

Chapter 4:

Complaint Service

4.1 Overview of the work of the Complaint Handling Section

Federal human rights and anti-discrimination law provides for the Commission to investigate and resolve complaints of alleged discrimination and breaches of human rights. The Commission's complaint work is central to its role in protecting and promoting human rights and complements the Commission's policy and education functions. The Commission's complaint process provides an effective, efficient and accessible means by which individuals and groups can voice and resolve disputes about discrimination and human rights.

The President of the Commission is responsible for the investigation and conciliation of complaints and staff of the Commission's Complaint Handling Section (CHS) assist the President in this role. The Commission's CHS also provides information to the public about the law and the complaint process through the Commission's Complaint Information Service and through a range of community education and training activities that are outlined in this chapter.

Complaint Information Officers within the CHS respond to telephone, TTY, post, email, SMS 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. In 2008-09, the Commission's Complaint information Service responded to 20 188 enquiries. This is an 8 percent increase in comparison with the number of enquiries received in the previous reporting period. Over the past five years, the number of enquiries to the Commission has increased by 103 percent.

Investigation/Conciliation Officers within the CHS have specialised knowledge and skills to manage and resolve complaints about discrimination and breaches of human rights. In 2008-09, the CHS received 2253 complaints. This is an 8 percent increase in comparison with the number of complaints received in the previous reporting period. Over the past five years, the number of complaints the Commission received has increased by 81 percent.

A diagram of the Commission's complaint process is provided at Appendix 5.

The Commission's complaint process, which has a focus on Alternative Dispute Resolution, is flexible and responsive to different needs and circumstances. Conciliation can be undertaken at various stages of the process. In some situations, for example where there is an ongoing employment relationship, conciliation can be offered within days of the Commission receiving the complaint. In other matters, conciliation is undertaken after the President has commenced a written inquiry or after a written response to the complaint has been received.

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 in other formats. For example, officers may have telephone discussions with the parties and convey messages between them or hold a teleconference. In 2008-09, 48 percent of finalised complaints were conciliated and 68 percent of all matters where conciliation was attempted were successfully resolved. The average time from lodgement to finalisation of a complaint was six months.

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 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 about reports to the Attorney-General is provided later in this chapter.

While the number of complaints being brought to the Commission has continued to increase over recent years, the Commission has not received increased funding to deal with this growth in demand. During 2008-09, the Commission, and staff of the CHS in particular, have made significant efforts to minimise the impact of this lack of funds and maintain an efficient and effective complaint service. However, the impact of this lack of funding is reflected in some aspects of the complaint statistics for this reporting period.

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 2008-09 in relation to these indicators, are summarised below:

- *Timeliness* – the section's stated performance standard is for 80 percent of complaints to be finalised within 12 months of receipt. In 2008-09, the CHS finalised 93 percent of matters within 12 months. A detailed breakdown of timeliness statistics by jurisdiction is provided in Table 16.
- *Conciliation rate* – the section's stated performance standard is for 30 percent of finalised complaints to be conciliated. In 2008-09, the CHS achieved a 48 percent conciliation rate.
- *Customer satisfaction* – the section's stated performance standard is for 80 percent of parties to complaints to be satisfied with the service they receive. In 2008-09, 92 percent of surveyed parties reported that they were satisfied with the service and 58 percent rated the service as 'very good' or 'excellent'. Further details of survey results for this reporting period follow.

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 through a customer satisfaction survey. This survey is usually undertaken by means of telephone interviews conducted by administrative staff who are not directly involved in handling complaints. In 2008-09, 55 percent of those who could be contacted (160 complainants and 194 respondents) agreed to participate in the survey. Survey results for this reporting period are summarised below:

- 91 percent of complainants and 97 percent of respondents felt that staff explained things in a way that was easy for them to understand
- 92 percent of complainants and 93 percent of respondents felt that forms and correspondence from the Commission were easy to understand
- 64 percent of complainants and 75 percent of respondents felt that the Commission dealt with the complaint in a timely manner
- 95 percent of complainants and 94 percent of respondents did not consider staff to be biased.

4.1.3 Charter of Service

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

In 2008-09, the Commission received three complaints about its service under the formal complaint process provided in the Charter.

4.1.4 Access to complaint services

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

- **Complaint Information Service.** The Complaint Info line (1300 656 419 – local call charge) which is open Monday – Friday between 9:00 am and 5:00 pm, allows people from all areas of Australia to call and obtain information about the law and the complaint process. The service can also be contacted by email (complaintsinfo@humanrights.gov.au) and by SMS (0488 744 487 or 0488 RIGHTS).
- **CHS webpage:** www.humanrights.gov.au/complaints_information/index.html. The webpage provides a range of information about the Commission's complaint service, including detailed information about the complaint process and how to lodge a complaint. In 2008-09, sections of the webpage were revised and a new section with specific information for Indigenous Australians was developed. The CHS webpage received 319 217 page views during this reporting period.
- **Publications in community languages.** The CHS has a *Concise Complaint Guide* and an information poster available in 14 community languages. These publications can be ordered from the Complaint Information Service or downloaded from the Commission website: www.humanrights.gov.au/about/languages/index.html.

