the hurdles faced by Indigenous peoples trying to use the native title system to gain recognition of their rights to country. The *Native Title Report 2007* discusses the main issues the cases highlight, including:

1. difficulties in obtaining compensation for extinguishment of native title;
2. constraints imposed by the treatment of evidence and the rules of evidence;
3. problems arising from the common law's interpretation of the definition of native title in section 223 of the Native Title Act;
4. the inconsistencies between Australia's human rights obligations and the practical outcomes of the native title system.

Nonetheless, there are still cases where economic opportunities arise, or could possibly arise, out of Indigenous land rights or native title. The *Native Title Report 2007* continues the focus of previous Native Title reports on economic development opportunities.

The Report considers whether the native title system recognises commercial fishing rights of Aboriginal and Torres Strait Islanders. Although the Native Title Act does not preclude the possibility that native title rights and interests may be commercial in nature, there appears to be a hesitation by the courts and governments to recognise such rights as traditional. The justifications for such an approach are not convincing and the result is inconsistent with the federal government's policy of Indigenous economic development.

The Report also includes a case study on the *Western Arnhem Land Fire Abatement Project (WALFA)*, a project which combines economic opportunities on Indigenous land with the national priority of climate change. The Project has the potential to deliver across the quadruple bottom line of environmental, economic, social and cultural outcomes, and the initiative will showcase the important role that Indigenous peoples can have in climate change mitigation in Australia.

The Report contains 25 recommendations that arise from the discussions in the chapter. There are two overarching recommendations that consider the native title system as a whole. Recommendation 1.1 deals with unscrambling the legislative gridlock in native title, recommending an independent comprehensive review of the whole native title system. The review would include significant stakeholder participation and focus on delivering the objects of the Native Title Act in accordance with the preamble. Recommendation 1.2 proposes a national summit on the native title system with extensive representation.

The *Native Title Report 2007*, fact sheets and media release are available on-line at www.humanrights.gov.au/social_justice/nt_report/ntreport07/index.html.



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Participants in the Indigenous Community Legal Education Project for Family Violence Services pose with Ray Martin, who MC'd the launch of the *Native Title Report 2007*. This year's Report was dedicated to the memory of Eddie (Koiki) Mabo, commemorating 10 years since the High Court's Mabo decision

6.2.3 Community Guide and CD-Rom

Two types of community guide were printed and made available on the HREOC website. The first was a community guide to the *Native Title Report 2007* and *Social Justice Report 2007*, and the second, entitled *Communities Confronting Family Violence; Promising Practices and Valuable Lessons*, outlines seven case studies of successful responses to family violence.

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 Issues Paper on a National Indigenous Representative Body

The Commissioner prepared an Issues Paper outlining key considerations in the development of a new national Indigenous representative body. The research was undertaken as a follow up action to the *Social Justice Report 2006*, which identified a need to identify sustainable options for establishing a national Indigenous representative body. HREOC commissioned the National Centre for Indigenous Studies at the Australian National University to provide a research paper, and used this research to develop the paper: *Building a Sustainable National Indigenous Representative Body*.

The paper addresses the following three questions:

- First, what lessons can be learned from mechanisms for representing Aboriginal and Torres Strait Islander peoples at the national, state and territory or regional level that have previously existed or that are currently in place?
- Second, what lessons can be learned from mechanisms for representing Indigenous peoples that have been established in other countries?
- And third, what options are there for ensuring that a National Indigenous Representative Body is sustainable?

The paper identifies the many and varied issues that need to be considered in the formulation of a new representative body. It is complete and ready for release on 12 July 2008.

6.3.2 Apology to the Stolen Generations

The Commissioner was invited by the government to facilitate two national meetings of stolen generations organisations on the content, timing and delivery of the apology. These took place in January and February 2008 in Canberra.

6.3.3 Declaration on the Rights of Indigenous Peoples

Since the United Nations General Assembly adopted the *Declaration on the Rights of Indigenous Peoples* on 13 September 2007, HREOC has been advocating for recognition of the Declaration by the Australian Government. Australia and New Zealand were among four countries that voted against the text.

On 30 October 2007, HREOC staff attended a roundtable meeting, hosted by the New Zealand Human Rights Commission in Wellington, to consider the domestic implementation of the Declaration in Australia and New Zealand.

6.3.4 HREOC Submission to the Senate Legal and Constitutional Affairs Committee on the Northern Territory National Emergency Plan

On 10 August 2007, the Commissioner and the President presented the HREOC Submission to the Senate Legal and Constitutional Affairs Committee, setting out the human rights concerns regarding the Northern Territory National Emergency Plan. The submission stressed that any measures must comply with the fundamental right to racial equality, and should not be exempt from the *Racial Discrimination Act 1975* (Cth), as they currently are. The measures clearly have specific impact on Indigenous peoples and must therefore be 'special measures' for their benefit.

HREOC's submission recommended that:

- extensive consultation backed up with effective and culturally appropriate information campaigns occur as a matter of urgency;
- an independent and public parliamentary review be conducted after 12 months to ensure that the goals of the proposed legislation are achieved in a manner that is consistent with human rights; and
- immediate steps should be taken to put in place an effective monitoring mechanism that involves Indigenous peoples.

The submission also highlighted the need for community education on human rights. The Commissioner expanded on this point during the public hearing of the Senate Committee.

The committee adopted HREOC's recommendations that:

- a 'culturally appropriate public information campaign be conducted as soon as possible';
- there be continuous monitoring and public reporting on the operation of the measures throughout the Overcoming Indigenous Disadvantage reporting framework;
- there be a review of the legislation after two years of implementation; and
- the Commonwealth provide additional funding for drug and alcohol rehabilitation services in the Northern Territory.

The government agreed to implement all seven recommendations by administrative decision (not through legislative amendment).

6.3.5 HREOC Submission to the Senate Legal and Constitutional Affairs Committee on the Inquiry into the Stolen Generation Compensation Bill 2008

On 9 April 2008, HREOC presented a submission to the Senate Legal and Constitutional Affairs Committee regarding the Committee's Inquiry into the Stolen Generations Compensation Bill 2008. On 16 April 2008, HREOC staff gave evidence before the Inquiry. The submission commended the passage of the Stolen Generations Compensation Bill 2008, and stressed that a national compensation scheme to make financial reparations to the Stolen Generations is long overdue.

In the submission, HREOC put forward that:

- Loss, grief and trauma experienced by the victims of gross human rights violations can never be adequately compensated. However, for many victims compensation can make a practical difference and improve the lives of communities and individuals. It is incumbent upon government to address the physical and psychological experiences of the Stolen Generations in a way that recognises and validates trauma if the process of healing is to be executed effectively.
- For many people, redress through the court system takes a significant toll on individuals, and may revisit their trauma. Furthermore, litigation brought by members of the stolen generations will often have a number of inbuilt barriers to success, such as lack of availability of critical evidence, difficulties in establishing the required onus of proof with the passage of time; the prejudice to the defendant given the frailty, illness and death of key witnesses, and the loss and or destruction of records and material documents.
- It is HREOC's position that a reparations tribunal will provide the stolen generations with a welcome alternative to seeking compensation through court processes. HREOC supports the model proposed in the Bill to develop a system of ex gratia payments for common experiences suffered by members of the Stolen Generations. Such a system would provide a swifter, more appropriate and less damaging alternative to court processes.
- HREOC recommends that the Commonwealth, through the Councils of Australian Governments (COAG), engage with state and territory governments to develop a nationally consistent approach with joint funding mechanisms in the provision of financial redress for the stolen generations. This is to ensure compensation schemes are applied universally to all members of the stolen generations and can ensure consistency in outcomes so that some individuals are not disadvantaged.

In the submission, HREOC urged the Committee to recognise the importance of compensation to achieving just outcomes for Indigenous people who, because of past government practices, have been deprived of community ties, culture and language, and links with and entitlements to their traditional land.

6.4 EDUCATION AND PROMOTION

6.4.1 Indigenous Community Legal Education Project

In 2007, the Commonwealth Attorney-General's Department funded HREOC to develop and deliver an Indigenous Community Legal Education project. The project was to implement the National Framework of Principles for preventing family violence and child abuse in Indigenous communities as outlined in the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities, and the COAG Communiqué of July 2006.

HREOC trained 13 Community Legal Education (CLE) workers in preparation for their role in educating remote Indigenous communities about the relationship between Australian law, customary law and human rights. The training program was a full curriculum and mapped to accredited training (the Diploma in National Indigenous

Legal Advocacy). HREOC delivered 40 hours of training commencing on Thursday 27 March and concluding on Wednesday 2 April 2008.

The participants are now employed by the Attorney-General's Department as Community Legal Education Workers in regional and remote Family Violence Prevention Legal Services. A preliminary evaluation of the CLE training indicated a high level of participant satisfaction with the content and the methodologies of the training program.

In May, June and July HREOC evaluated the appropriateness of the training to meet the needs of the Community Legal Educators.

6.4.2 Re-accreditation of the National Indigenous Legal Advocacy courses

HREOC is the copyright holder of three National Indigenous Legal Advocacy courses – the Certificate III, Certificate IV and the Diploma courses. In 2008 these courses were re-accredited for a five year period. The National Indigenous Legal Advocacy courses are still the only courses in Australia that provide training for Indigenous legal advocates.

The courses were developed in response to a recommendation of the 1991 Royal Commission into Aboriginal Deaths in Custody which identified a gap in training for Indigenous people who intend to work in a paralegal capacity. The courses have evolved and been updated since the 1990s. They aim to prepare Indigenous trainees for employment as legal advocates and to provide pathways into other employment, law degrees, or related higher education.

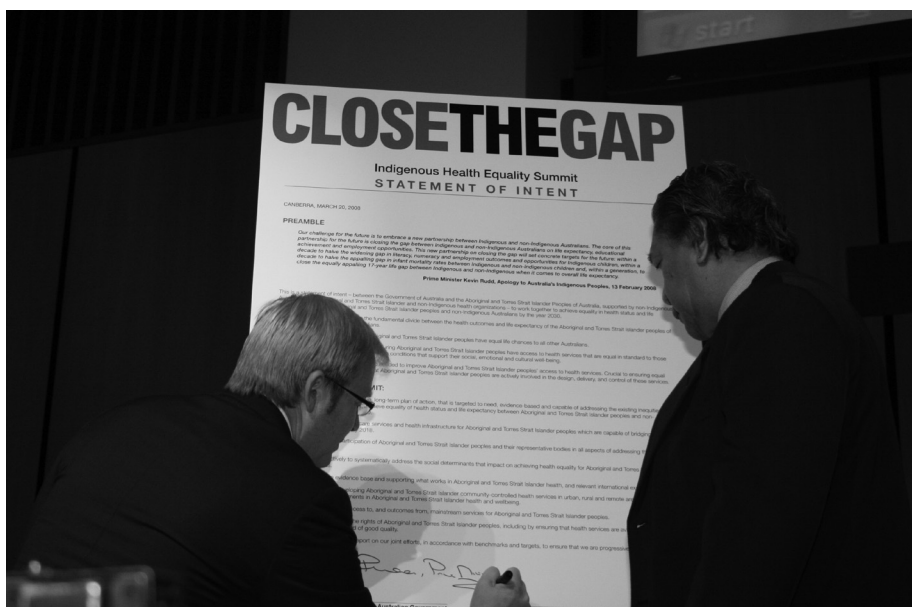
6.4.3 Indigenous Health Equality

The National Indigenous Health Equality Summit was held in Canberra from 18-20 March 2008. It was an important milestone in the National Indigenous Health Equality Campaign which began in 2006 following the release of the *Social Justice Report 2005*.

At the summit, the Indigenous Health Equality Targets were presented to a range of invited delegates, including Australian Government representatives, for comments and feedback. In addition, the Commonwealth Government and the opposition were invited to formally re-commit to achieving Indigenous health equality within a generation. They did this by signing the *Statement of Intent to Close the Gap*. The Statement was signed by the Prime Minister, the Ministers for Health and Indigenous Affairs, the Opposition leader, Ian Thorpe, Cathy Freeman, and every major Indigenous and non-Indigenous health peak body.

At the Summit, the Prime Minister announced that the National Aboriginal and Torres Strait Islander Health Council would be reformulated as an Indigenous Health Equality Council, with a primary role to implement the targets and benchmarks. This new Council provides an opportunity to embed the targets into policy and practice nationally. After the Summit, a table of targets and a summary outline was created and presented to the Commonwealth Government for integration into the COAG Working Group processes.

The Steering Committee of the campaign continues to work with COAG and Australian Governments to progress the adoption of the targets, and their integration into the National Strategic Framework for Aboriginal and Torres Strait Islander Health and the accompanying Performance Framework. In addition, the targets will be integrated into the reporting of the Productivity Commission's *Overcoming Indigenous Disadvantage* report.



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 Dr Mick Adams from the National Aboriginal Community Controlled Health Organisation witnesses the Prime Minister, the Hon. Kevin Rudd, sign the *Statement of Intent to Close the Gap* at the National Indigenous Health Equality Summit in Canberra

6.4.4 Bringing Them Home 10th anniversary

On 30 September 2007, HREOC co-hosted a commemorative conference with the University of New South Wales for the 10th anniversary of the *Bringing Them Home* Report.

The conference was attended by approximately 100 people and received good media coverage. The conference proceedings were recorded by ABC Radio National and subsequently nationally broadcast in an edited form.

Us Taken-Away Kids, the commemorative magazine for the 10th anniversary, was launched on 11 December 2007 and is available on the HREOC website. The magazine represents artwork and stories from members of the stolen generations throughout Australia.

6.5 LEGISLATIVE DEVELOPMENT

The Social Justice and Native Title Units 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.



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Minister for Families, Housing, Community Services and Indigenous Affairs, The Hon. Jenny Macklin, talks with Alfred Coolwell, his sister, Lena Yarry and Reconciliation Australia's Jason Glanville at the launch of *Us Taken-Away Kids*. See 6.4.4

6.5.1 Draft guidelines for parties and representatives in National Native Title Tribunal mediation

The Commissioner provided comments on an Exposure Draft of Best Practice Guidelines for parties and representatives in National Native Title Tribunal mediation. The Draft Guidelines were 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 recommendations provide that the *Native Title Act 1993* be amended to require parties to mediate in good faith, and that a code of conduct for parties involved in native title mediation be developed.

The Attorney-General's Department amended the guidelines in consideration of a number of HREOC's comments, including:

- that cultural considerations, such as gender and hierarchy of elders, must be taken into account regarding effective communication;
- that, due to a range of variable factors, it is not always possible to obtain the necessary instructions by the set timelines or before mediation; and
- the need to sort out 'minor matters' quickly (the criteria regarding 'minor matters' was removed from the guidelines altogether).

The guidelines were also redrafted into a format that includes clear simple headings and mostly uses plain English throughout. In addition, references to legislation have been removed from the text and included in footnotes.

The Attorney-General's Department conducted a second round of consultations to a wider group, including Indigenous stakeholders. While the redrafted guidelines addressed a number of HREOC's concerns, including the need to respect Indigenous customs and practices, the redrafted guidelines did not fully address the concerns raised.

The Commissioner contributed comments on the amended second round draft guidelines, including comments that:

- parties to mediation should respect and make allowance for the inclusion of Aboriginal and Torres Strait Islander cultural protocols and decision making practices in the mediation process;
- to give effect to the principle of free, prior, and informed consent, effective communication mechanisms must be an underlying assurance of the guidelines, and parties should identify from the outset what specific communication needs will be required to develop an effective communication strategy that meets the needs of all parties included in mediation; and
- parties should abide by the communication strategy developed in preparation for the mediation and consider different levels of understanding held by the parties attending the mediation.

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 comments on the draft Guidelines for the Support of Prescribed Bodies Corporate (PBC).

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 to assist PBCs with their day-to-day operations. The Commissioner provided ten recommendations regarding the draft guidelines.

6.6 INTERNATIONAL ACTIVITIES

6.6.1 United Nations Permanent Forum on Indigenous Issues

The seventh session of the UNPFII took place in New York from 19 April – 2 May 2008. The session was the first since the adoption of the UN *Declaration on the Rights of Indigenous Peoples*. The themes for the session were climate change and Indigenous peoples, and Indigenous issues in the Pacific region.

Funding was made available from the Australian Government to facilitate participation at the UNPFII by Indigenous delegates. HREOC administers this funding and granted assistance to delegates from a number of Indigenous organisations. Up to 40 Indigenous delegates from Australia attended.

The Commissioner presented at three events at the Permanent Forum as follows:

- a formal presentation to the Forum as an expert for Agenda Item 6, Half Day Discussion on the Pacific;

- a roundtable discussion on 'Indigenous Peoples and the private sector and the issue of Indigenous entrepreneurship and how it is supported on the local, regional and global fora'; and
- panel discussion on 'Managing Indigenous Local Governments: balancing traditions with emerging challenges'.

6.7 SPEECHES

A selection of public addresses made by the Social Justice Commissioner during 2007-08 is listed below. Speeches can also be accessed on HREOC's websites at www.humanrights.gov.au/about/media/speeches/social_justice/index.html

Continuity and Change through New Arrangements – Lessons for Addressing the Crisis of Child Sexual Abuse in the Northern Territory, launch of the *Social Justice and Native Title reports*, Sydney, 3 July 2007.

National Press Club address, National Press Club, Canberra, 4 July 2007.

Human Rights and Mining, Mining, Petroleum, Oil and Gas Symposium, Broome, WA, 10 July 2007.

The Right to Health of Indigenous Australians, Inaugural course on Health Development and Human Rights, Sydney, 16 July 2007.

The '67 Referendum: 40 Years On and the Federal Government's Northern Territory Plan – Where to Now? The '67 Referendum – Forty Years on Conference, Sydney, 20 July 2007.

The Role and Functions of the Human Rights and Equal Opportunity Commission, Aboriginal Legal Service Annual Conference, Sydney, 1 August 2007.

Proactive Engagement with the Native Title System, NTRB CEO and Senior Management dinner, Sydney, 1 August 2007.

Indigenous Health: Real Solutions for a Chronic Problem – Indigenous Social and Emotional Health and Well Being, 9th Annual GARMA Festival of Traditional Culture, Nhulunbuy, NT, 6 August 2007.

2007: Delivering on the Promise of the 1967 Referendum for Indigenous Australians, Hyllus Marius Memorial Lecture, Melbourne, 21 August 2007.

40 Years On: What Does the 'Yes' Vote Mean for Indigenous Australians? Tasmanian Annual Social Justice Lecture, Hobart, 22 August 2007.

Indigenous Health Inequality in Australia: What Can Medical Professionals Do to Make a Difference? National Leadership Seminar hosted by the Australian Medical Students Association, Canberra, 10 September 2007.

The Evidence Base for Interventions into Indigenous Public Health, Indigenous Health Forum, Canberra, 12 September 2007.

Legal Wins/Losses since the Referendum and Future Challenges for Indigenous Peoples, 2nd National Indigenous Legal Conference, Brisbane, 14 September 2007.



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Children blow bubbles at the GARMA Festival of Traditional Culture at Nhulunbuy, NT

The Campaign for Indigenous Health Equality Within a Generation, address to South Australian Department of Premier and Cabinet, Adelaide, 18 September 2007.

Can the End Ever Justify the Means? Achieving Equality for Aboriginal and Torres Strait Islander Peoples and the Northern Territory Intervention, Don Dunstan Annual Oration, Adelaide, 18 September 2007.

Indigenous Children Belong on the Asset Side of Australia's Wealth Ledger, Secretariat of National Aboriginal and Islander Child Care (SNAICC) National Conference, Adelaide, 19 September 2007.

The Indigenous Health Curriculum in Australian Medical Schools, Leaders in Indigenous Medical Education conference, Sydney, 23 September 2007.

Australian Government Responses to the Bringing Them Home Report, Ten Years Later: Bringing them home and the forced removal of children conference, Sydney, 28 September 2007.

National Strategies that Impact on Aboriginal and Torres Strait Islander Health, 4th National Indigenous Male Health Convention, Adelaide, 1 October 2007.

Where We Are Now and Where We Need to Be? Australians for Native Title and Reconciliation National Congress, Canberra, 13 October 2007.

Indigenous Home Ownership, Which Way? Directions in Indigenous Housing Conference, Alice Springs, 27 October 2007.

Health and Human Rights, Kimberley Aboriginal Health Summit, Broome, WA, 31 October 2007.

What Does a Human Rights Approach Offer in Improving the Health of Indigenous Australians?, Menzies School of Health Research Orator, Darwin, 8 November 2007.

Indigenous Health, Ed Health Conference, Terrigal, NSW, 16 November 2007.

The Role of Local Government in Achieving Social Justice for Aboriginal Peoples in the Northern Territory, Local Government Association of Northern Territory Annual General Meeting, Darwin, 22 November 2007.

Human Rights, Indigenous Rights and the Australian Context, World Psychiatric Association Congress, Melbourne, 29 November 2007.

Indigenous Policy Address, Local Government and Discrete Indigenous Communities Conference, Perth, 5 December 2007.

Essentials for Social Justice: Sorry, launch of *Us Taken-Away Kids*, Sydney, 11 December 2007.

The Role of Social Workers as Human Rights Workers with Indigenous People and Communities, Social Work Orientation Week Seminar, Canberra, 12 February 2008.

Response to Government to the National Apology to the Stolen Generations, Canberra, 13 February 2008.

Essentials for Social Justice: Reform, Australians for Native Title and Reconciliation Annual General Meeting, Brisbane, 20 February 2008.

Opening Remarks, National Indigenous Health Equality Summit, Canberra, 18 March 2008.

Essentials for Social Justice: Protecting Indigenous Children, Social Justice Report 2007 launch, Sydney, 31 March 2008.

Valuing and Protecting Diversity, Department of Finance and Deregulation, Canberra, 9 April 2008.

Half Day Discussion on the Pacific: Panel Statement, United Nations Permanent Forum, New York City, USA, 23 April 2008.

The Importance of Environmental Health in Improving the Life Expectancy of Indigenous Peoples, speech delivered by Paul Endres on behalf of the Commissioner, International Federation of Environmental Health World Congress, Brisbane, 13 May 2008.

Social Justice, HREOC and Indigenous Education, National Education Forum General Meeting, Canberra, 17 May 2008.

Australia's Mineral Industry in Context – Nationally and Internationally, Mineral Council's Conference, Canberra, 27 May 2008.

Our Children Our Future, launch of *Our Children Our Future* report, Sydney, 28 May 2008.

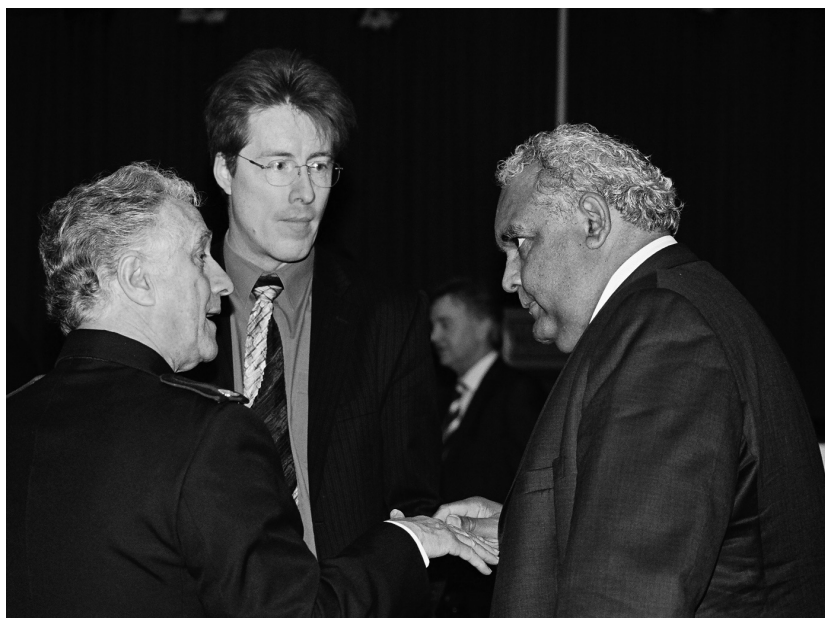
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Sustainable Options for Australia's New National Indigenous Representative Body, National Native Title Conference, Perth, 4 June 2008.

Climate Change and Indigenous Peoples, speech delivered by Warwick Baird on behalf of the Commissioner, National Native Title Conference, Perth, 5 June 2008.

Essentials for Social Justice: Close the Gap, Collaborative Indigenous Policy Development, Sydney, 11 June 2008.

Reforming Federal Indigenous Affairs Policy, Mornington Peninsula Human Rights Group, Mornington, Victoria, 24 June 2008.



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Commissioner Calma speaks with participants at the National Press Club, Canberra, where he gave an address on 4 July 2007

Chapter 7

Disability Rights

7.1 STATEMENT FROM THE COMMISSIONER

Sixty years ago this year, the world affirmed in the Universal Declaration of Human Rights that human rights had to be universal – for everyone, everywhere, every day.

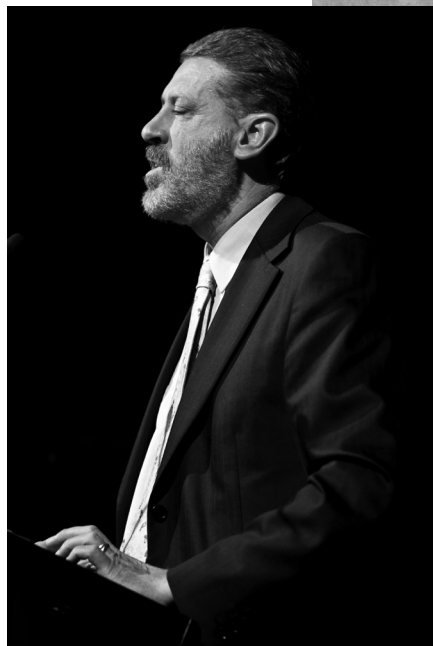
The *Convention on the Rights of Persons with Disabilities*, adopted by the United Nations in 2006, gives long overdue recognition that, if human rights and freedoms are to be truly universal, they have to include people with disability.

In 2008 we are able to celebrate the achievement of all involved in securing Australia's ratification of this Convention – the fastest ever Australian ratification of a major human rights treaty.

Disability truly is a normal part of the diversity of human experience and the life of our community. More than one in five Australians have some kind of disability, and this is only expected to increase with the ageing of our population. This means more and more of us will have reason to hope, for ourselves and our families, that our society really does put universal access and inclusion and respect for human rights for people with disability into practice: that all of us are able to fully use and access housing, public transport and buildings, and even basic consumer appliances; to enjoy equal opportunity in employment and education, and access to all the 'extras' in life like sport, recreation, arts and entertainment.

We also need to see redressed the unjustifiable hardships that continue to affect so many people with disability, and their families, who too often do not receive the relatively modest levels of support or services they need so they can be equal participants in and contributors to Australian society.

We have made some great advances in disability law and policy in Australia in recent years. Particularly encouraging has been the commencement this year of development of a national strategy on employment and disability – in line with the recommendations of HREOC's National Inquiry two years ago – and a broader National Disability Strategy, based squarely on the *Convention on the Rights of Persons with Disabilities*.



Mr Graeme Innes AM
Disability Discrimination Commissioner

There remains much to do. Ratification of the Convention is a powerful symbol of commitment to equal enjoyment of human rights for Australians with disability. I urge all Australian governments to continue to work together, and in partnership with the community, to make that commitment a reality.

7.2 RESEARCH AND POLICY

7.2.1 Convention on the Rights of Persons with Disabilities

During the reporting period, HREOC worked closely with disability community representative and advisory bodies, the Attorney-General's Department, and both the previous and the current Attorney-General, to promote early ratification by Australia of the *Convention on the Rights of Persons with Disabilities*.

HREOC welcomed the indication by the government of its intention to base a new National Disability Strategy on the Convention and has been contributing to a reference group on the National Disability Strategy convened by the Parliamentary Secretary for disability issues, the Hon. Bill Shorten MP. HREOC also reshaped its own work plan in the disability rights area by reference to the Convention.

In addition, HREOC has been working with the Asia Pacific Forum of National Human Rights Institutions and the Pacific Disability Forum to assist nations in the region to work towards ratification of the Convention.

7.2.2 Employment and Disability

The principal recommendation of HREOC's *National Inquiry into Employment and Disability*, the report of which was tabled in February 2006, was the development of a national disability employment strategy.

HREOC welcomed the government's commitment to develop such a strategy and has participated in government consultations with the disability sector, employers, employment service providers and other interested parties.

HREOC participated in a number of related reviews. These included reviews in relation to job capacity assessments, models of employment services and support, and minimum wage setting. HREOC also conducted research into issues and barriers to employment for Indigenous people with disability.

HREOC continued collaborative work with the Office of the Australian Safety and Compensation Council and interested parties to address employer concerns regarding disability and occupational health and safety, including the release of fact sheets for employers. Work has commenced on specific resources about accommodating people with mental illness in the workplace.

7.2.3 Captioning and media access

In September 2007, HREOC welcomed the announcement by the former government of its intention to conduct an investigation into captioning and media access. The commencement of that investigation by the new government, took place with the release of a discussion paper by the Department of Broadband, Communications and the Digital Economy in 2008.

HREOC has been consulting with the Department in the conduct of this investigation. Pending the results of this review, HREOC has also continued its own work on media access issues in collaboration with representatives of industry and of the disability community. This has included discussion of:

- means for increasing the number of cinemas equipped to display captioned movies;
- possibilities for further increases in captioning of free to air and subscription television beyond the levels agreed in the context of temporary exemptions previously granted under the Disability Discrimination Act; and
- frameworks for accessibility features on DVDs released in Australia.

During 2007-08, HREOC also drew attention to the need for improvement in procedures to ensure accessibility of material produced or funded by the Commonwealth. This followed the release of a federally funded parent information DVD in 2007 which, on initial release, lacked any access features.

7.2.4 Access to electronic commerce

HREOC assisted the Australian Bankers' Association in the development of Guiding Principles on Accessible Authentication, which was released on 3 December 2007 to mark the International Day of People with Disability. These principles are intended to ensure that adoption of stronger authentication technologies by financial institutions, and related service providers, will not exclude effective and convenient access for people with disability.

7.2.5 Accessible consumer electronics products

In September 2007, a discussion paper was released about the access issues that affect people with disability when they use a range of consumer electronics products. The discussion paper also looked at possible ways to address these issues.

7.2.6 Electoral access

HREOC welcomed the inclusion of a trial of electronically assisted voting in the 2007 Federal Election. This initiative finally provided the opportunity to exercise a fully secret ballot to people with a print disability. It followed several years of discussion between HREOC, government, electoral authorities and disability representatives.

In HREOC's submission to the Joint Standing Committee on Electoral Matters Review of the 2007 Federal Election, it recommended that permanent and more widespread provision of electronically assisted voting be made. HREOC also recommended making the facility available to all voters who experience difficulty exercising the right to a secret ballot using pencil and paper, rather than restricting it to people who are blind or have a vision impairment.

7.2.7 Health access

HREOC continued to work with the Royal Australian College of General Practitioners to promote wider provision of adjustable-height examination beds. Provision of these beds will reduce one set of barriers to effective and equal access to health care, which is currently experienced by people with disability.

7.3 PROMOTION OF AWARENESS, UNDERSTANDING AND COMPLIANCE

Most of HREOC's awareness and compliance promotion in the disability area is closely connected to policy work and legislative development.

Two particularly successful resources, aimed at improving understanding about the importance of access in the built environment, were launched in July 2007. Revised editions of both were made available in April 2008. They are:

- *Access to Buildings and Services – Guidelines and Information*. This resource is designed 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 also helps service providers to look more generally at whether their provision of goods and services is accessible to people with a range of disabilities;
- *The Good, the Bad and the Ugly*. This resource is designed 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. It is also designed to demonstrate correct practice and common mistakes.

Public use of the disability rights area of the HREOC website continues to be strong, with 74 760 page views recorded on the disability rights web pages in this period. Publications are also distributed in print and other formats on request.

7.4 LEGISLATIVE REFORM AND ASSESSMENT

7.4.1 Amendments to the Disability Discrimination Act

In 2006, the former government decided 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. These amendments included express provision for a duty to make reasonable adjustments. They also included a number of associated reforms regarding recognition of assistance animals. HREOC advised the new government of its continued support for these amendments and has been consulted by the Attorney-General's Department in work towards introduction of a Bill in the second half of 2008.

7.4.2 Disability Standards

The Disability Discrimination Act 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 has continued to assist in the development of Disability Standards that advance the objects of the Act by increasing certainty and clarity of rights and responsibilities.

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The Good, the Bad and the Ugly is one of two resources released during the reporting period that promotes the importance of access in the built environment



7.4.3 Access to premises

Along with the Australian Building Codes Board, industry, community and government members of the Building Access Policy Committee, which was established by the Board, HREOC continued intensive work toward finalisation of *Disability Standards on Access to Premises*.

HREOC also continued to work with industry and regulatory bodies to promote actions that address the current and growing need for universal design in housing.

7.4.4 Education

HREOC continued to respond to requests for advice about the application of the *Disability Standards for Education*, adopted in August 2005. It also commenced preliminary consideration of issues which might be raised in the initial five year review of those Standards.

7.4.5 Public transport

HREOC participated in consultations for the initial five year review of the *Disability Standards for Accessible Public Transport*. The report of this review is currently being finalised for submission to the Attorney-General and the Minister for Infrastructure.

In April 2008, Commissioner Innes and Parliamentary Secretary for Disability, the Hon. Bill Shorten MP, co-chaired a forum specifically relating to aviation issues. Two main actions arose from the forum. A request was made for the Department of Infrastructure, Transport, Regional Development and Local Government to convene an ongoing forum to facilitate co-operative work between industry, relevant government

departments and agencies, and representatives of people with disability. The forums would specifically discuss access issues at airports. Additionally, HREOC and the Civil Aviation Safety Authority will convene a working group for the interaction between safety requirements and independent travel.

7.5 CONSULTATION

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

As noted above:

- HREOC worked in close consultation with disability representative and advisory bodies towards ratification by Australia of the *Convention on the Rights of Persons with Disabilities*
- specific consultative relationships have also been maintained with employer, industry, disability and service provider organisations to continue the work of HREOC's *National Inquiry into Employment and Disability*.

During 2007-08, HREOC has also had a particular focus on consultation about issues affecting women with disability. This consultation has included the Listening Tour, conducted by the Sex Discrimination Commissioner, and participation in forums on freedom from abuse.

7.6 EXEMPTIONS

Under section 55 of the Disability Discrimination Act, HREOC has power to grant temporary exemption from provisions of the Act that make discrimination unlawful.

The exemption applications policy is available on HREOC's website or on request.

HREOC sees the temporary exemption mechanism as an important means of managing the process of transition from discriminatory and inaccessible systems and environments to inclusive, accessible non-discriminatory systems and environments over time.

Exemption processes are open to public participation through on-line publication of HREOC's notice of Inquiry and details of applications. Submissions from interested parties are also published.

7.6.1 Tiger Airways

In February 2008, HREOC granted a very brief (one month) exemption from liability to Tiger Airways for failure to provide access for persons unable to board or disembark using passenger boarding stairs. The exemption was granted pending delivery of their passenger lifting devices, and on the condition that they work with disability representative organisations to address access issues more broadly. Tiger have advised they have complied with the conditions of the exemption.

7.6.2 Queensland and Western Australian Taxi Councils

In December 2007, Taxi industry representative bodies in Queensland and Western Australia applied for their member radio co-operatives to be exempted from the requirement, under the transport Standards, to ensure the same response times for accessible cabs as for other taxis. A decision on this matter is pending.

7.6.3 Queensland Rail Tilt Train

In December 2007, Queensland Rail were granted an exemption for five years, permitting them to maintain current levels of provision of allocated spaces on their tilt train services. The exemption was granted largely on the basis that it was highly likely that the applicants were already complying with applicable requirements of the *Disability Standards for Accessible Public Transport*, but were prepared to commit to additional measures in return for certainty on this point.

7.6.4 Regional Express (REX)

In October 2007, REX Airways applied for temporary exemptions that would permit the airline to place a range of restrictions and requirements on the carriage of passengers with specific disabilities on its SAAB aircraft. Following consideration of issues raised in public submissions made in response to the application, REX submitted a revised application in April 2008, which is currently being considered by HREOC.

7.6.5 Australasian Railways Association

In January 2007, HREOC granted a series of temporary exemptions to members of the Australasian Railways Association (ARA) in relation to provisions in the *Disability Standards for Accessible Public Transport* and of the Disability Discrimination Act. The exemptions were granted on the condition that its members meet a set of revised compliance requirements and report to HREOC on the implementation of the revised obligations. Decisions were deferred on a number of other issues on which the ARA had also applied for exemption, pending further consultation between ARA, community representatives and HREOC.

During 2007-08 decisions were made to grant exemptions to ARA on three deferred issues, outlined below.

Assistance animals: In September 2007, HREOC granted ARA an exemption until January 2010 in relation to assistance animals. The exemption permits operators to require passengers accompanied by an assistance animal to present evidence that: the animal has been trained to alleviate the effects of a disability which the passenger has; the animal is of an appropriate breed and temperament to be used as an assistance animal in public places; and the animal has been trained to meet appropriate standards of behaviour.

Boarding ramps: In November 2007, HREOC granted ARA an exemption for a period of six months such that staff assistance would not be required for people ascending or descending boarding ramps with a slope greater than one in eight, pending review of measures for safe and accessible boarding.

Stowing mobility aids: In November 2007, HREOC granted ARA an exemption until January 2010 in relation to mobility aids such that:

- operators are not required to carry or stow mobility aids on booked services if the mobility aid does not comply with the 'Assumptions for Mobility Aids' set out in the Guidelines to the Disability Standards for Accessible Public Transport;
- where a passenger requires assistance with folding and/or unfolding of a wheelchair, or disconnecting and/or re-connecting batteries, operators may require that the passenger, or a person on behalf of the passenger, is able to provide directions for the procedure involved; and
- operators are not responsible for transferring passengers by lifting to or from mobility aids where an access path to an allocated space is available, but the passenger chooses instead to transfer to a fixed seat.

7.6.6 Buchan Bus 'n Freight

In June 2008, HREOC granted Mr D. Beaven, trading as Buchan Bus 'n Freight, an exemption to 31 December 2010 from the effect of the provisions of the *Disability Standards for Accessible Public Transport*. The effect of the exemption is to permit the continued use for public transport of a vehicle which is not wheelchair accessible and which was acquired second hand in 2004. The Standards require accessibility of 25 per cent of services from 31 December 2007, subject to the defence of unjustifiable hardship.