- **Interpreter and translation services.** During 2008-09, the CHS utilised a range of interpretation and translation services. The main language groups assisted were Mandarin, Arabic, Persian and Serbian. Auslan interpreters were used on 21 occasions.
- **Service provision in states and territories.** The Commission 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. The Commission has similar informal arrangements with the Tasmanian Anti-Discrimination Commission and the Australian Capital Territory Human Rights Commission.
- **Conciliation circuits.** Conciliation officers travel throughout Australia to conduct conciliation conferences. In 2008-09, along with conferences conducted in the greater Sydney area, officers conducted: 31 conferences in regional NSW (including Albury, Coffs Harbour, Tamworth, Wagga Wagga, Lismore, Narrandera, Gosford, Wollongong and Newcastle); 129 in Victoria (including Melbourne and Geelong); 98 in Adelaide; 52 in Queensland (including Brisbane, Rockhampton, Cairns, Mackay, Kingaroy and Maroochydore); 26 in Perth; 11 in Tasmania (including Hobart and Launceston); eight in Canberra and three in Darwin.
- **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 and clips from the DVD can also be viewed on the Commission's webpage at: www.humanrights.gov.au/complaints_information/pathways_to_resolution/index.html.

4.1.5 Education and outreach activities

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

During this reporting period, a range of organisations across Australia 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; legal and advocacy services for women, youth, people with disabilities and older people; multicultural organisations; colleges and universities. Locations visited included Sydney, Nambucca Heads, Coffs Harbour, Ballarat, Melbourne, Canberra, Brisbane, Adelaide and Perth. Additionally, information kits about the law and the complaint process were distributed to more than 200 Community Legal Centres and more than 300 unions across Australia.

In 2008-09, the CHS developed a human rights information workshop, run in conjunction with the Commission's Community Partnership Program, which aims to help Muslim communities explore human rights issues in their everyday life and deal with discrimination and harassment. To date, workshops have been run for participants in the Young Muslim Women's Short Animation Film Project (humanrights.gov.au/

partnerships/projects/arts_huriyya.html) and participants attending the Diversity in Policing – Muslim Women’s Camp which was held in May 2009.

During 2008-09, CHS staff also contributed to the development of an online complaint handling tool to help sporting clubs respond to issues of discrimination and harassment. This project was initiated by Play by the Rules (www.playbytherules.net.au/), which is a partnership between the Commission, the Australian Sports Commission, state and territory sport and recreation agencies, state and territory anti-discrimination agencies and the Queensland Commission for Children, Young People and Child Guardian. Play by the Rules provides information and online learning for community sport and recreation, on how to prevent and deal with discrimination, harassment and child abuse.

The CHS is often asked to provide information about the Commission’s complaint work to visiting delegations. During 2008-09, CHS staff provided information to representatives of human rights institutions and government departments visiting from Bangladesh, China, Malaysia, Iraq, Ireland and New Zealand.

4.1.6 Staff training and training as provider

The Commission has two specialised training programs which provide knowledge and skills in statutory investigation and conciliation. All complaint handling staff are required to undertake these courses. During the reporting period, the Commission also developed an advanced conciliation training program to provide ongoing skill development for staff working in this field.

During 2008-09, investigation and conciliation training courses were run on two occasions for new staff. Additionally, a number of ‘refresher’ conciliation skill workshops were run for CHS staff.

In 2008-09, nine CHS staff undertook studies to obtain the Certificate IV in Training and Assessment qualification and one staff member participated in the Mawul Rom Cross Cultural Mediation and Leadership Training Program, held in Arnhem Land, Northern Territory. Three staff members also attended the Creating Social Change – Leadership Program run by the Benevolent Society of NSW.

The CHS also provides investigation and conciliation training for other organisations on a fee for service basis. In July 2008, the CHS conducted a two-day investigation training course for staff from the ACT Human Rights Commission. In March 2009, the CHS conducted a two-day course in investigating and resolving complaints for staff from a national telecommunications company. On 3-5 June, the CHS conducted a three-day advanced conciliation training course for staff of the Victorian Equal Opportunity and Human Rights Commission. On 15-16 June 2009, the CHS conducted investigation training for staff of the Office of the Privacy Commissioner.

4.1.7 Conference presentations and research

In 2008-09, CHS staff attended and/or presented papers at the following conferences: the National Community Legal Centre Conference in Darwin in August 2008; the National Disability Advocacy Conference in Nambucca Heads in October 2008; the Victorian Equal Opportunity and Human Rights Commission’s Human Rights Conference in Melbourne in March 2009, and the Workplace Diversity Conference in Sydney in April 2009.

The CHS regularly undertakes research with a view to better understand and improve the Commission’s complaint service. During the reporting period, the CHS finalised the first stage of an ongoing 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.