7.6.7 Subscription television captioning

The Australian Subscription Television and Radio Association (ASTRA), on behalf of its member broadcasters, was granted an exemption by HREOC on 2 June 2004, which is due to expire on 4 June 2009. This exemption was granted subject to conditions. ASTRA members must implement a plan for increasing captioning during the exemption period. They must also submit a proposal to HREOC by 4 June 2008 for a plan to further increase captioning.

During the reporting period, ASTRA sought an extension of the time for submission of the proposal until 30 June 2008. HREOC decided that this request should be met. It re-issued an exemption to the same effect, and on the same conditions, as its decision of 4 June 2004, changing the date for submission of a proposal for a further plan for captioning to 30 June 2008.

7.6.8 Free to air television captioning

In May 2008, HREOC received an application from Free TV Australia on behalf of the major commercial and public free to air television broadcasters. In effect, Free TV sought a 6 month extension of a temporary exemption granted by HREOC in May 2003. The exemption had been granted on the condition that captioning levels measured over a broadcast day from 6 am to midnight would reach 70 per cent by the end of the exemption period. However, the applicants sought permission to maintain the existing levels pending further progress in the investigation of captioning and other media access requirements being conducted by the Department of Broadband, Communications and the Digital Economy. This application is currently under consideration by HREOC.

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 2008, 554 plans were registered with HREOC (increased from 516 in June 2007), comprising 49 business enterprises, 61 non-government organisations, 36 federal government and 68 state and territory government departments and agencies, 161 local governments and 179 education providers.

The register of Action Plans, and those plans provided electronically to HREOC (528 of the total), are available on the HREOC website. This 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 during 2007-08.

7.8 LEGISLATIVE DEVELOPMENT

The Disability Discrimination Unit also contributes to legislative development, including 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

A selection of speeches made by Commissioner Innes on disability rights issues during 2007-08 are listed below. Speeches and papers are available on the HREOC website at www.humanrights.gov.au/disability_rights/speeches/speeches.html

Getting It Right – A Baker's Dozen, presented by Senior Policy Officer Michael Small, Australian Institute of Building Surveyors State Conference, HREOC, Sydney, 20 July 2007.

Towards Ratification of the Convention on the Rights of Persons with Disabilities, Parliament House, Hobart, 20 August 2007.

Deafness Forum Captioning Awards – Presentation of award for Free to air TV, Sydney, 23 August 2007.

Accessible Procurement: A Market Driven Approach which Benefits All Australians, Institute of Public Administration Australia, Perth, 20 September 2007.

Access to the Arts: Being Discriminating Rather than Discriminatory, Arts Activated Conference, Sydney, 26 September 2007.

Education and the Convention on the Rights of Persons with Disabilities: Des English Memorial Lecture, Australian Association of Special Education Annual Conference, Coogee, 28 September 2007.

The UN Convention, the Rights of People with Disabilities and Domestic Violence, Domestic Violence, Disability and Cultural Safety National Forum, Sydney, 8 November 2007.

Making Rights Relevant, National Disability Services conference, Canberra, 28 November 2007.

International Day of People with Disabilities Keynote Speech, Parramatta, 3 December 2007.

'Signing up' – Toward Ratification of the UN Convention on the Rights of Persons with Disabilities, Deafness Forum Conference, Canberra, 24 May 2008.

Towards a National Mental Health and Disability Employment Strategy, ACE Annual Disability Employment Network Conference, Canberra, 5 June 2008.

Special Education Leaders Conference, Parramatta, 6 June 2008.

Launch of Disability Strand, Sydney Film Festival, Sydney, 6 June 2008.

Chapter 8

Human Rights



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Mr Graeme Innes AM
Human Rights Commissioner

8.1 STATEMENT FROM THE COMMISSIONER

The 2007-08 year has involved work on a wide range of human rights issues. This year we set ourselves the task of creating a significant human rights resource on the Human Rights web pages of the HREOC website. Our achievement includes new pages regarding the following issues: a charter of rights for Australia; children's rights; corporate social responsibility; criminal record discrimination; discrimination in employment; gay, lesbian, bisexual, transgender and intersex equality; housing and homelessness; immigration, asylum seekers and refugees; the right to vote; and prisoners' rights.

A significant priority for the year has been follow-up work from the *Same-Sex: Same Entitlements* Inquiry. The year began with a nationwide round of launch events drawing attention to the Inquiry's findings and recommendations and thanking local communities for their contributions. In April 2008, ten months after the Inquiry was tabled in Parliament, I was delighted to hear the government's announcement that they intended to remove all discrimination against same-sex couples. The first piece of reform legislation, removing discrimination against those in same-sex couples who are members of Commonwealth superannuation funds, was introduced in late May 2008. We look forward to the introduction and passage of the remainder of the reform legislation.

During the reporting period, I continued my annual inspections of immigration detention centres, completing a report on inspections during 2007, and then commencing the next round of inspections in June 2008.

During my 2007 inspections, I was again pleased to see improvements in the detention centres and their administration, especially in the Northern Immigration Detention Centre. However, I was disappointed that there was no improvement in Villawood Stage 1, the most prison-like of all the detention centres.

This year I reiterated HREOC's position of many years — that Australia's immigration detention laws must be changed to remove mandatory detention. Mandatory, unreviewable, indefinite detention breaches Australia's human rights obligations. Further, the negative impacts of detention on the mental health and well being of those detained have been well documented over many years. I will continue policy work seeking reform of our immigration detention laws.

Finally, 2007-08 has seen the commencement of important new project work in the areas of sex and gender diversity, corporate social responsibility and a charter of rights for Australia. The scope of this work is detailed later in this chapter.

In 2008-09, we hope that we will finally see the removal of discrimination against people in same-sex relationships in federal law with the passage of the reform legislation. We will continue our project work in a range of areas. Increasingly, our focus will be on the need for enhanced human rights protections in Australia and the capacity of a federal charter of rights to provide this protection. We will play a key role in the national consultation regarding human rights protections. 2008-09 will be an exciting and challenging year for myself and my team.

8.2 RESEARCH AND POLICY

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

This year saw the launch of the *Same-Sex: Same Entitlements* Inquiry Report. The official launch of the report was on 22 June 2007 in Sydney. From July onwards, launch events were held in Canberra, Melbourne, Hobart, Brisbane, Adelaide, Perth and Darwin. These events offered a great opportunity to report back to local communities on the findings and recommendations of the Inquiry.

HREOC monitored developments in this area throughout the year, consistently calling on the government to amend the discriminatory legislation. In September, the Commissioner participated in a parliamentary Inquiry regarding the Democrat's private members bill introduced in response to the *Same-Sex: Same Entitlements* Inquiry. The Commissioner and a number of HREOC staff took part in the 30th Gay and Lesbian Mardi Gras, showcasing the *Same-Sex: Same Entitlements* report in the parade. Prior to the event, the Commissioner called on the Australian Government to take action.

In April 2008, ten months after the report's release, the government announced that it would introduce legislation to remove all discrimination faced by same-sex couples in federal law. At the end of May, the first reform bill, removing discrimination from Commonwealth superannuation funds, was introduced to Parliament. HREOC welcomed this historic move towards removing the significant remaining discrimination faced by same-sex couples. The Commissioner had ongoing dialogue with the government and the Attorney-General's Department during the implementation of the reform.

8.2.2 Sex and gender diversity

Project work in the area of sex and gender diversity commenced in 2007-08. This work flowed directly from the *Same-Sex: Same Entitlements* Inquiry. During the Inquiry, HREOC heard from a number of transgender, transsexual and intersex individuals and groups about issues of concern to them. The Inquiry did not make any recommendations relating to these issues, as they did not fall directly within its terms of reference. However, recognising their importance, early in 2007, HREOC initiated a project on the human rights concerns of people who are sex and gender diverse.

An initial consultation focussed on four broad areas of concern: official and identity documents; health policy and services; protection from discrimination; and education and awareness. The initial consultation revealed that one of the issues of most concern to people who are sex and gender diverse is the ability to change identity documents including birth certificates, passports and drivers licences. This is the main focus of continuing project work in this area.

8.2.3 Charter of Rights

In its new Mission Statement, HREOC has committed to leading in the promotion and protection of human rights in Australia by securing the adoption of a national charter of rights. In 2008, HREOC's submission to the 2020 Summit clearly supported the adoption of a national charter of rights in order to provide comprehensive human rights protection in Australia.



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The Commissioner and members of HREOC staff marched in the 30th Gay and Lesbian Mardi Gras parade to showcase HREOC's *Same Sex: Same Entitlements* report. In April 2008, ten months after its release, the government announced it would introduce legislation to remove all discrimination faced by same-sex couples in federal law

The charter of rights project formally commenced during the reporting period. The first element of this was a national charter of rights roundtable held at HREOC in early June 2008. Co-hosted by HREOC and the Gilbert & Tobin Centre, the roundtable brought together 40 of the leading organisations and individuals who favour a charter or rights for Australia. The aim of the roundtable was to foster a collaborative and coordinated approach to work on the charter of rights issue in the lead up to the government's national consultation regarding human rights protections in Australia.

HREOC also completed significant internal research work regarding charter issues and commenced development of a plan for ongoing charter of rights work, with a focus on facilitating community engagement in the national consultation.

8.2.4 Corporate Social Responsibility

This year HREOC commenced a project regarding human rights and corporate social responsibility (CSR). The project commenced by mapping the current connections between human rights and CSR in Australia. The Commissioner held a wide range of meetings with CSR executives from major Australian companies. The project will develop resources that will assist corporations to include human rights issues in their CSR programs.

8.3 MONITORING AND ADHERING TO HUMAN RIGHTS

8.3.1 Immigration detention, asylum seekers and refugees

The Commissioner conducted inspections of all mainland immigration detention facilities between August and November 2007. In December 2007 an inspection report was published on the HREOC website at www.humanrights.gov.au/human_rights/immigration/idc2007.html

The inspection report notes that the improvements observed in the 2006 inspections have generally been maintained. In particular, the report commended the Department of Immigration and Citizenship (DIAC) and the private contractors involved in detention services, GSL, on substantial improvements made at the Northern Immigration Detention Centre. The report also noted continuing efforts to improve the physical environment and to roll out much-needed refurbishments and renovations in some centres.

However, the inspection report expressed disappointment that there have been no improvements to Stage 1 of Villawood Immigration Detention Centre. It remains the most prison-like of all facilities and it houses some of the most long-term detainees. Previous HREOC inspection reports recommended that Stage 1 be demolished, a recommendation reiterated in this report.

Most importantly, the inspection report reiterated the view that detainees are still held in detention for too long. The report argues that alternatives to detention in immigration detention centres should be used more readily to help alleviate the serious health and mental health issues which often arise from long-term detention.

The inspection report makes 26 recommendations for improvements to the law governing detention, the administration and conditions inside detention centres. DIAC and GSL both responded to the report.

Commissioner Innes continues to engage with DIAC on a variety of immigration issues. HREOC has provided comments to DIAC on a number of Draft Instructions that provide guidance to departmental and detention services staff on specific aspects of immigration detention. They are currently being reviewed by DIAC. HREOC also coordinated comments on DIAC's draft Reasonable Use of Force Policy in immigration compliance operations.

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The entry to stage 1 of
Villawood Detention Centre
as it was during inspections
by HREOC



8.3.2 Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment

In March 2008, the government announced its intention to sign the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment (OPCAT). As a party to OPCAT, Australia would be required to establish a national system of visits to all places of detention under Australia's jurisdiction and control, with the aim of preventing the mistreatment of those who are detained. HREOC has commenced research, considering the most appropriate form for this new national system.

8.4 EDUCATION AND PROMOTION

8.4.1 Website development

This year an extensive update of the Human Rights web pages took place and a series of short papers on significant human rights issues were completed and posted. This material may be found at www.humanrights.gov.au/human_rights/issues/index.html

The issues covered include:

- Charter of rights for Australia
- Children's rights
- Corporate social responsibility
- Criminal record discrimination
- Discrimination in employment

- Gay, lesbian, bisexual, transgender and intersex equality
- Housing and homelessness
- Immigration, asylum seekers and refugees
- The right to vote
- Prisoner's rights

8.5 LEGISLATIVE DEVELOPMENT

HROEC contributes to legislative development by making written and oral submissions to parliamentary and other inquiries. Submissions made by HROEC in 2007-08 include:

December 2007	<i>Inquiry into the Prohibition on the Publication of Names of Children Involved in Criminal Proceedings</i>
April 2008	Senate Standing Committee on Environment, Communications and the Arts: <i>Inquiry into the Sexualisation of Children in the Contemporary Media Environment</i>
April 2008	Submission to the Australia 2020 Summit
May 2008	Joint Standing Committee into Electoral Matters: <i>Inquiry into the 2007 Federal Election</i>
May 2008	Investigation into Altruistic Surrogacy Committee, Queensland

8.6 SPEECHES

The Commissioner made a significant number of speeches in 2007-2008, listed below. These speeches can be accessed on HROEC's website at www.humanrights.gov.au/about/media/speeches/human_rights

Final Report of the Same-Sex: Same Entitlements Inquiry, Queer Collaborations 2007 conference, Hobart, 13 July 2007.

Final Report of the Same-Sex: Same Entitlements Inquiry, Queensland launch of report, Brisbane, 30 July 2007.

Final Report of the Same-Sex: Same Entitlements Inquiry, South Australian launch of report, Adelaide, 29 August 2007.

Final Report of the Same-Sex: Same Entitlements Inquiry, Western Australian launch of report, Perth, 19 September 2007.

Final Report of the Same-Sex: Same Entitlements Inquiry, Northern Territory launch of report, Darwin, 9 October 2007.

Can Rights Solve Issues of Poverty? Council of Social Services New South Wales (NCOSS) Conference on Perspectives on Poverty, Sydney, 17 October 2007.

Keynote speech, Victorian Gay and Lesbian Rights Lobby AGM, Melbourne, 18 October 2007.

Police Checks – A Human Rights Perspective, Aged and Community Services Association of NSW and ACT 2007 Occupational Health & Safety and Human Resources Conference, Sydney, 2 November 2007.

Closing speech, GLBTI Human Rights Conference: Issues in the Asia Pacific Region, Melbourne, 31 January 2008.

Raising the Bar: Corporate Social Responsibility and Human Rights, Raising the Bar: Leading Sustainable Business in 2008, Annual National Conference of the Australian Centre for Corporate Social Responsibility, Sydney, 20 February 2008.

Criminal Record Discrimination and Aged Care, Gilbert & Tobin forum on criminal record and aged care, Sydney, 26 February 2008.

Human Rights, Governance and Decision Making, Forum of Commonwealth Agencies in NSW 2008 Government Business Conference, Sydney, 7 March 2008.

Launch of Multicultural Mental Health Australia brochures and fact sheets, Diversity in Health Conference, Sydney, 10 March 2008.

Human Rights Issues for Young Refugees and Asylum Seekers, Diversity in Health Conference, Sydney, 11 March 2008.

Can Rights Solve the Issue of Homelessness?, Launch of the February 2008 'To Make a Difference: Human Rights and Homelessness' Special Edition of Parity, Melbourne, 14 March 2008.

Human Rights: Universal and Inalienable, Annual State Youth Conference of the United Nations Youth Association of NSW, Collaroy Beach, NSW, 29 March 2008.

Addressing Human Rights Concerns and Fostering Greater Understanding and Protection of Human Rights in Australia, Human Rights Law and Policy Conference 2008: Shaping the National Stage for a New Era of Rights, Melbourne, 16 June 2008.

Queer Rights at Work, Queer Rights at Work Conference, Brisbane, 20 June 2008.



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The national charter of rights roundtable in June 2008 brought together 40 of the leading organisations and individuals that favour a charter of rights in Australia. See 8.2.3

Chapter 9

Race Discrimination

9.1 STATEMENT FROM THE COMMISSIONER

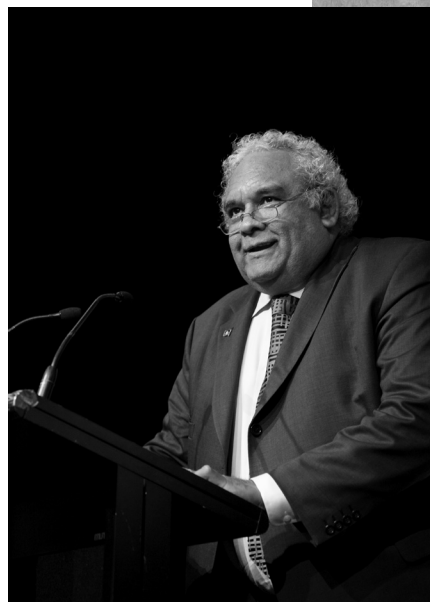
This report covers my fourth year as the Acting Race Discrimination Commissioner at HREOC, a position I occupy in addition to my position as the Aboriginal and Torres Strait Islander Social Justice Commissioner. During the period on which I report, Australia elected a new government, ending almost 12 years of a coalition government.

In the second half of 2007, up to the caretaker period before the Federal Election, I put on the public record my discontent with the way in which the then government was treating a number of minority groups in Australia.

It was indeed a low point, but one that was indicative of an increasingly accepted and politically licensed practice in which the race card was played to garner political support from segments of the community. It was such a practice that led to Arabic speaking people being subjected to the proposal for a different questioning regime when seeking permanent visas.

Then there was the Dr Haneef affair, which revealed a government's haste to capitalise on people's fears and insecurities. Not long after this episode, the government proposed that the intake number of African refugees would be cut under our humanitarian program on the basis that they apparently found it too difficult to 'integrate'. Finally, the nadir was reached when the government moved to suspend the Racial Discrimination Act in order to pave the way for a raft of legislation referred to as the 'Northern Territory Intervention'.

In Australia, we have long accepted that people should not be treated differently on the basis of their race or ethnic origin. Our African communities experience immeasurable hardship when official credence is given to the already existing prejudices against them. The singling out of Muslim Australians in the same way also provoked an outcry from those of us who see this as damaging to our entire community. Indigenous people have also borne the brunt of stereotyping and racist attitudes.



Mr Tom Calma
Race Discrimination Commissioner

As we move forward with a new government, more than ever we have an obligation to ensure that government policy provides a strong and sustainable social framework to fight racism, xenophobia and discrimination, as well as promote social inclusion and community relationships.

In August last year I released *Multiculturalism: A Position Paper by the Acting Race Discrimination Commissioner*, identifying the human rights principles that provide the cornerstone for such a program. As a policy of community harmony, multiculturalism has worked well over the past two decades, replacing the failed policy of assimilation. It was and remains our most successful anti-racism strategy. It needs ongoing support and reinvigoration so that it can meet the new challenges that a culturally diverse society continues to present.

In the coming years we must also address the new challenges of racism by ensuring that our laws provide strong remedies to redress discrimination and promote equality.

To assist in this process I have released the first of a number of background papers entitled *An International Comparison of Racial Discrimination Legislation*. This paper compares the *Racial Discrimination Act 1975* to similar legislation in the United Kingdom, Canada, the United States and the European Union.

Since its enactment in 1975, thousands of individuals and organisations have used the Racial Discrimination Act to address racism, either by making complaints of discrimination, or by negotiating policy changes based on the broader principles of racial equality. The legislation has also made possible important developments in the area of Indigenous land rights, culminating in the recognition of native title in 1993.

While these are important achievements, there is still a long way to go before people from all backgrounds are able to participate fully in the life of our nation. Presently, there is no capacity in the Racial Discrimination Act to promote equality in key institutions such as government agencies or large corporations. In this regard, Australia is trailing behind the UK and Canada which have enshrined a duty to promote equality in government agencies as a statutory requirement. In addition, the evidentiary requirements under the Racial Discrimination Act are proving so onerous that it is difficult for complainants to succeed in an action for unlawful discrimination.

During the year, HREOC has also made significant progress implementing its Community Partnerships for Human Rights Program, which we are pursuing as our National Action Plan-funded initiative. The purpose of this program is to work with Australia's Muslim communities to assist with their connectedness and participation in the social, cultural, economic and political life of the nation, and to help decrease the marginalisation and discrimination Muslim communities, particularly young Muslims, face.

HREOC's approach to this initiative is to be as inclusive and as broad in our areas of action as possible. While we are working to achieve human rights objectives for our fellow Australians of Muslim faith, I hope that our work will benefit other groups who may be able to use the resources or research that are developed. It is also a small contribution to building a wider Australian society that respects human rights and says 'no' to discrimination on the grounds of race or religion.

What has become clear, as our Community Partnerships for Human Rights Program rolls out, is the urgent need for greater and more co-ordinated action by governments in the area of improving community relations. Respect and understanding across cultural, religious and racial divides is essential for Australia's long-term economic

well being and social stability. Any investment in this area will be money and actions well spent. It is with continuing disappointment I note, instead, that HREOC must continue its works in an environment of ever-diminishing financial resources and staff reductions at the very time that modest budget supplementation could offer such significant benefits to the entire nation.

These are just some of the issues that need to be reviewed in order to ensure that the national legal and policy framework designed to fight racism in Australia continues to be responsive to the changing makeup and attitudes of Australian society in the coming years.

9.2 RESEARCH AND POLICY

9.2.1 Multiculturalism position paper

On 17 August 2007, HREOC launched its position paper, *Multiculturalism: A Position Paper by the Acting Race Discrimination Commissioner*. The paper was released at a time when the government was wavering in its commitment to the policy of multiculturalism.

The paper identifies the human rights principles that lie behind the policy of multiculturalism, including the right to racial equality and the right of minority groups to enjoy their culture and religion. It argues that these principles should guide government's social policies and programs.

At the launch of the position paper, HREOC hosted a panel discussion on multiculturalism with the then Shadow Minister of Multicultural Affairs, Urban Development and Consumer Affairs, Laurie Ferguson; Deputy State Director of the DIAC, Mr Jose Alvarez, who spoke on behalf of the Assistant Minister for Immigration and Citizenship, the Honourable Theresa Gambaro MP; Australian Greens Senator for New South Wales, Senator Kerry Nettle; and Professor Duncan Ivison, School of Philosophical and Historical Inquiry, University of Sydney. The speakers brought a range of perspectives to the debate on multiculturalism.

9.2.2 An International Comparison of the Racial Discrimination Act 1975: Background Paper No.1

On 8 April 2008, the Commissioner launched a background paper comparing the Racial Discrimination Act to similar legislation in the UK, Canada, USA and the European Union.

Such a comparison assists in considering whether the Racial Discrimination Act continues to be an effective tool in preventing racial discrimination and promoting racial equality in contemporary Australian society.

The report provides a brief outline of the enactments or codes that regulate race discrimination and vilification in the four jurisdictions. It also identifies in detail the differences and similarities in key areas, such as: standing to commence proceedings; the grounds on which an action for discrimination can be taken; the burden and onus of proving discrimination; provisions on racial vilification; and legislative mechanisms for promoting equality.

9.2.3 Australian Citizenship Test

In 2007-08, HREOC made a number of contributions to the public debate on citizenship. Building on previous submissions made prior to the introduction of the test (see *HREOC Annual Report 2006-07*), HREOC's most recent submission in May 2008 was directed to the operation of the Australian Citizenship Test since its implementation in October 2007. The submission expressed concern at the negative impact that the test was having on refugees and people from non English speaking backgrounds. On 28 May 2008, HREOC attended and contributed to the public consultation being conducted by a government appointed review committee.

9.2.4 Australian Research Council (ARC) Project: Developing Regionally Appropriate Anti-Racism Strategies

HREOC, along with a number of state and territory Equal Opportunity Commissions, is a partner in an ARC Linkage project with the University of New South Wales, which conducts attitudinal studies to understand the types of racist attitudes that exist in various regions of Australia. The Anti-Racism Research Project is headed by Professor Kevin Dunn. HREOC intends utilising the project findings to develop a best practice resource for local governments seeking to develop anti-racism strategies.

9.2.5 National Race Relations Roundtable 2007

A National Race Relations Roundtable meeting was held on 29-30 October 2007 at the Araluen Centre in Alice Springs. The meeting was attended by representatives of state and territory Equal Opportunity Commissions and the New Zealand Human Rights Commission.

The purpose of the annual National Race Relations Roundtable meeting is to provide Commissioners with an opportunity to share strategic dialogue on race relations matters and develop collaborative human rights leadership. Roundtable meetings are held annually and chaired by the Race Discrimination Commissioner.

The October 2007 meeting focused on the status and delivery of the Northern Territory Intervention. Ms Olga Havnen, Coordinator of the Combined Aboriginal Organisation, provided an Aboriginal perspective on the intervention. Mr Jonathan Nicholl, Head of Task Force, reported on the work of the National Indigenous Violence and Child Abuse Intelligence Task Force. Commissioners met with the Board Members of the Tangentyere Council and visited local town camps during their visit to Alice Springs.

In addition, the meeting discussed issues of common concern for many of the Commissioners attending, including racism in the media and racism in employment.

9.3 EDUCATION AND PROMOTION

9.3.1 International Metropolis Conference 2007

The International Metropolis Conference took place in Melbourne on 8-11 October 2007. The Metropolis Conference is an international gathering of community organisations, government agencies and academics to discuss research, policy and practice on migration, diversity, economic growth and social cohesion.

Representatives of the Commissioner contributed to the planning and delivery of two workshops:

- *Efficacy in Racism Policy: A Comparative Analysis of Practice*, which compared mechanisms for addressing racism in Australia, Canada and the USA.
- *Communicating Hope and Fear: Media, Cultural Discourses and the Alien Presence*, which explored a range of media issues in culturally diverse communities, during which HREOC presented on the issue of human rights and cyber-racism.

9.3.2 The Second International Conference on Racism in the New World Order

HREOC and the Gold Coast University co-hosted the Second International Conference on Racism in the New World Order from 6-7 December 2007 on the Gold Coast. Representatives of the Commissioner gave a plenary session presentation about HREOC's complaint process and presented a workshop on the future of multiculturalism.

9.3.3 National Conference on Racism in a Global Context – Murdoch University

On 10 November 2007, HREOC co-hosted the National Conference on Racism in a Global Context with Murdoch University WA. The conference brought together international academics and researchers, local and national government representatives, NGOs, Indigenous leaders, and groups and individuals from the community. The conference explored the experiences and effects of racism with particular focus on Indigenous and African communities issues. A representative of the Commissioner presented a keynote speech entitled *The Global Context for Racism in Australia*, which outlined how the international discourse on terrorism is fuelling and intensifying a racial divide in Australia.

9.4 INTERNATIONAL ACTIVITIES

9.4.1 Australia's Report to the Committee on the Elimination of Racial Discrimination

In April 2008, HREOC provided comments and additional material to the Department of Foreign Affairs and Trade in relation to the draft of Australia's Report to the Committee on the Elimination of Racial Discrimination. The Department will send its updated draft report to HREOC for further consideration in the near future. Australia's report must be provided to the Committee by 30 October 2008.

9.4.2 Gay McDougall: The Fight Against Racism and for the Rights of Minorities in the 21st Century

On 8 April 2008, HREOC and Amnesty International co-hosted the Sydney Centre for International Law and the Sydney Democracy Forum, a seminar by Dr Gay McDougall, the UN Independent Expert on Minority Rights and Chairperson of the Coordinating Committee of UN Human Rights Special Procedures. Dr McDougall's presentation was entitled *The Fight Against Racism and for the Rights of Minorities in the 21st Century*.



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Dr Gay McDougall spoke and answered questions at an evening seminar at HREOC in April 2008

9.5 COMMUNITY PARTNERSHIPS FOR HUMAN RIGHTS PROGRAM

In 2005, the 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 state and territory based Muslim communities and other faith and community leaders.

Building on HREOC's substantial body of work in this area (such as *Ismağ*, Unlocking Doors and Living Spirit projects, referred to in earlier Annual Reports), HREOC received funding from the Australian Government's four-year initiative to implement the National Action Plan (NAP) to Build on Social Cohesion, Harmony and Security.

As a result, HREOC established a new Education and Partnerships Section as part of the Race Discrimination Unit in early 2007. The role of the section is to implement HREOC's NAP activity in line with HREOC's functions through the Community Partnerships for Human Rights Program.

9.5.1 Program projects

HREOC, while broadly interpreting the NAP and its role under this program, has a particular focus on two areas. These are working with young Muslim Australians, and addressing issues related to law enforcement and the administration of justice.

In its work with young Muslim Australians, HREOC is developing education strategies and resources associated with civic responsibility, discrimination, human rights and responsibilities and education aimed at young people. It is also exploring the arts and culture, as a means of positive engagement, and conducting research relevant to issues relating to Muslim youth. HREOC is also working 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 is currently working on a wide range of innovative projects to implement these initiatives and help build community capacity and social inclusion. The *Community Partnerships for Human Rights Program*, working with and for Muslim communities, is working in a total of ten action areas, some of which have multiple sub-projects, including comprehensive evaluation processes and a community engagement strategy. A summary of those projects that had commenced by the end of June 2008 are given below. Up-to-date information about the projects can be read at www.humanrights.gov.au/partnerships/projects.html

- *Adult English as a Second Language (ESL) Teachers' Human Rights Curriculum Resources for New Arrivals:* In partnership with Adult Multicultural Education Victoria, this project will develop a new set of education resources to be used by ESL teachers who teach English to non-English speakers. The resources are about human rights and discrimination of all types and how Australian laws protect people. The materials also address where and how a complaint can be made if discrimination or vilification occurs.
- *Community Language Schools Human Rights Curriculum Resource and Campaign Project:* This project is another education-oriented project in which HREOC is partnering with Australia's peak national body for community language schools, the Community Languages Australia. The project is developing classroom material about discrimination, human rights and cross-cultural respect.
- *Community Policing Partnership Project: To Build Social Cohesion and Harmony with Australian Muslim Communities:* This program is building partnerships between police and Muslim communities across Australia. It focuses 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. In April 2008, the Race Discrimination Commissioner announced the first 19 community/police partnerships across Australia.
- *Freedom of Religion and Belief in the 21st Century Project:* For this project, HREOC is partnering with the Australian Multicultural Foundation in association with RMIT University and Monash University to prepare a report. This team will also consult with a range of organisations including the Australian Partnership of Religious Organisations. The objective of the project is to renew the 1998 HREOC *Report on Freedom of Religion and Belief*.

- *Arts Initiative with Muslim Australians:* The purpose of this initiative is to explore the arts and community cultural development as a safe and constructive environment for self-expression and inclusion. Delivered as a national partnership with the Australia Council for the Arts over three years, HREOC is working with various organisations across Australia in different settings and in different media.
- *African Australians: Their Human Rights and Social Inclusion:* As one of the most visible and recently arrived settlement waves in Australia, Africans face a range of direct and indirect discrimination. This project is the first national assessment of the issues faced by African communities from a human rights perspective. The project is being co-funded by partner agencies and has a particular focus on vulnerable sub-groups such as Muslim Africans, women and youth.
- *Intersections between the Law, Religion and Human Rights: A Roundtable between Judicial Officers, Academics, Religious and Community Leaders:* This project brings together community representatives, members of the judiciary and their professional bodies to examine religious and cultural accommodation in the Australian justice system. It has a particular focus on issues faced by Muslim Australians.

HREOC is also using the opportunities provided by 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. HREOC is contributing to policy development and to international reports on these issues.



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Filming for an ESL Education resource, for which HREOC partnered with Adult Multicultural Education Victoria

9.6 LEGISLATIVE DEVELOPMENT

The Race Discrimination Unit also contributes to legislative development, including 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.

9.7 SPEECHES

A selection of public addresses made by the Race Discrimination Commissioner during 2007-08 is listed below. Speeches can also be accessed on the HREOC website at www.humanrights.gov.au/about/media/speeches/race/index.html

Multiculturalism, a Measure of Justice, Federation of Ethnic Communities' Council of Australia National Congress, Hobart, 30 July 2007.

Keynote speech, delivered by Conrad Gershevitch, Director of the Education and Partnerships Section, on behalf of the Commissioner, Shaping the Future: Third Regional Multicultural Conference, Mount Gambier, SA, 21 September 2007.

Addressing Racism in Australia, delivered by Margaret Donaldson, Director of the Race Discrimination Unit, on behalf of the Commissioner, International Metropolis Conference, Melbourne, 11 October 2007.

Unlocking Doors Project, International Counter-terrorism conference, Melbourne, 16 October 2007.

Racism in a Global Context, delivered by Margaret Donaldson, Director of the Race Discrimination Unit, on behalf of the Commissioner, National Conference on Racism, Murdoch University, Perth, 9 November 2007.

Reflection on the 1967 Referendum and the Commissioner's Multiculturalism Position Paper, Ethnic Communities Council of Victoria Annual General Meeting, Melbourne, 27 November 2007.

Diversity in Health Conference, delivered by Graeme Innes, Disability Discrimination Commissioner on behalf of the Commissioner, Multi-Lingual Mental Health Brochures and Fact Sheets launch, Sydney, 10 March 2008.

Indigenous Rights and the Debate Over a Charter of Rights in Australia, Human Rights Law Resource Centre Annual Human Rights Dinner, Melbourne, 4 April 2008.

Keynote speech, Social Inclusion for New and Emerging Communities Conference, Adelaide, 26 June 2008.

Chapter 10

Sex and Age Discrimination

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Ms Elizabeth Broderick
Sex Discrimination
Commissioner and
Commissioner responsible
for Age Discrimination



10.1 STATEMENT FROM THE COMMISSIONER

In September 2007, I joined HREOC as the federal Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination. I am honoured to have taken up this appointment.

My first major initiative as Sex Discrimination Commissioner has been to conduct a nationwide Listening Tour. Commencing immediately after the Federal Election, I travelled the length and breadth of Australia, from Launceston to Arnhem Land, the Kimberley region to our nation's capital, Canberra.

My Listening Tour was designed to find out where we are 'at' in our pursuit of gender equality and where HREOC should focus its efforts in the future. During the tour, I personally met over 1000 Australians from all walks of life. Many more members of the public had their say on our Listening Tour on-line blog, with many thousands more following our journey on the internet.

I can report – without reservation – that in 2008, gender inequality remains an everyday lived experience for women and men in Australia. The experiences shared with me provide a powerful human dimension to the statistics that come across my desk every day. The Listening Tour has been an essential part of the setting of my agenda for my term as Commissioner. The findings from the Listening Tour, together with my Plan of Action for Gender Equality, will be reported shortly after the end of this reporting period.

This year, HREOC has once again been a strong advocate for the introduction of a national scheme of paid leave for parents, including paid maternity leave. I have built on the work of my predecessors to prepare a major submission to the Productivity Commission, setting out a two staged proposal for a world class paid leave scheme for parents. Participants in my Listening Tour consistently identified paid maternity leave as a national priority, as well as paid leave for the supporting parent.

If there is one thing that will progress gender equality in our country, it is to support parents to share the paid and unpaid work of caring for children and other loved ones across the life cycle. Paid leave for new parents is an essential part of achieving this goal.

Improving the ability of people with caring responsibilities to obtain flexible work arrangements for both women and men is another component of a gender equality agenda. I have therefore proposed ways to strengthen the new *National Employment Standard on the Right to Request Flexible Work Arrangements*. I am particularly keen to see the right to request extended leave to cover all people with family and caring responsibilities, as well as people with disability. Caring is a part of our lives for the duration. Right now, unpaid caring roles continue to be primarily filled by women. Greater flexibility in paid work for both men and women will enable a better balance in the sharing of care for our families, for our loved ones, and the community as a whole.

Age discrimination remains a major systemic problem in Australian workplaces. As Commissioner responsible for Age Discrimination, I have continued to highlight the importance of adequate legal protection for people who experience discrimination. It is also vitally important that employers foster a culture that values people for their skills and abilities, rather than on myths linked to a person's age.

This year, I am very pleased to have launched a public awareness campaign, *Mature Workers Mean Business*, which is aimed at addressing some of the myths about mature age workers. In a time of skills shortages, it only makes good business sense to support the recruitment and retention of good staff, irrespective of age, and to eradicate discrimination that continues to occur. The campaign also aims to ensure that all people are treated with the dignity and respect to which they are entitled.

I have also continued to call for changes to the Age Discrimination Act which will improve the effectiveness of the law in addressing discrimination in the workplace.

I look forward to building on this work and progressing my equality agenda.

10.2 RESEARCH AND POLICY

10.2.1 Listening Tour

The Sex Discrimination Commissioner's Listening Tour commenced in November 2007. The aim of the tour was to hear directly from people around the country about their experiences of equality between women and men in contemporary Australia. The Tour addressed three key themes:

- Economic independence for women;
- Balancing work and family across the life cycle; and
- Freedom from discrimination, harassment and violence.

The guiding principles of the Listening Tour were participation, inclusion and diversity. The Listening Tour involved visits to all states and territories, including urban, regional and remote settings, as well as an on-line Listening Tour Diary and blog. The tour

included general public consultations, women’s and men’s focus groups from specific industries, business and academic roundtables, and consultations with unions, non-government organisations and government ministers and agencies. The tour was designed to reach diverse groups including women with disabilities, Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, women of diverse sexualities and workers from low paid occupations and industries.

The tour also ensured that both men and women were able to participate and contribute.

The Commissioner held over 100 events, met with over 1 000 people and received on-line blog postings from 128 people, with 39 612 viewers reading the Commissioner’s Listening Tour Diary. There were 66 826 hits on the Listening Tour website during the tour. The findings from the Listening Tour will be published early in July 2008 together with the Commissioner’s new Plan of Action for Gender Equality.

10.2.2 It’s About Time: Women, Men, Work and Family Final Paper

HREOC’s *It’s About Time: Women, Men, Work and Family* Final Paper was launched and disseminated in March 2007. During the reporting period, HREOC has monitored the paper’s 45 recommendations regarding legislative, policy and program changes that aim to improve the ability of women and men to better share paid and unpaid work across the life cycle. A number of those recommendations are now being reflected in government action at the federal level, including: a focus on early childhood education; making work and family balance a policy priority through the new Federal Office of Work and Family; the establishment of the House of Representatives Inquiry into equal opportunities for women in the workforce; and the Productivity Commission’s *Inquiry into Paid Maternity Leave, Paternity Leave and Parental Leave*.

The Commissioner will also be addressing a number of the recommendations from *It’s About Time* as part of her new Plan of Action for Gender Equality.



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The Listening Tour visited all states and territories, including urban, regional and remote areas

10.2.3 A National Paid Leave Scheme for Parents

HREOC has continued to advocate for the establishment of a national scheme of paid leave for parents, including paid maternity leave. This year, the federal government announced the Productivity Commission's *Inquiry into Paid Maternity Leave, Paternity Leave and Parental Leave*. HREOC made an extensive written submission to the Inquiry, drawing on HREOC's previous work in promoting the need for a national paid maternity leave scheme. HREOC has been involved in a number of collaborative events with business, unions and women's organisations to promote the need for a national scheme.

HREOC proposes a two-staged approach to introduction of a world class scheme of paid leave for parents. Stage One would provide 14 weeks of federally-funded paid maternity leave, and two weeks of supporting parent leave, to be implemented immediately. This first stage would be reviewed within two years against key objectives of the scheme. The two year review would be carried out with a view to extending entitlements to achieve a full year of paid parental leave, of which the first 14 weeks are paid maternity leave and four of the remaining weeks are reserved for the supporting parent. HREOC's submission recognises paid maternity leave as a basic human right for working mothers. It also recognises the entitlement of fathers and other supporting parents to have paid leave to share the care of babies in the crucial first year of their lives.

Australia is one of only two remaining OECD countries that does not have paid maternity leave, and has been consistently criticised by international human rights bodies for not providing this minimum gender equality entitlement.

10.2.4 National Employment Standards

Building on the work of the *It's About Time* Final Paper, HREOC prepared a detailed submission to the Federal Government's *Discussion Paper on the New Proposed National Employment Standards*. The submission recommended that the right to request *Flexible Work Arrangements Standard* be extended to apply to workers with all forms of family and caring responsibilities and to employees with a disability. The submission also proposed that the *Flexible Working Arrangements Standard* provide for a dispute settlement mechanism which would allow an employee to refer unresolved disputes to Fair Work Australia, or some other form of conciliatory body, for procedural review.

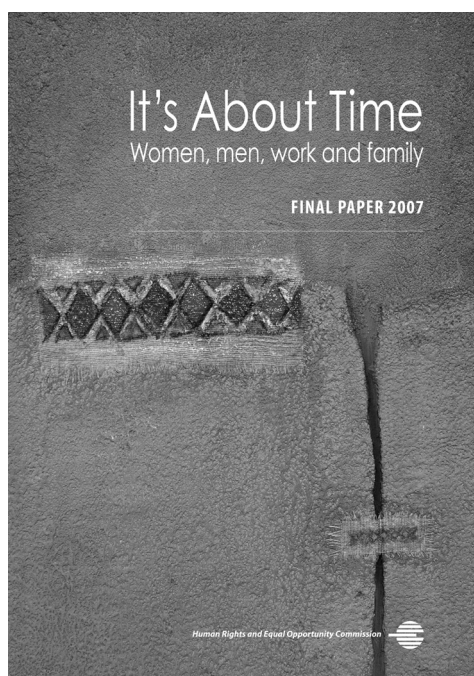
10.2.5 Trafficking in Women

HREOC 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. HREOC has been involved in making recommendations for improvement to the visa arrangements and support services available for people who may have been trafficked into Australia. These recommendations also call for processes that would allow people to pursue compensation in appropriate cases. HREOC remains committed to advocating for a human rights-based approach to the support provided to women who have been trafficked into Australia for labour purposes.

10.2.6 ARC linkage project: Parental Leave in Australia: Access, Utilisation and Efficacy

HREOC is an industry partner to the ARC Linkage project, *Parental Leave in Australia: Access, Utilisation and Efficacy*. The project aims to provide benchmark information about: access to, and utilisation of, parental leave in Australia; identification of parents' preferences and unmet needs; and the assessment of broader implications for gender equality. Lead researchers are Dr Gillian Whitehouse and Dr Marian Baird.

The project was completed during the reporting period. HREOC will be participating in a major event towards the end of 2008 as part of disseminating the findings of the research both domestically and internationally.



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A number of recommendations from the *It's About Time: Women, Men, Work and Family* Final Paper are being reflected in government action at the federal level. See 10.2.2

10.2.7 ARC linkage project: Trends in Time: Work, Family and Social Policy in Australia 1992-2006

HREOC has agreed to be an industry partner in this new three year project which will investigate trends in work and family time. The project draws upon the *2006 Australian Bureau of Statistics Time Use Survey*. The Chief Investigator is Dr Lyn Craig from the Social Policy Research Centre at the University of NSW. HREOC's Women, Men, Work and Family project, culminating in the *It's About Time* Final Paper, drew extensively on time use data and Dr Craig's work in particular. Other project partners are the Department of Family, Housing, Community Services and Indigenous Affairs and the Australian Bureau of Statistics.

10.2.8 ARC linkage project: 'Impact of Parents' Employment on Children's Well-being: The Influence of Employment Quality, Time and Activities with Children, and Parenting Practices

During the reporting period, HREOC was an industry partner to the ARC linkage project *'Impact of Parents' Employment on Children's Well-being: The Influence of Employment Quality, Time and Activities with Children, and Parenting Practices*. HREOC provided in kind support to the project. Lead investigators were Dr Michael Bittman, Dr Jan Nicholson and Dr Lyndall Strazdins. Other industry partners were the Queensland Commission for Children and Young People, the Queensland Office for Women and the NSW Commission for Children and Young People. The project was completed in September 2007.

10.2.9 ARC linkage project: Australia's Response to Trafficking in Women: Towards a Model for Regulation of Forced Migration in the Asia Pacific Region

HREOC is an industry partner in this research project, designed to evaluate Australia's response to the trafficking of persons, particularly women and children, from the perspective of criminal justice, international human rights law and migration law. Lead investigators are Professor Bernadette McSherry, Associate Professor Susan Kneebone and Dr Julie Debeljak. Other industry partners include the federal Attorney-General's Department and World Vision Australia.

In 2007-2008, the researchers continued to collect and summarise materials for a monograph entitled *Australia's Legal and Policy Response to Human Trafficking in Australia*. The purpose of this book is to explain the legal and policy responses of the Australian Government to the issue of trafficking in Australia, including exploitation for sexual services and for labour. The research team have also continued to create networks and to gather and impart information by taking part in a number of roundtables, as well as presenting research findings at national and international conferences.

10.3 EDUCATION AND PROMOTION

10.3.1 Indigenous Women's Business Gathering

On 10 December 2007, the Commissioner hosted an Indigenous Women's Business Gathering. The Gathering brought together a small group of Indigenous women leaders and corporate sector women leaders. The gathering discussed opportunities for the development of business and community programs and for relationship-building across other sectors. Following the meeting, participants were guests at the HREOC Annual Human Rights Awards Lunch. The gathering fed into the broader consultations with Aboriginal and Torres Strait Islander women as part of the Commissioner's Listening Tour.

10.3.2 e-Festival of Ideas: Reworking Feminism: What Does Gender Equality Mean in the 21st Century

In April 2008, the Commissioner participated in the e-Festival of Ideas to promote discussions among young women and men about the meaning of gender equality in contemporary Australia. The e-Festival is a yearly event presented by Vibe-wire Inc, a non-profit youth media organisation. Participation is at the heart of human rights and this innovative event encouraged young people to have their say to help shape the gender equality agenda for Australia.

10.4 AGE DISCRIMINATION

The HREOC *All About Age Discrimination* brochure was updated this year to provide comprehensive information about people's rights and responsibilities under the *Age Discrimination Act 2004* (Cth).

In April 2008, HREOC participated in the Productive Ageing Forum, Counting on Experience: Preparing for an Ageing Workforce, together with: Unions NSW; the NSW Business Chamber; the Department of Education, Employment and Workplace Relations and relevant service providers; the National Employment Services Association; and the National Council of Social Services. The forum was attended by members of National Seniors as well as several researchers, practitioners and individuals with an interest in mature age workers.

One of the key messages to come out of the forum was the need to stress that ageing is not just about aged care. The forum also highlighted the need for key stakeholders to work together in raising the profile of ageing and age discrimination in the community debate and in political circles in order to bring about policy change.

10.4.1 Mature Workers Mean Business public awareness campaign

As one of the recommendations arising out of social research commissioned by HREOC, a print media and web-based campaign was developed during the reporting period to promote the benefits of employing mature age workers. The *Mature Workers Mean Business* campaign includes positive case studies from mature age workers and their employers and addresses a range of myths and stereotypes regarding older workers. The campaign also highlights the relevance of age discrimination protections in the workplace. The campaign will be launched in the next reporting period.



MATURE WORKERS MEAN BUSINESS

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A print, media and web-based campaign was developed during the reporting period to promote the benefits of employing mature age workers

10.5 INTERNATIONAL ACTIVITIES

10.5.1 Human Rights Technical Cooperation Program

HREOC participated in China-Australia Human Rights Technical Cooperation Program's Domestic Violence Workshop in Shenyang, China, in July 2008.

HREOC also met with delegations from the Iraqi and South Korean Human Rights Commissions to brief them about its work in sex and age discrimination.

10.5.2 UN Commission on the Status of Women

As part of the Australian delegation, the Commissioner and Director of the Sex and Age Discrimination Unit attended the first week of the UN Commission on the Status of Women (CSW) in New York City, from 25-29 February 2008. The experience was an excellent opportunity to build networks with other countries that are working on similar policy concerns and to share innovative strategies for addressing gender-based discrimination.

Following CSW, HREOC participated with representatives from the Australian Government and non-government delegations in a meeting which identified ways to improve Australia's engagement with CSW in future years.

10.5.3 Pacific Conference on Strategies for Promoting Human Rights in the Pacific

From 27-29 April 2008, representatives from HREOC attended the Pacific Conference on Strategies for Promoting Human Rights in the Pacific. Discussions were held regarding the promotion of regional human rights mechanisms and the development of links with Pacific women's networks to further develop opportunities for supporting leadership opportunities in the regional human rights process for Australian women in the Pacific Region.

10.6 EXEMPTIONS UNDER THE SEX AND AGE DISCRIMINATION ACTS

10.6.1 Griffith City Council

Griffith City Council, trading as Griffith Regional Aquatic Leisure Centre, applied for a temporary exemption pursuant to section 44(1) of the Sex Discrimination Act. The centre's proposal was to restrict access to its gymnasium and swimming pool to women only for regular, two and a half hour sessions outside of its ordinary operating hours.

HREOC rejected the application on the basis that the proposal constituted a special measure intended to achieve substantive equality between men and women, in accordance with section 7D(1)(a) of the Act. As such, no exemption is required to conduct the regular 'women only' session at the Leisure Centre.

HREOC accepted the Applicant's submission that a purpose of its proposal was to provide women of certain religious and ethnic backgrounds the opportunity to access fitness facilities that they would otherwise be unable to use. This satisfies the requirement of section 7D(3) that the purported special measure be for the purpose of achieving equality between men and women, whether or not that purpose is the dominant or substantial one.

10.6.2 University of Western Sydney

The University of Western Sydney (UWS) applied for a temporary exemption under section 44 (1) of the *Age Discrimination Act 2004* (Cth) to enable it to offer three 'end of career transitioning schemes' to permanent academic staff. The schemes included an early retirement scheme available to people between 54 and 65 years, a pre-retirement scheme for people 65 years and over and a reduction of full-time hours to part-time hours for people 54 years and over.

HREOC rejected the application on the basis that the schemes constituted positive discrimination under section 33 of the Act. HREOC considered that the schemes would provide a bona fide benefit to older academic staff. Specifically: staff who participate in the EVRS would be eligible for tax concessions; staff who participate in the pre-retirement contract scheme would be eligible for compensatory salary loading; and staff who participate in the reduction of full-time hours scheme would be able to contribute to their superannuation as a full-time employee with UWS contributing at a full-time employer rate. The Schemes would meet an age related need. Voluntary participation in the proposed schemes would assist older workers in making the transition from work to retirement thereby recognising the particular age-related needs of such workers.

10.7 LEGISLATIVE DEVELOPMENT

The Sex and Age Discrimination Unit contributes to legislative developments by making written and oral submissions to parliamentary and other inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.



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The Commissioner with two staff members at the Fitzroy Crossing Community Consultation of the Listening Tour

10.8 SPEECHES

Commissioner Broderick was involved in approximately 220 meetings and made over 50 speeches during 2007-08. A selection of these can be accessed on HREOC's website at www.humanrights.gov.au/speeches/sex_discrim/index.html

The following speeches were made by Commissioner Broderick during the reporting period:

Listening Tour – Engagement with Indigenous Women and Communities, Indigenous Family Violence Prevention Legal Services National Conference, Coffs Harbour, NSW, 23 October 2007.

The Listening Tour, Community Consultations, various in all states and territories.

Kids Count – Better Early Childhood Education and Care in Australia, Book launch, Sydney, 12 November 2007.

A Vision for the Role of Sex Discrimination Commissioner, Diversity Council Australia's 2007 Annual Conference on Diversity, Melbourne, 22 November 2007.

Women Supporting Women, DLA Phillips Fox: Senior Women in Government discussion forum, Canberra, 30 January 2008.

Work and Family Balance in 2008 – Community Voices, NSW EEO Practitioner's Association Meeting, Sydney, 13 February 2008.

Gender Equality – Let's Not Let It Become a Lost Australian Dream, APS International Women's Day event Melbourne, 7 March 2008.

Sex Discrimination and Paid Maternity Leave Developments, National Personnel and Industrial Relations Group Conference, Canberra, 5 May 2008.

Creating Fairness and Equality in the Workplace: The Role of HREOC 2008 and Beyond, 2nd Australian workplace relations Conference, Sydney, 12 May 2008.

The Listening Tour – What We Heard, National Aboriginal And Torres Strait Islander Women's Gathering, Hobart, 23 May 2008.

Flexible Working Practices in the Law, The NSW Law Society/NSW Women Lawyers Network Work2Suit Forum, Sydney, 5 June 2008.

Women's Achievements: Untold Stories, Black and White Women of Achievement Lunch, Sydney, 17 June 2008.

Best Practice in Workplace Culture for the Attraction and Retention of Women, NSW Public Sector Senior Women's Network Seminar, Sydney, 24 June 2008.

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 2007-08, 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, access to legal aid 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 the annual meetings of the dialogue.

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 2007-08 HRTC Program are given below.

- In July 2007, a Domestic Violence Workshop was held in Shenyang, Liaoning Province. The workshop was conducted in cooperation with the All China Women's Federation but also involved other relevant Chinese agencies, such as the public security bureaus. The main focus of the workshop was on developing coordinated inter-agency responses to supporting victims of domestic violence.
- In October 2007, a Model United Nations was held in Harbin, Heilongjiang Province, in cooperation with the United Nations Association of China. This activity simulated the proceedings of the United Nations Human Rights Council in the debate and adoption of resolutions on selected human rights issues.
- In November 2007, a delegation from the National Population and Family Planning Commission visited New South Wales and South Australia to study measures for protecting and promoting human rights in the delivery of family planning and reproductive health services.
- In November 2007, a delegation from the Penitentiary Administration Department of the Ministry of Public Security visited Western Australia. During their visit they examined Australian laws and policies for protecting and promoting the rights of detainees.
- In November 2007, a Women's Labour Rights Workshop was held in Fuzhou, Fujian Province. The workshop was held in cooperation with the All China Women's Federation, and examined mechanisms for protecting the rights of female workers and promoting a discrimination free workplace for women.
- In January 2008, a Training Workshop for Migrant Workers' Lawyers was held in Beijing, in cooperation with the Beijing Legal Aid Organisation for Rural Migrants. Participants discussed methodologies for providing effective legal aid services to rural migrants.

- In February 2008, a delegation from the Supreme People's Court visited New South Wales to examine measures for protecting and promoting the rights of victims of crime.
- In February 2008, an official from the Ministry of Foreign Affairs arrived in Australia to undertake postgraduate studies in human rights at the University of Melbourne.
- In April 2008, a delegation from the Supreme People's Procuratorate visited New South Wales to study laws and policies for combating corruption and encouraging ethical conduct in the public sector.
- In April 2008, a Seminar on Judicial Mediation was held in Kunming, Yunnan Province. The seminar was conducted with the National Judges' College of China, and was aimed at supporting reforms to develop specialist mediation units within Chinese courts.
- In April 2008, a Seminar on Government Support for Non-Profit Organisations was held in Beijing. The seminar, which was conducted with the Ministry of Civil Affairs, discussed ways governments can encourage an active role for civil society organisations.
- In May 2008, a delegation from the Beijing Legal Aid Organisation for Rural Migrants visited Australia. During their visit they met a range of Australian organisations working in the provision of legal services for disadvantaged members of the community.
- In May 2008, a Seminar on Victims of Crime was held in Qingdao, Shandong Province. The seminar was conducted in cooperation with the Supreme People's Court. Participants discussed victims' compensation schemes and other support services for victims of crime.
- In May 2008, an Anti-Corruption Seminar was held in Tianjin Municipality, in cooperation with the Supreme People's Procuratorate. The seminar examined measures applied in both China and Australia to combat corruption, focusing particularly on the link between corruption and human rights.

11.2 VIETNAM-AUSTRALIA HUMAN RIGHTS TECHNICAL COOPERATION PROGRAM

HREOC also participates in the Vietnam-Australia Dialogue on International Organisations and Legal Issues, including Human Rights.

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 2007-08 included the following:

- In July 2007, a Seminar on Access to Justice was held in Ho Chi Minh City, in cooperation with the Supreme People's Court. The seminar was attended by judges and staff from district courts in the southern provinces of Vietnam. Participants examined measures for enhancing access to justice and protection of human rights in the judicial system.

- In July 2007, a Seminar on Access to Justice was held in Hanoi. This activity was similar to the abovementioned seminar in Ho Chi Min City, but with participants from the northern provinces.
- In August 2007, a Seminar on Vietnam and International Human Rights Treaties was held in Ho Chi Minh City, in cooperation with the Ministry of Foreign Affairs. The seminar aimed to assist officials become familiar with Vietnam's obligations under international human rights treaties, and domestic laws and policies to give effect to those treaties.
- In August 2007, a series of four women's rights training sessions were held in the provinces of Hung Yen and Nam Dinh. The training was conducted in cooperation with the Vietnam Women's Union and attended by staff from district and commune level women's unions.
- In August 2007, a Seminar on Dissemination of Legal Information was held in Ho Chi Minh City, in cooperation with the Ministry of Justice. The seminar provided capacity building for government officials in their work of informing citizens about their rights under Vietnamese law.
- In December 2007, the Vietnam Women's Union completed a series of 48 'Women's Rights Legal Talk Shows', which were presented in twelve target communes in Hung Yen and Nam Dinh Provinces. The presentations were attended by approximately 3 000 women.
- In January 2008, the Vietnam Women's Union completed a series of Women's Rights Legal Consultations, The consultations were held in twelve target communes in Hung Yen and Nam Dinh Provinces.
- In February 2008, the Vietnam Women's Union completed publication of a series of women's rights newsletters and legal bulletins. The materials were published in three editions over a period of six months, and distributed to approximately 12 000 households in Hung Yen and Nam Dinh Provinces.
- In June 2008, the Ministry of Justice completed the publication of 4 000 copies of a 'legal booklet', to be used as a resource by government officials in their work of informing citizens about their legal rights. The activity also involved translation of the booklet into three languages: H'Mong, Bahna and Kho'me.

The first phase of the HRTC Program was completed in June 2008. In January 2008, HREOC participated in a Program Design Mission to Vietnam, for consultations with Vietnamese authorities that produced the design of the second phase of the technical cooperation program. Pending formal approval, implementation of the program is expected to commence later in 2008.

11.3 ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

The Asia Pacific Forum of National Human Rights Institutions (APF) was established in 1996 and its secretariat was hosted by HREOC until the APF became a separate and incorporated entity in 2002.

The Australian Government, through the Minister for Foreign Affairs and Trade, and AusAID has provided financial support for the APF since its establishment. The APF also receives contributions from its member institutions and grants from governments, the United Nations, foundations and other non-government organisations.

The APF is the leading regional human rights organisation in the Asia Pacific. It is a member-based organisation that supports the establishment and strengthening of independent human rights institutions in the region. The APF provides practical support to its members to assist them in their role of promoting, monitoring and protecting human rights. It also provides specialist advice to governments and civil society groups. The APF currently has seventeen member institutions drawn from all parts of the Asia Pacific.

During the reporting period, HREOC hosted the APF's Twelfth Annual Meeting in Sydney from 24-27 September 2007. HREOC is the Chair of the APF until its next annual meeting which will be hosted by the Human Rights Commission of Malaysia in July 2008.



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HREOC worked with the APF to provide training to the Pacific Disability Forum to help build the capacity of national disability organisations in the Pacific. The training was provided in Samoa

As Chairperson, the President of HREOC, the Hon. John von Doussa, undertook several speaking roles on behalf of the APF, including at the 20th session of the International Coordinating Committee of National Institutions held in Geneva from 14-18 April 2008. In addition Mr von Doussa spoke at the International Conference on Terrorism, Human Security and Development in Hong Kong on 17 October 2007.

HREOC provides a wide range of support to other national human rights institutions under the umbrella of the APF. In November 2007 HREOC was commissioned by the APF to provide two training workshops on human rights investigations to the staff of the National Human Rights Commission of Korea. These workshops were held in Seoul, Korea from 5-7 October and 31 October to 2 November 2007.

HREOC participated in a workshop on the review of the role and functions of the APF's Advisory Council of Jurists that was hosted by the National Human Rights Commission of India and held in Delhi, India from 26-28 February 2008.

HREOC has also been working with the APF to provide training to the Pacific Disability Forum on thematic areas like women with disabilities, the *Convention on the Rights of Persons with Disabilities*, the Pacific Plan and the Biwako Millennium Framework, to help build the capacity of national disability organisations in the Pacific. This training was held in Apia, Samoa from 23-25 April 2008.

HREOC continues to strongly support the APF and has a Memorandum of Understanding with its secretariat which provides for accommodation and corporate services support.

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 2007, HREOC met with a delegation of officers working in immigration and border services from Australia, Canada, the UK and USA, as part of an exchange program sponsored by DIAC.
- In August 2007, HREOC hosted a delegation of Muslim community leaders from Singapore, including representatives of the Islamic Religious Council of Singapore.
- In October 2007, HREOC hosted a visit by a delegation led by the Chief Commissioner of the National Human Rights Commission of Mongolia, Ms Daramjav Solongo.
- In October 2007, HREOC hosted a delegation from the Iraqi Ministry of Human Rights and other relevant agencies as part of the AusAID human rights training program.
- In October 2007, a delegation from the ministry of Law, Justice and Parliamentary Affairs of Bangladesh visited HREOC.
- In December 2007, HREOC hosted a delegation from the Malaysian Human Rights Commission, SUHAKAM.
- In January 2008, HREOC met with Justice Zak Yacoob of the South African Constitutional Court.

- In March 2008, HREOC hosted a further delegation from the Iraqi Ministry of Human Rights and other relevant agencies, also under the AusAID human right training program.
- In March 2008, HREOC hosted eight Chinese lawyers who were in Australia as part of the Attorney-General's *Australia-China Legal Profession Development Program*.
- In April 2008, HREOC hosted a visit by Ms Angela Kerins, Chairperson of the Irish Equality Authority.
- In April 2008, HREOC met with Professor Nguyen Thi Kim Tien, Vice Minister of Health of Vietnam.
- In April 2008, HREOC hosted a visit by Ms Gay McDougall, the UN Independent Expert on Minority Rights and the Chairperson of the Coordinating Committee of UN Human Rights Special Procedures.
- In June 2008, HREOC hosted a delegation of provincial and local government officials from Mindanao, Philippines.



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The Sex Discrimination Commissioner and the President, pictured with a delegation from the ministry of Law, Justice and Parliamentary Affairs of Bangladesh

11.5 INTERNATIONAL CONFERENCES AND MEETINGS

International conferences and meetings HREOC participated in during 2007-08 included:

- Workshop on Economic, Social and Cultural Rights, Yogyakarta, Indonesia, November 2007.
- Meeting of the Expanded Bureau of the International Coordinating Committee of National Human Rights Institutions, Geneva, Switzerland, December 2007.
- 52nd Session of the UN Commission on the Status of Women, New York, United States, February 2008.
- Workshop on the review of the role and functions of the Asia Pacific Forum Advisory Council of Jurists, Delhi, India, February 2008.
- Regional Seminar, Strategies for the Future: Protecting Rights in the Pacific, Apia, Samoa, April 2008.
- National Women with Disabilities Forum, Apia, Samoa, April 2008.
- Twentieth Session of the Annual Meeting of the International Coordinating Committee of National Human Rights Institutions, Geneva, Switzerland, April 2008.
- Beijing Forum on Human Rights, Beijing, China, April 2008.

Appendix 1

International Instruments observed under legislation administered by HREOC

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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 for 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 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 implemented the Convention into Australian law.

Disability Discrimination Act

The Disability Discrimination Act gives effect to the *Discrimination (Employment and Occupation) Convention 1958*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights* so far as they apply to discrimination based on disability. Australia also has obligations under the *Convention on the Rights of Persons with Disabilities*, ratified in 2008. The Disability Discrimination Act provides part of the mechanism for Australia to meet these obligations.

Appendix 2

Commission publications released during 2007-08

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General

About the Human Rights and Equal Opportunity Commission brochure (updated)

Human Rights and Equal Opportunity Commission Annual Report 2006-07 (tabled report)

2007 Human Rights Award and Medals brochure

HREOC 21 Booklet: *Human Rights: everyone, everyday* (2007)

Legal

No. 39 – Report of Complaint by Mr Huong Nguyen and Mr Austin Okoye against the Commonwealth of Australia and GSL (Australia) Pty Ltd (2008)

No. 38 – Report of a Complaint by Mr Frank Ottaviano against the South Australia Police (2008)

Quarterly Human Rights Law Bulletin: providing an update on domestic and international human rights law

Federal Discrimination Law

Complaints

The Complaint Guide brochure (updated)

Work out Your Rights brochure and poster (updated)

'*Get to know your rights*' – poster in community languages (updated)

The Complaint Process brochure – for complaints about sex, race, disability and age discrimination (updated)

The Complaints Process brochure – about human rights breaches under the Human Rights and Equal Opportunity Act (2008)

The Complaint Process brochure – for complaints about discrimination in employment based on religion, criminal record, trade union activity, sexual preference, political opinion and social origin brochure (2008)

HREOC postcards – *Speak up* and *We Listen* (2007)

Pathways to Resolution: The Conciliation process of the Human Rights and Equal Opportunity Commission DVD (updated)

Education

Youth Challenge – Teaching Human Rights and Responsibilities CD/DVD (updated)

Bringing Them Home Education Module CD-Rom (updated)

Bringing Them Home DVD (updated)

Aboriginal and Torres Strait Islander Social Justice

Social Justice Report 2007 (tabled report in 2008)

Native Title Report 2007 (tabled report in 2008)

Social Justice Report 2007 and Native Title Report 2007 Community Guide and CD-Rom

Tackling Family Violence Community Guide (2008)

Bringing Them Home Education Module (2007) updated CD-Rom and DVD

*Us Taken-Away Kids: ‘Commemorating the 10th anniversary of the *Bringing Them Home* report’* magazine (2007)

Human Rights

Summary of Observations following the Inspection of Mainland Immigration Detention Facilities 2007 (2008)

Human Rights Explained Fact Sheets (2008)

Discrimination in employment on the basis of criminal record, Information Brochure for People with a Criminal Record (updated)

Disability Rights

The Good, the Bad and the Ugly: Design and construction for access CD-Rom (updated)

Race Discrimination

What’s the Score? A survey of cultural diversity and racism in Australian sport report (2007)

TRUST poster – police helping reduce hatred in the community (2008)

An International Comparison of the Racial Discrimination Act 1975 publication (2008)

Living Spirit: Report on HREOC’s Muslim Women’s Projects (2008)

Sex Discrimination

Sexual Harassment – A Code of Practice for Employers brochure (updated)

All about Age Discrimination brochure (updated)

Appendix 3

Freedom of Information

The Freedom of Information Act gives the general public legal access to government documents.

Freedom of Information statistics

During 2007-08, HREOC received six initial requests for access to documents under the Freedom of Information Act. HREOC was also asked to conduct an internal review of one of those decisions.

Of the six initial requests for information, five were brought by individuals seeking access to documents relating to themselves.

A total of six applications and one internal review 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 Commission 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

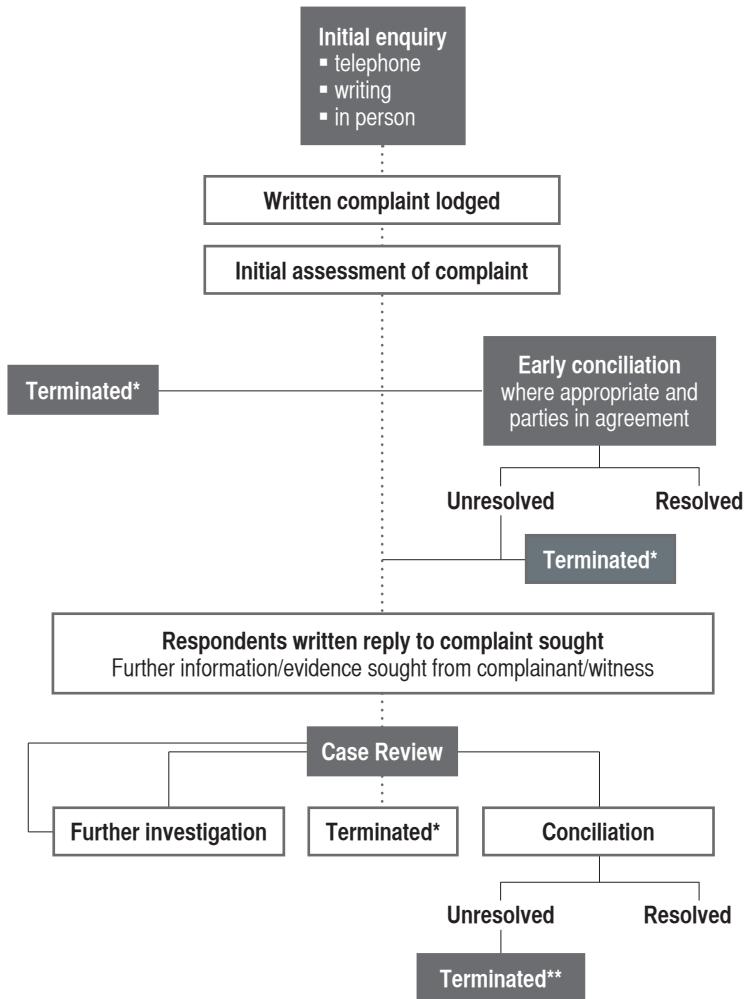
Procedures for dealing with Freedom of Information requests are detailed in section 15 of the Freedom of Information Act. A valid request must:

- 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

Complaint Handling Process

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* When complainants 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

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Performance management and staff development

HREOC reviews staff performance annually through its Performance Management Scheme. The Scheme provides an opportunity to set goals and priorities and assess the level of individual performance and contribution to Unit outcomes.

The Scheme also provides an opportunity to identify and address learning and development needs and to plan effectively for the acquisition of identified skill requirements.

HREOC supports additional professional development through its Studies Assistance Program. During 2007-08, HREOC provided assistance in the form of study leave, examination leave and/or financial assistance to 16 staff.

HREOC provided opportunities for work experience and internships through placements in various units.

Workplace diversity and equal employment opportunity

Throughout the year, HREOC supported diversity events, including International Women's Day, NAIDOC Week and Harmony Day. The workplace diversity committee is developing a Calendar of Events for 2008 to ensure that opportunities to celebrate and acknowledge various events are undertaken with care, creativity and forward planning.

HREOC's Reconciliation and Action Plan was developed during the year and the strategies developed will link in with our Workplace Diversity Plan.

A new Indigenous Employment Strategy is in development to maximise our capacity to attract, engage and retain Indigenous applicants.

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 2007, to coincide with the 40th anniversary of the 1967 referendum that changed the provisions of Australia's Constitution relating to Aboriginal people.

Throughout 2007-08, HREOC has worked with Reconciliation Australia to improve and develop its RAP. HREOC hopes to have a revised RAP approved by Reconciliation Australia and in place early in the 2008-09 financial year.

In addition to HREOC's extensive 'core work' in relation to Aboriginal and Torres Strait Islander people (see Chapter 6), HREOC and its staff undertook a range of activities under the RAP in 2007-08, including:

- Placement of Indigenous interns and students participating in the 'Aurora' project;
- Revising HREOC's induction procedures to ensure that all staff receive Indigenous cultural awareness training;
- Commemoration and celebration of significant events, including the national apology to the Stolen Generations on 13 February 2008; and
- Organising seminars on issues relating to the human rights of Aboriginal and Torres Strait Islander people.

HREOC's RAP is available on-line at www.humanrights.gov.au/about_the_commission/rap/index.html

Occupational health and safety

The new Health and Safety Management Arrangements (HSMAs), required as a result of changes to the *Safety Rehabilitation Compensation and Other Legislation Amendment Act 2007*, were finalised in June. The HSMA was developed in consultation with the OHS committee and staff.

HREOC's commitment to staff health and well being, on site and off site, continued with workplace assessments for the resolution of ergonomic issues, access to a software program that encourages staff to take regular breaks throughout the day, and access to preventative/informative health information sessions.

HREOC offers support to staff through QUIT smoking programs, flu vaccinations and a Healthy Lifestyle Program.

HREOC provides staff with access to counselling services through its Employee Assistance Program. 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.

Workplace relations and employment

HREOC's Certified Agreement expires in December 2008. Consultation with staff will commence in September on a new agreement.

The current agreement provides core employment conditions and supports family friendly policies. It offers 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 shown at Table 40.

HREOC has eight 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 2007-08, four new consultancy arrangements were entered into involving total actual expenditure including GST of \$283 800.

Consultant Name	Description	Contract Price	Actual Payments	Selection Process	Justification*
Australian Multicultural Foundation	Establish Steering Committee to research and prepare a report on Freedom of Religion and Belief	\$209 000	\$88 000	Direct Source	A,B,C
Australian National University	Research project – Creating a representative Indigenous voice	\$22 000	\$22 000	Select Tender	A,B,C
SW Consulting	Develop and Coordinate the Community Partnership for Human Rights Evaluation Project	\$30 800	Nil	Select Tender	A,B
Prof. Richard Harding and Prof. Neil Morgan	Research into the implementation in Australia of the Optional Protocol to the Convention against Torture	\$22 000	Nil	Select Tender	A,B
Total		\$283 800	\$110 000		

*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. They 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 2007-08.

There was no competitive tendering and contracting during 2006-07 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 the environmental impact from its operating practices. Major energy consuming services such as air conditioning and lighting are switched off outside work hours. In addition waste paper, cardboard, printer cartridges and other materials are recycled subject to the availability of appropriate recycling services. HREOC also uses new generation low mercury triphosphor fluorescent tubes.

During 2007-08 HREOC and staff participated in the Earth Hour initiative which was held on Saturday 29 March 2008.

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 Commission's 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 116 staff, with a turnover of 12 per cent for ongoing staff. An overview of HREOC's staffing profile as at 30 June 2008 is summarised in the table below. The number of part-time staff excludes casual staff.

Classification	Male	Female	Full-time	Part-time	Total Ongoing	Total Non-ongoing	Total
Statutory Office Holder	3	1	3	1		4	4
SES Band 2		1	1		1		1
EL 2 (\$88,116- \$105,879)	12	12	21	3	22	2	24
EL 1 (\$76,401- \$83,782)	5	21	20	6	19	7	26
APS 6 (\$61,079- \$68,458)	10	20	28	2	23	7	30
APS 5 (\$55,178- \$59,596)	2	4	5	1	5	1	6
APS 4 (\$49,470- \$53,714)	3	15	14	4	9	9	18
APS 3 (\$44,387- \$47,907)	2	12	4	10	10	4	14
APS 2 (\$40,043- 43,215)	0	2	2	0	2	0	2
APS 1 (\$34,434- \$38,057)	1	0	0	1	1	0	1
Total	38	88	98	28	92	34	126

COMMONWEALTH DISABILITY STRATEGY (CDS)

HREOC, along with all other Commonwealth agencies, reports against the CDS performance framework annually. Full details on the CDS can be found on the Department of Families, Housing, Community Services and Indigenous Affairs website at: www.facsia.gov.au/disability/cds/default.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 four core roles that may be relevant to the agency. HREOC's primary roles are that of policy adviser and service provider. HREOC's employer role is now dealt with through the *State of the Service* report which is compiled by the Australian Public Service Commission. 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. In particular, our CHS, on-line 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 2008

Further details on programs and policies outlined against the performance indicators can be found in the relevant sections of the Annual Report.

POLICY ADVISER ROLE

HREOC disability rights programs are planned by reference to the Commission's jurisdiction under the Disability Discrimination Act and the Human Rights and Equal Opportunity Commission Act and include consultations with disability groups and partnerships with disability organisations.

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 2007-2008

- 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. In the Disability Rights Unit compliance is 100 per cent.

- 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 website and key disability organisations are informed of developments through HREOC's e-mail lists.
- Through the use of HREOC's website and e-based networks HREOC provides extensive information about new and revised policies and programs and seeks feedback at any stage on their effect.

Performance Examples

- Ongoing 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 and Actions for 2008-2009

- Promote ratification and implementation of the *Convention on the Rights of Persons with Disabilities* including: promoting effective review of laws, policies and programs; promoting awareness of the Convention; promoting development of NGO strategies to use the Convention.
- Promote adoption and implementation of DDA Disability Standards.

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 2007-2008

- Consultation with people with disabilities and their representative organisations occurs at a number of levels, through:
 - direct contact with representative organisations at a national and state/territory level;
 - invitation to respond to new and revised policy/programs through HREOC's website, e-based networks, in writing or by phone; and
 - public forums, conferences and public meetings.
- New initiatives are made publicly available through HREOC's website, and disability organisations and individuals are informed of developments through HREOC's e-mail lists.
- Public consultation events all occur in accessible venues with hearing augmentation and sign language interpreters available.

Performance Examples

- The Sex Discrimination Commissioner consulted with disability stakeholder groups and individuals during her Listening Tour. The Commissioner visited every state and territory in Australia. Over 1 000 people took part in the 90 events held in metropolitan, regional and remote locations. An additional 128 people contributed through the Listening Tour blog, with 39 612 viewers reading the Commissioner's Listening Tour diary, and a total of 66 826 hits. The Commissioner identified three crucial areas for achieving equality between women and men in Australia:
 - economic independence for women,
 - balancing work and family balance across the life cycle, and
 - freedom from discrimination, harassment and violence.
- The Sex Discrimination Commissioner and the Disability Discrimination Commissioner met with Women with Disabilities Australia. Issues raised at this meeting included: sterilisation, violence against women, access to breast and cervical screening, removal of children from mothers with intellectual disability, lack of data regarding disability and concerns raised at airports regarding personal aids which are required during transit.
- In early 2008 HREOC reviewed its strategic goals and direction through its planning process, HREOC21. This process involved all staff and key stakeholders, including representatives from peak disability groups to:
 - reflect on HREOC's achievements to date;
 - create an inspired, motivating and realistic role for HREOC in the future; and
 - set clear and measurable goals and objectives to assist HREOC in achieving its vision.

Goals and Actions for 2008-2009

- Consult with a wide range of groups including disability stakeholder groups and individuals in the development of a charter of rights proposal.
- Use public inquiry processes, emphasising use of internet and media, to ensure the opportunity to participate for the broadest range of affected parties and to increase awareness of DDA requirements.
- Assist and encourage industry bodies to develop compliance strategies

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 2007-2008

- All information about new HREOC initiatives is available on a W3C/WAI compliant website, simultaneous with public release.
- 100 per cent of announcements and information material available in accessible electronic format.
- 100 per cent of material produced is also available in standard print, large print, audio and Braille on request.
- The time taken to produce in other than electronic format varies according to the size of the document, but generally within seven days.

Goals and Actions 2008-2009

- Review accessibility issues in relation to the Internet.

PROVIDER ROLE

Further details on HREOC's complaint handling function, with a full description of its services and relevant statistics can be found in Chapter 4: Complaint Handling Section.

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 CHS during regional and interstate visits, that included disability advocacy and disability legal services.

Current level of performance 2007-2008

- HREOC complaints information is available in electronic and alternative formats. An e-mail facility and accessible on-line 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.
- 16 per cent of phone, e-mail and written enquiries to the CHS are related to disability issues.
- 59 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 and Actions 2008-2009

- Targeted community education and liaison with disability groups and advocacy organisations in all states and in particular regional areas.
- Liaise with Indigenous and disability networks in each state to ensure the CHS are responsive to their needs.
- Liaise with networks working with young people and mature/older people with disabilities to ensure the CHS is responsive to their needs.

Performance indicator 2

Complaint handling service accessible to people with disabilities

Performance measure

- Number of complaints received under the 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 2007-2008

- 988 complaints were received under the DDA for 2007-2008.
- Complaints were received from people identifying as having a disability under all Acts administered by HREOC. 51 per cent of responses to a survey question on demographics indicated the complainant had a disability. This was a similar response in past years.
- 143 requests for assistance were recorded, including assistance with language interpreters and sign language interpreters, provision of information in an alternative format, TTY and assistance with writing.
- There were no formal complaints received regarding the accessibility of HREOC complaint handling service or premises. Performance measure is 100 per cent.
- HREOC's premises are accessible. Premises used for remote and regional conciliation conferences are accessible. Performance measure is 100 per cent.
- The Complaint Handling Section Access Committee reviews access to the CHS service by the community, including specific focus on people with disabilities.

Goals and Actions 2008-2009

- Maintain a flexible approach to service delivery.

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 2007-2008

- CHS investigation and conciliation training courses include specific training on accommodating people with disabilities in the complaint handling investigation and conciliation processes. Performance measure is 100 per cent.
- Ad hoc CHS training sessions specifically address relevance to people with disabilities who use complaint handling services. Performance measure is 100 per cent.
- 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 and use of alternative formats for information. Performance measure is 100 per cent.

Goals and Actions 2008-2009

- Provide specific client service training to all CHS staff, focussing on the needs of clients with disabilities.

Performance indicator 4

Complaint mechanism in place to address concerns raised about service and addresses requirements of people with disabilities

Performance measure

Established complaint/grievance mechanism in operation. Detailed in the Charter of Service, which is provided to all parties to a complaint and available on the HREOC website. Provided in alternative format on request.

Current level of performance 2007-2008

- 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 is 100 per cent.

EMPLOYER ROLE

Performance indicator 1

Employment policies, procedures and practices comply with the requirements of the Disability Discrimination Act

Performance measure

Number of employment policies, procedures and practices that meet the requirements of the Disability Discrimination Act.

Current level of performance 2007-08

- 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 2007-08

- Performance in providing accessible formats for recruitment material is 100 per cent.

- 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 58 522 page views during 2007-08.
- There were no requests for Braille during 2007-08. HREOC is able to supply any requests within 3-7 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 2007-08

- 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 2007-08

- 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; and
 - 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 2007-08

- 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.
- 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 2007-08

- 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 is 100 per cent.

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

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HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

Financial Statements

 for the period ended 30 June 2008

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INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Scope

We have audited the accompanying financial statements of the Human Rights and Equal Opportunity Commission for the year ended 30 June 2008, which comprise: a statement by the Chief Executive and Chief Finance Office; income statement; balance sheet; statement of changes in equity; cash flow statement; schedule 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 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 order to design 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 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 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 2008 and 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 2008

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

Financial Statements
for the period ended 30 June 2008

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCE OFFICER

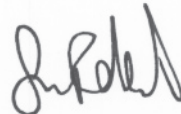
In our opinion, the attached financial statements for the period ended 30 June 2008 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Ministers Orders made under the *Financial Management and Accountability Act 1997*, as amended.



The Hon. John von Doussa QC
President & Chief Executive

21st

August 2008



Susan Roberts
Chief Finance Officer

21

August 2008

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

INCOME STATEMENT

for the period ended 30 June 2008

	Notes	2008 \$'000	2007 \$'000
INCOME			
Revenue			
Revenue from Government	3A	14,981	14,820
Sale of goods and rendering of services	3B	4,510	4,327
Other revenue	3C	49	48
Total revenue		<u>19,540</u>	<u>19,195</u>
Gains			
Other gains	3D	45	45
Total gains		<u>45</u>	<u>45</u>
TOTAL INCOME		<u>19,585</u>	<u>19,240</u>
EXPENSES			
Employee benefits	4A	10,750	9,488
Suppliers	4B	8,622	8,513
Depreciation and amortisation	4C	380	458
Finance costs	4D	23	15
Write-down and impairment of assets	4E	13	71
TOTAL EXPENSES		<u>19,788</u>	<u>18,545</u>
SURPLUS/(DEFICIT)		<u>(203)</u>	<u>695</u>

The above statement should be read in conjunction with the accompanying notes.

Financial Statements

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

BALANCE SHEET as at 30 June 2008

	Notes	2008 \$'000	2007 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	511	1,282
Trade and other receivables	5B	<u>7,440</u>	<u>5,860</u>
Total financial assets		<u>7,951</u>	<u>7,142</u>
Non-Financial Assets			
Infrastructure, plant and equipment	6A,D	1,626	2,362
Intangibles	6B,E	20	9
Other non-financial assets	6C	<u>250</u>	<u>365</u>
Total non-financial assets		<u>1,896</u>	<u>2,736</u>
TOTAL ASSETS		<u><u>9,847</u></u>	<u><u>9,878</u></u>
LIABILITIES			
Payables			
Suppliers	7A	311	241
Other payables	7B	<u>1,069</u>	<u>424</u>
Total payables		<u>1,380</u>	<u>665</u>
Non-Interest Bearing Liabilities			
Lease incentives	8A	<u>146</u>	<u>194</u>
Total interest bearing liabilities		<u>146</u>	<u>194</u>
Provisions			
Employee provisions	9A	2,376	1,878
Other provisions	9B	<u>2,190</u>	<u>2,722</u>
Total provisions		<u>4,566</u>	<u>4,600</u>
TOTAL LIABILITIES		<u><u>6,092</u></u>	<u><u>5,459</u></u>
Net Assets		<u><u>3,755</u></u>	<u><u>4,420</u></u>
EQUITY			
Contributed equity		1,342	1,231
Reserves		1,094	1,763
Retained surplus		<u>1,319</u>	<u>1,426</u>
TOTAL EQUITY		<u><u>3,755</u></u>	<u><u>4,420</u></u>
Current Assets		8,040	7,295
Non-Current Assets		1,807	2,583
Current Liabilities		4,518	3,856
Non-Current Liabilities		1,574	1,603

The above statement should be read in conjunction with the accompanying notes.

STATEMENT OF CHANGES IN EQUITY
for the period ended 30 June 2008

	Retained Earnings		Asset Revaluation Reserves		Contributed Equity/Capital		Total Equity	
	2008	2007	2008	2007	2008	2007	2008	2007
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Opening balance								
Balance carried forward from previous period	1,426	809	1,763	1,779	1,231	1,099	4,420	3,687
Adjustment for errors	96	(14)	-	-	-	-	96	(14)
Adjustment for changes in accounting policies	-	(64)	-	-	-	-	-	(64)
Adjusted opening balance	1,522	731	1,763	1,779	1,231	1,099	4,516	3,609
Income and expenses								
Revaluations recognised Directly in Equity:								
Computer plant and equipment	-	-	103	-	-	-	103	-
Leasehold improvements	-	-	(772)	(16)	-	-	(772)	(16)
Sub-total income and expenses recognised Directly in Equity	-	731	(669)	(16)	-	-	(669)	-
Surplus/(Deficit) for the period	(203)	695	-	-	-	-	(203)	695
Total income and expenses	(203)	695	(669)	(16)	-	-	(872)	679
Contributions by Owners								
Appropriation (equity injection)	-	-	-	-	111	132	111	132
Sub-total transactions with owners	-	-	-	-	111	132	111	132
Closing balance at 30 June attributable to the Australian Government	1,319	1,426	1,094	1,763	1,342	1,231	3,755	4,420

The above statement should be read in conjunction with the accompanying notes.

Financial Statements

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

CASH FLOW STATEMENT for the period ended 30 June 2008

	Notes	2008 \$'000	2007 \$'000
OPERATING ACTIVITIES			
Cash received			
Goods and services		4,648	5,780
Appropriations		14,981	14,820
Net GST received		297	136
Total cash received		<u>19,926</u>	<u>20,736</u>
Cash used			
Employees		(10,252)	(9,346)
Suppliers		(8,771)	(7,842)
Total cash used		<u>(19,023)</u>	<u>(17,188)</u>
Net cash flows from operating activities	10	<u>903</u>	<u>3,548</u>
INVESTING ACTIVITIES			
Cash used			
Purchase of property, plant and equipment		(268)	(562)
Purchase of intangibles		(17)	-
Total cash used		<u>(285)</u>	<u>(562)</u>
Net cash flows used by investing activities		<u>(285)</u>	<u>(562)</u>
FINANCING ACTIVITIES			
Cash received			
Appropriations - contributed equity		111	132
Total cash received		<u>111</u>	<u>132</u>
Cash used			
Other cash used		(1,500)	(2,750)
Total cash used		<u>(1,500)</u>	<u>(2,750)</u>
Net cash flows used by financing activities		<u>(1,389)</u>	<u>(2,618)</u>
Net increase/(decrease) in cash held		<u>(771)</u>	<u>368</u>
Cash and cash equivalents at the beginning of the reporting period		1,282	914
Cash and cash equivalents at the end of the reporting period	5A	<u>511</u>	<u>1,282</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 2008

BY TYPE	2008 \$'000	2007 \$'000
Commitments Receivable		
Sublease rental income	(2,176)	(2,866)
Other commitments receivable	(4,012)	(4,287)
Total Commitments Receivable	<u>(6,188)</u>	<u>(7,153)</u>
Capital Commitments		
Infrastructure, plant and equipment ¹	179	101
Total capital commitments	<u>179</u>	<u>101</u>
Other commitments		
Operating leases ²	7,971	9,508
Other commitments payable	126	249
Total other commitments	<u>8,097</u>	<u>9,757</u>
Net commitments by type	<u>2,088</u>	<u>2,705</u>
BY MATURITY		
Commitments receivable		
Operating lease income		
One year or less	(777)	(690)
From one to five years	(1,399)	(2,176)
Total operating lease income	<u>(2,176)</u>	<u>(2,866)</u>
Other commitments receivable		
One year or less	(1,137)	(1,171)
From one to five years	(2,875)	(3,116)
Total other commitments receivable	<u>(4,012)</u>	<u>(4,287)</u>
Commitments payable		
Capital commitments		
One year or less	179	101
Total capital commitments	<u>179</u>	<u>101</u>
Operating lease commitments		
One year or less	2,660	2,347
From one to five years	5,311	7,161
Total operating lease commitments	<u>7,971</u>	<u>9,508</u>
Other Commitments		
One year or less	93	183
From one to five years	33	66
Total other commitments	<u>126</u>	<u>249</u>
Net Commitments by Maturity	<u>2,088</u>	<u>2,705</u>

Note: Commitments are GST inclusive where relevant.

1. Outstanding payments for leasehold improvements.

Nature of leases/General description

2. Operating leases included are effectively non-cancellable and comprise:

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, outgoings and agreements equally proportionately unperformed.

The above schedule should be read in conjunction with the accompanying notes.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

SCHEDULE OF CONTINGENCIES
as at 30 June 2008

	2008 \$'000	2007 \$'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 11: 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 2008

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 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 section 49 of 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 (or FMOs) or reporting periods ending on or after 1 July 2007; and

(Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial report has been prepared on an accrual basis and is in accordance with the 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 otherwise specified.

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 or a future sacrifice of economic benefits will be required 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.

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.

1.3 Significant Accounting Judgements and Estimates

No significant 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.

Human Rights and Equal Opportunity Commission Notes to and forming part of the financial statements

for the period ended 30 June 2008

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 standards have been adopted earlier than the application date as stated in the standard. The following new standard are applicable to the current reporting period:

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 previously required. 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 effect the disclosure presented in future financial reports.

The following new standards, amendments to standards or interpretations for the current financial year have no material financial impact on the Commission.

2007-5 *Amendments to Australian Accounting Standard - Inventories Held for Distribution by Not-for Profit Entities [AASB 102]*

2007-7 *Amendments to Australian Accounting Standards*

UIG Interpretation 10 AASB 2 – *Interim Financial Reporting and Impairment*

UIG Interpretation 11 AASB 2 – *Group and Treasury Share Transactions* and 2007-1 *Amendments to Australian Accounting Standards arising from AASB Interpretation 11*

UIG Interpretation 1003 – *Australian Petroleum Resource Rent Tax*

ERR Erratum – *Proportionate Consolidation [AASB 101, AASB 107, AASB 121, AASB 127, Interpretation 13]*

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 but may effect disclosure presented in future financial statements.

AASB 3 - *Business Combinations*

AASB 8 - *Operating Segments*

AASB 101 - *Presentation of Financial Statements (issued September 2007)*

AASB 123 - *Borrowing Costs*

AASB 127 - *Consolidated and Separate Financial Statements*

AASB 1004 - *Contributions*

AASB 1050 - *Administered Items*

AASB 1051 - *Land Under Roads*

AASB 1052 - *Disaggregated Disclosures*

AASB 2007-2 - *Amendments to Australian Accounting Standards arising from AASB interpretation 12 [AASB 1, AASB 117, AASB 118, AASB 120, AASB 121, AASB 127, AASB 131 & AASB 139]*

AASB 2007-3 - *Amendments to Australian Accounting Standards arising from AASB 8*

AASB 2007-6 *Amendments to Australian Accounting Standards arising from AASB 123*

AASB 2007-8 - *Amendments to Australian Accounting Standards arising from AASB 101*

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AASB 2007-9 - *Amendments to Australian Accounting Standards arising from the Review of AAS's 27, 29 & 31* [AASB 3, AASB 5, AASB 8, AASB 101, AASB 114, AASB 1116, AASB 127 & AASB 137]

AASB 2008-1 - *Amendments to Australian Accounting Standards - Shared-based payments: Vesting Conditions and Cancellations* [AASB 2]

Instruments and Obligations arising on Liquidation [AASB 7, AASB 101, AASB 132, AASB 139 & Interpretation 2]

AASB 2008-3 - *Amendments to Australian Accounting Standards arising from AASB 3 & AASB 127* [AASB's 1,2,4,5,7, 101, 107, 112, 114, 116, 121, 128, 131, 132, 133, 134, 136, 137, 138 & 139 and & Interpretations 9 & 107]

AASB Interpretation 1 - *Changes in existing Decommissioning, Restoration and Similar Liabilities*

AASB Interpretation 4 - *Determining Whether an Arrangement Contains a Lease*

AASB Interpretation 12 *Service Concession Arrangements* and 2007-2 *Amendments to Australian Accounting Standards arising from AASB Interpretation 12*

AASB Interpretation 13 *Customer Loyalty Programmes*

AASB Interpretation 14 *AASB 119 – The Limit on a Defined Benefit Asset, Minimum Funding Requirements*

AASB Interpretation 129 – *Service Concession Arrangements Disclosures*

AASB Interpretation 1038 – *Contributions to Owners Made to Wholly-owned Public Sector Entities*

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

AASB 1049 specifies the reporting requirements for the General Government Sector. The FMOs do not apply to this reporting or the consolidated financial statements of the Australian Government.

1.5 Revenue

Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue when the Commission gains control of the appropriation, 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.

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.

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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.

Sale of Assets

Gains from disposal of non-current assets are 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.

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 Deregulation as at 30 June 2008. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

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. This liability is reported by the Department of Finance and Deregulation as an administered item.

The Commission makes employer contributions to the employee superannuation schemes at rates determined by an actuary to be sufficient to meet the current 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.

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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 and cash equivalents includes 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 assets

The Commission classifies its financial assets as 'loans and receivables'.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition.

Financial assets are recognised and derecognised upon 'trade date'.

Effective interest method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Loans and receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. They are included in current assets, except for maturities greater than 12 months after the balance sheet date. These are classified as non current assets. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

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.

1.12 Financial Liabilities

Financial liabilities are classified as 'other financial liabilities'.

Financial liabilities are recognised and derecognised upon 'trade date'.

Other financial liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

Other financial liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

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).

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1.13 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 asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

1.14 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.

1.15 Property, Plant and Equipment

Asset Recognition Threshold

Purchases of property, 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 'makegood' recognised.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at:
Computer, plant and equipment	Market selling price
Leasehold improvements	Depreciated replacement cost

Following initial recognition at cost, property plant and equipment are 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 the operating result. Revaluation decrements for a class of assets are recognised directly through the operating result except to the extent that they reverse a previous revaluation increment for that class.

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

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 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 rates applying to each class of depreciable asset are based on the following useful lives:

	<u>2008</u>	<u>2007</u>
Leasehold improvements	Lease term	Lease term
Computer, Plant and Equipment	4 to 10 years	4 to 10 years

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Impairment

All assets were assessed for impairment at 30 June 2008. 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.

1.16 Intangibles

The Commission's intangibles comprise internally developed and customised software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

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 (2006-07: 2 to 5 years).

All software assets were assessed for indications of impairment as at 30 June 2008.

1.17 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.

Note 3: Income

	2008	2007
	\$'000	\$'000
<u>Revenue</u>		
<u>Note 3A: Revenue from Government</u>		
Appropriations:		
Departmental outputs	14,981	14,820
<u>Total revenue from Government</u>	<u>14,981</u>	<u>14,820</u>
<u>Note 3B: Sale of goods and rendering of services</u>		
Provision of goods - related entities	1	1
Provision of goods - external parties	16	11
Rendering of services - related entities	4,217	4,085
Rendering of services - external parties	276	230
<u>Total sale of goods and rendering of services</u>	<u>4,510</u>	<u>4,327</u>
<u>Note 3C: Other revenue</u>		
Deferred Revenue	49	48
<u>Total other revenue</u>	<u>49</u>	<u>48</u>
<u>Note 3D: Other gains</u>		
Resources received free of charge	45	45
<u>Total other gains</u>	<u>45</u>	<u>45</u>

Human Rights and Equal Opportunity Commission
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Note 4: Expenses

	2008	2007
	\$'000	\$'000
Note 4A: Employee benefits		
Wages and salaries	8,328	7,234
Superannuation:		
Defined contribution plans	144	317
Defined benefit plans	1,100	796
Leave and other entitlements	1,000	800
Separation and redundancies	101	284
Other employee expenses	<u>77</u>	<u>57</u>
Total employee benefits	<u>10,750</u>	<u>9,488</u>
Note 4B: Suppliers		
Provision of goods – related entities	10	7
Provision of goods – external parties	850	846
Rendering of services – related entities	912	883
Rendering of services – external parties	4,903	4,938
Operating lease rentals:		
Minimum lease payments	1,913	1,806
Workers compensation premiums	<u>34</u>	<u>33</u>
Total supplier expenses	<u>8,622</u>	<u>8,513</u>
Note 4C: Depreciation and amortisation		
Depreciation:		
Infrastructure, plant and equipment		
Computer plant and equipment	<u>215</u>	<u>230</u>
Total depreciation	<u>215</u>	<u>230</u>
Amortisation:		
Infrastructure, plant and equipment		
Leasehold improvements	109	190
Deferred costs - make good	<u>50</u>	<u>36</u>
	159	226
Intangibles:		
Computer Software	<u>6</u>	<u>2</u>
Total amortisation	<u>165</u>	<u>228</u>
Total depreciation and amortisation	<u>380</u>	<u>458</u>
Note 4D: Finance costs		
Unwinding of discounted cashflows for make good provisions	<u>23</u>	15
Total finance costs	<u>23</u>	<u>15</u>
Note 4E: Write-down and impairment of assets		
Financial assets		
Bad debts expense	1	-
Non-financial assets		
Infrastructure, plant and equipment - written off	12	10
Infrastructure, plant and equipment - revaluation decrement	<u>-</u>	<u>61</u>
Total write-down and impairment of assets	<u>13</u>	<u>71</u>

Human Rights and Equal Opportunity Commission
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for the period ended 30 June 2008

Note 5: Financial Assets

	2008 \$'000	2,007 \$'000
Note 5A: Cash and cash equivalents		
Cash on hand or on deposit	511	1,282
Total cash and cash equivalents	<u>511</u>	<u>1,282</u>
Note 5B: Trade and other receivables		
Goods and services	161	63
Appropriations receivable: for existing outputs	7,250	5,750
GST receivable from the Australian Taxation Office	29	47
Total trade and other receivables (gross)	<u>7,440</u>	<u>5,860</u>
All trade and other receivables assets are current.		
Receivables are aged as follows:		
Not overdue	7,431	5,849
Overdue by:		
Less than 30 days	1	-
30 to 60 days	-	9
61 to 90 days	-	-
More than 90 days	8	2
Total receivables (gross)	<u>7,440</u>	<u>5,860</u>

Note 6: Non-Financial Assets

	2008 \$'000	2007 \$'000
Note 6A: Infrastructure, plant and equipment		
Computer, plant and equipment		
- gross carrying value (at fair value)	635	599
- accumulated depreciation	-	-
Total computer, plant and equipment	<u>635</u>	<u>599</u>
Leasehold Improvements		
- gross carrying value (at fair value)	991	1,763
- accumulated depreciation	-	-
Total leasehold improvements	<u>991</u>	<u>1,763</u>
Total infrastructure, plant and equipment (non-current)	<u>1,626</u>	<u>2,362</u>

All revaluations are conducted in accordance with the revaluation policy stated at Note 1.
 In 2007-08, an independent valuer (AON Valuation Services) conducted the revaluations.

A revaluation decrement of \$771,960 for leasehold improvements (2007: decrement of \$15,900) has been credited to the asset revaluation reserve by asset class and included in the equity section of the balance sheet; a revaluation increment of \$103,709 for computer, plant and equipment has been debited to the asset revaluation reserve by asset class and included in the equity section of the balance sheet (2007: \$60,592 expensed).

No indicators of impairment were found for infrastructure, plant and equipment.

Human Rights and Equal Opportunity Commission
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for the period ending 30 June 2008

Note 6: Non-Financial Assets

	2008	2007
	\$'000	\$'000
Note 6B: Intangibles		
Computer software at cost:		
Internally developed – in use	410	410
Internally customised – in use	28	11
Total Computer Software	438	421
Accumulated amortisation	(418)	(412)
Total intangibles (non-current)	20	9

No indicators of impairment were found for intangible assets.

Note 6C: Other non-financial assets

Prepayments	89	153
Deferred costs - make good	388	388
Accumulated amortisation - make good	(227)	(176)
Total other non-financial assets	250	365

All other non-financial assets are represented by:

Current	89	153
Non-current	161	212
Total other non-financial assets	250	365

Note 6D: Analysis of infrastructure, plant and equipment

TABLE A – Reconciliation of the opening and closing balances of infrastructure, plant and equipment (2007-08)

	Infrastructure, plant & equipment		
	Computer, plant & equipment \$'000	Leasehold improvements \$'000	Total \$'000
As at 1 July 2007			
Gross book value	599	1,763	2,362
Accumulated depreciation/amortisation and impairment	-	-	-
Net book value 1 July 2007	599	1,763	2,362
Additions:			
by purchase	159	109	268
Net revaluation increment/(decrement) recognised through equity	103	(772)	(669)
Depreciation/amortisation expense	(215)	(109)	(324)
Net revaluation decrement recognised in the operating result	-	-	-
Disposals:			
Other disposals	(11)	-	(11)
Net book value 30 June 2008	635	991	1,626
Net book value as of 30 June 2008 represented by:			
Gross book value	635	991	1,626
Accumulated depreciation/amortisation and impairment	-	-	-
	635	991	1,626

Human Rights and Equal Opportunity Commission
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Note 6: Non-Financial Assets (continued)

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

Note 6E: Intangibles

Table B: Reconciliation of the opening and closing balances of intangibles (2007-08)

Item	Intangibles	
	Computer software \$'000	Total \$'000
As at 1 July 2007		
Gross book value	421	421
Accumulated depreciation/amortisation and impairment	(412)	(412)
Net book value 1 July 2007	9	9
Additions	17	17
Amortisation	(6)	(6)
Net book value 30 June 2008	20	20
Net book value as of 30 June 2008 represented by:		
Gross book value	438	438
Accumulated depreciation/amortisation and impairment	(418)	(418)
	20	20

Human Rights and Equal Opportunity Commission
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Note 6: Non-Financial Assets (continued)

Note 6E: Intangibles (continued)

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 amortisation and impairment	(410)	(410)
Net book value 1 July 2007	<u>11</u>	<u>11</u>
Additions:		
by purchase	-	-
Amortisation	(2)	(2)
Net book value 30 June 2007	<u>9</u>	<u>9</u>
Net book value as of 30 June 2007 represented by:		
Gross book value	421	421
Accumulated depreciation/amortisation and impairment	(412)	(412)
	<u>9</u>	<u>9</u>

Note 7: Payables

	2008 \$'000	2007 \$'000
Note 7A: Suppliers		
Trade creditors	311	241
Total supplier payables	<u>311</u>	<u>241</u>

All supplier payables are current liabilities.
Settlement is generally made in accordance with the terms of the supplier invoice.

Note 7B: Other payables

	2008 \$'000	2007 \$'000
Accrued expenses	1,069	424
Total other payables	<u>1,069</u>	<u>424</u>
Other payables are represented by:		
Current	490	305
Non-current	579	119
Total other payables	<u>1,069</u>	<u>424</u>

Note 8: Non Interest Bearing Liabilities

	2008 \$'000	2007 \$'000
Note 8A: Other non interest bearing liabilities		
Lease incentives	146	194
Total other non interest bearing liabilities	<u>146</u>	<u>194</u>

Other non interest bearing liabilities are represented by:

	2008 \$'000	2007 \$'000
Current	49	49
Non-current	97	145
Total other non interest bearing liabilities	<u>146</u>	<u>194</u>

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2008

Note 9: Provisions

	2008 \$'000	2007 \$'000
Note 9A: Employee provisions		
Salaries and wages	101	67
Leave	2,241	1,766
Superannuation	15	10
Other	19	35
Total employee provisions	2,376	1,878

Employee provisions are represented by:

Current	1,963	1,541
Non-current	413	337
Total employee provisions	2,376	1,878

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 \$1,135,293 (2007: \$912,097), in excess of one year \$1,241,818 (2007: \$966,045).

Note 9B: Other provisions

Revenue received in advance	1,442	1,621
Restoration obligations	485	462
Provision for contract obligations	263	639
Total other provisions	2,190	2,722

Other provisions are represented by:

Current	1,705	1,720
Non-current	485	1,002
Total other provisions	2,190	2,722

	Revenue received in advance \$'000	Provision for restoration obligations \$'000	Provision for contract obligations \$'000	Total \$'000
Carrying amount 1 July 2007	1,621	462	639	2,722
Additional provisions made	1,951	-	263	2,214
Amounts used	(2,130)	-	(607)	(2,737)
Amounts reversed	-	-	(32)	(32)
Unwinding of discount	-	23	-	23
Closing balance 30 June 2008	1,442	485	263	2,190

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.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2008

Note 10: Cash Flow Reconciliation

	2008	2007
	\$'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	511	1,282
Balance Sheet	511	1,282
Difference	<u>-</u>	<u>-</u>
Reconciliation of operating result to net cash from operating activities:		
Operating result	(203)	695
Depreciation /amortisation	380	458
Finance costs for restoration obligations	23	15
Net write down of non financial assets	12	71
Net write down of financial assets	(1)	-
Adjustment for prior year accounting error	96	(14)
(Increase) / decrease in net receivables	(99)	1,156
(Increase) / decrease in prepayments	64	82
Increase / (decrease) in employee provisions	498	142
Increase / (decrease) in supplier payables	69	(284)
Increase / (decrease) in accrued expenses	645	292
Increase / (decrease) in other provisions	(532)	984
Increase / (decrease) in non interest bearing liabilities	(49)	(49)
Net cash from operating activities	<u>903</u>	<u>3,548</u>

Note 11: Contingent Liabilities and Assets

Unquantifiable Contingencies

At 30 June 2008, the Commission (or officers of the Commission) were named as a respondent in seven applications before the Federal Court, Queensland District Court and Administrative Appeals Tribunal.

The Commission is also appearing in two matters as an intervener and Commissioners are appearing in one matter 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.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2008

Note 12: Senior Executive Remuneration

	2008	2007
	<u>Number</u>	<u>Number</u>
The number of senior executives who received or were due to receive total remuneration of \$130,000 or more:		
\$130 000 to \$144 999	9	3
\$145 000 to \$159 999	1	1
\$160 000 to \$174 999	-	1
\$175 000 to \$189 999	-	1
\$190 000 to \$204 999	2	-
\$205 000 to \$219 999	1	-
\$230 000 to \$249 999	1	1
\$245 000 to \$259 999	1	1
\$305 000 to \$319 999	-	1
Total	<u><u>15</u></u>	<u><u>9</u></u>
The aggregate amount of total remuneration of senior executives shown above.	\$2 480 957	\$1 702 401
The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.	Nil	\$158 252

Note 13: Remuneration of Auditors

	2008	2007
	\$'000	\$'000
Financial statement audit services are provided free of charge to the Commission.		
The fair value of the services provided by the Auditor-General was:		
Financial Statement Audit	<u>45</u>	<u>45</u>
	<u><u>45</u></u>	<u><u>45</u></u>

No other services were provided by the Auditor-General.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2008

Note 14: Financial Instruments

	2008	2007
	\$'000	\$'000
14A: Categories of financial instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	511	1,282
Trade receivables	190	110
Appropriation receivable	7,250	5,750
Carrying amount of financial assets	7,951	7,142
Financial Liabilities		
Other liabilities		
Trade creditors	311	241
Accrued expenses	1,069	424
Lease incentives	146	194
Revenue received in advance	1,442	1,621
Carrying amount of financial liabilities	2,968	2,480

14B: Fair value of financial instruments

	Carrying amount	Fair value	Carrying amount	Fair value
	2008	2008	2007	2007
	\$'000	\$'000	\$'000	\$'000
Financial Assets				
Cash and cash equivalents	511	511	1,282	1,282
Trade receivables	190	190	110	110
Appropriation receivable	7,250	7,250	5,750	5,750
Total	7,951	7,951	7,142	7,142
Financial Liabilities				
Trade creditors	311	311	241	241
Accrued expenses	1,069	1,069	424	424
Lease incentives	146	146	194	194
Revenue received in advance	1,442	1,442	1,621	1,621
Total	2,968	2,968	2,480	2,480

14C: Credit risk

The Commission's maximum exposures to credit risk at reporting date in relation to each class of recognised financial asset 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.

The Commission does not hold any collateral to mitigate against credit risk.

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2008

Note 14: Financial Instruments (continued)

Credit quality of financial instruments not past due or individually determined as impaired:

	Not past due nor impaired	Not past due nor impaired	Past due or impaired	Past due or impaired
	2008	2007	2008	2007
	\$'000	\$'000	\$'000	\$'000
Loans and receivables				
Cash and cash equivalents	511	1,282	-	-
Trade receivables	181	99	9	11
Appropriation receivable	7,250	5,750	-	-
Total	7,942	7,131	9	11

Ageing of financial assets that are past due but not impaired for 2008:

	0 to 30 days	31 to 60 days	61 to 90 days	90+	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Loans and receivables					
Trade receivables	1	-	-	8	9
Total	1	-	-	8	9

Ageing of financial assets that are past due but not impaired for 2007:

	0 to 30 days	31 to 60 days	61 to 90 days	90+	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Loans and receivables					
Trade receivables	-	9	-	2	11
Total	-	9	-	2	11

14D: Liquidity risk

The Commission's financial liabilities are payables, accrued expenses, revenue received in advance and other non-interest bearing liabilities. The exposure to liquidity risk is based on the notion that the Commission will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely due to appropriation funding and mechanisms available to the Commission (e.g. Advance to the Minister for Finance) and internal policies and procedures put in place to ensure there are appropriate resources to meet its financial obligations.

The following tables illustrate the maturities for financial liabilities:

	On demand	within 1 year	1 to 5 years	> 5 years	Total
	2008	2008	2008	2008	2008
	\$'000	\$'000	\$'000	\$'000	\$'000
Other liabilities					
Trade creditors	-	311	-	-	311
Accrued expenses	-	490	579	-	1,069
Lease incentives	-	49	97	-	146
Revenue received in advance	-	1,442	-	-	1,442
Total	-	2,292	676	-	2,968

	On demand	within 1 year	1 to 5 years	> 5 years	Total
	2007	2007	2007	2007	2007
	\$'000	\$'000	\$'000	\$'000	\$'000
Other liabilities					
Trade creditors	-	241	-	-	241
Accrued expenses	-	305	119	-	424
Lease incentives	-	49	145	-	194
Revenue received in advance	-	1,621	-	-	1,621
Total	-	2,216	264	-	2,480

Human Rights and Equal Opportunity Commission
Notes to and forming part of the financial statements

for the period ended 30 June 2008

Note 14: Financial Instruments (continued)

14E: Market risk

The Commission holds basic financial instruments that do not expose the Commission to certain market risks. The Commission is not exposed to 'Interest Rate Risk', 'Currency Risk' or 'Other Price Risk'.

Note 15: Appropriations

Table A: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations

Particulars	Departmental Outputs		Total	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Balance brought forward from previous period	7,012	3,894	7,012	3,894
Appropriation Act:				
Appropriation Act (No.1) 2007-08	15,500	13,725	15,500	13,725
Appropriation Act (No.3) 2007-08	(519)	1,095	(519)	1,095
Appropriation Act (No.5) 2007-08	-	-	-	-
Reductions of appropriations (Appropriation Act section 9)	-	-	-	-
Administered appropriation lapsed (Appropriation Act section 8)	-	-	-	-
Advance to the Finance Minister (Appropriation Act section 11)	-	-	-	-
Comcover receipts (Appropriation Act section 12)	-	-	-	-
FMA Act:				
Refunds credited (FMA section 30)	-	-	-	-
Appropriations to take account of recoverable GST (FMA section 30A)	297	136	297	136
Annotations to 'net appropriations' (FMA section 31)	4,648	5,780	4,648	5,780
Adjustment of appropriations on change of entity function (FMA section 32)	-	-	-	-
Total appropriation available for payments	26,938	24,630	26,938	24,630
Cash payments made during the year (GST inclusive)	19,180	17,618	19,180	17,618
Appropriations credited to Special Accounts (excluding GST)	-	-	-	-
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations	7,758	7,012	7,758	7,012
Represented by:				
Cash at bank and on hand	508	1,262	508	1,262
Departmental appropriations receivable	7,250	5,750	7,250	5,750
Undrawn, unexpired administered appropriations	-	-	-	-
Total	7,758	7,012	7,758	7,012

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 2008

Note 15: 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 Equity		Total	
	2008 S'000	2007 S'000	2008 S'000	2007 S'000
Balance brought forward from previous period	20	20	20	20
Appropriation Act:				
Appropriation Act (No.2) 2007-08	111	44	111	44
Appropriation Act (No.4) 2007-08	-	88	-	88
Appropriation Act (No.6) 2007-08	-	-	-	-
Reductions of appropriations (Appropriation Act section 11)	-	-	-	-
Administered appropriation lapsed (Appropriation Act section 7 & 8)	-	-	-	-
Advance to the Finance Minister (Appropriation Act section 12)	-	-	-	-
FMA Act:				
Refunds credited (FMA section 30)	-	-	-	-
Appropriations to take account of recoverable GST (FMA section 30A)	-	-	-	-
Adjustment of appropriations on change of entity function (FMA section 32)	-	-	-	-
Total appropriations available for payments	131	152	131	152
Cash payments made during the year (GST inclusive)	128	132	128	132
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	3	20	3	20
Represented by:				
Cash at bank and on hand	3	20	3	20
Appropriation receivable	-	-	-	-
Undrawn, unexpired administered appropriations	-	-	-	-
Total	3	20	3	20

Note 16: 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 Act). For the year ended 30 June 2008 both of these accounts had nil opening and closing balances and there were no transactions debited or credited to them in the 2007-08 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 Act.

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 Act.

Human Rights and Equal Opportunity Commission Notes to and forming part of the financial statements

for the period ended 30 June 2008

Note 17: Reporting of Outcomes

The Commission is structured to meet one outcome. The Commission 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 the Commission's outcome.

Note 17A: Net Cost of Outcome Delivery

	Outcome 1		Total	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Expenses				
Departmental	19,788	18,545	19,788	18,545
Total expenses	19,788	18,545	19,788	18,545
Costs recovered from provision of goods and services to the non government sector				
Departmental	292	241	292	241
Total costs recovered	292	241	292	241
Other external revenues				
Departmental	4,218	4,086	4,218	4,086
Total other external revenues	4,218	4,086	4,218	4,086
Net cost/(contribution) of outcome	15,278	14,218	15,278	14,218

Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to the Outcome Resourcing Table on page 12 of this Annual Report.

Note 17B: Major Classes of Departmental Revenues and Expenses by Output Group and Output

Outcome 1	Output 1		Outcome 1 Total	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Departmental expenses				
Employee benefits	10,750	9,488	10,750	9,488
Suppliers	8,622	8,513	8,622	8,513
Depreciation and amortisation	380	458	380	458
Finance costs	23	15	23	15
Other expenses	13	71	13	71
Total departmental expenses	19,788	18,545	19,788	18,545
Funded by:				
Revenues from Government	14,981	14,820	14,981	14,820
Sales of goods and services	4,510	4,327	4,510	4,327
Other revenues	49	48	49	48
Total departmental revenues	19,540	19,195	19,540	19,195

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