The findings to date indicate that many complaints to the Commission are resolved on terms which go beyond providing a remedy for an individual complainant. Conciliated agreements include terms which have broader impact, such as agreements to change policies, practices and procedures; and agreements to introduce anti-discrimination policies and training. The findings also indicate that, regardless of the outcome of a complaint, involvement in the Commission's complaint process can result in increased knowledge of the law and responsibilities under the law, and can stimulate broader workplace changes such as the introduction of anti-discrimination policies and training.

Information on this project, and other research conducted by the CHS, is available on the Commission's webpage at: www.humanrights.gov.au/complaints_information/papers.html.

4.2 Conciliation case studies

4.2.1 Racial Discrimination Act

During the reporting period, the Commission received 396 complaints under the Racial Discrimination Act. The majority of these complaints related to employment (54 percent). The CHS finalised 392 complaints under this Act and 55 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Racial Discrimination Act are provided later in this chapter.

Complaint of racial discrimination in employment

The complainant, who is of Lebanese/Armenian racial origin, is employed with the respondent finance company. The complainant alleged his former supervisor sent him an email about Muslim women that he found offensive, as his wife is Muslim. He also alleged the individual respondent called him an 'Arab' and a 'bomb thrower' in front of other staff and also told him to 'speak English'. The complainant said that, after he made an internal grievance about his supervisor, his higher duties were removed, his work was over-scrutinised and his performance was unfairly criticised.

The individual respondent denied sending the email and said that the comments he made were misunderstood. The company advised that, in response to the complainant's internal grievance, they met with the individual respondent and he moved to a different section of the company. The company denied that action taken in relation to the complainant's work performance was because of the complainant's race or because he had made an internal grievance.

The complaint was resolved at a conciliation conference. The individual respondent provided the complainant with a verbal apology at the conference. The company agreed to pay the complainant's legal costs to the value of \$5000 and provide the complainant with a training fund to the value of \$10 000 to assist his career development. The company also agreed to hold a staff meeting to confirm that the type of behaviour, that was the subject of the complaint, was unacceptable and to advise that the dispute between the complainant and the individual respondent had been resolved.

Alleged racial hatred on a website

The complainant, who is of Asian background, complained about a website which he said advocated violence against Asians. The comments on the website included:

‘Asians take all our good Jobs and Careers leaving us aussies to have to fight and often miss out on a opportunity for spots in our universities and good jobs.’

‘Asian People Flood our city with their Asian shops with their language all over them, having their own dedicated “china town” and their own suburb ...’

‘... we understand everyone has different Levels of hate for Asians and so we have ... Yellers. Their job is to Yell at the Asians with passion i.e. “YOU GOOK F**K OFF TO CHINA” and do what ever they can to show Asians they are not welcome in Australia ... Fighters ... are their to express there anger physically by laying the Gooks out.’

On receipt of the complaint, the Commission contacted the Internet Service Provider (ISP) to establish the identity of the website owner. Within a few days of contacting the ISP, the ISP advised that the website had been disabled because it breached the ISP’s Acceptable Use Policy.

The complainant informed the Commission that the action by the ISP resolved his complaint.

Complaint of racial discrimination and racial hatred in sport

The complainant lodged a complaint on behalf of his 18-year-old son, who is of Ethiopian origin. The complainant alleged that, during a recent game between his son’s football club and the respondent football club, a player from the respondent club called his son a ‘black c**t’. He also alleged a member of the respondent team’s coaching staff told his son to ‘wash the dirt off’, which was a derogatory reference to his son’s skin colour. The complainant advised that his son’s club made a formal complaint to the football league about the player’s comment, but he was not satisfied with how the matter was handled. The complainant said he wished to complain against both the respondent football club and the football league.

The respondent club said its player denied making the alleged comment. The club confirmed a member assisting the coaching staff said ‘wash the dirt off’, and advised that this member had been counselled. In its response to the complaint, the club said it has zero tolerance for racism and expressed regret for what occurred. The complainant advised the Commission that this response resolved his complaint against the club.

The respondent football league advised that it had investigated the complaint in accordance with its rules and procedures. The league said the matter went to a hearing and the tribunal found that the player had made the alleged comments. However, the player successfully appealed the decision.

The complaint against the football league was resolved by means of a telephone conciliation process. The terms of agreement included an undertaking by the league to review and revise its complaint procedures to ensure clearer procedures for investigating complaints and to provide for conciliation before a hearing.

Alleged race discrimination in employment

The complainant advised that he is Aboriginal and was employed with the respondent manufacturing company as a spare parts coordinator. The complainant alleged a senior supervisor told him that he should not apply for a promotion as he is an ‘Abbo’ and therefore incapable of fulfilling the role. The complainant said he made an internal grievance, but felt the matter was not handled appropriately. The complainant resigned from his employment.

When the company was informed about the complaint, they confirmed that the complainant had reported the incident, but said they understood the matter had been resolved. The company agreed to participate in conciliation without providing a formal response to the complaint.

The complaint was resolved at a conciliation conference, with an agreement that the company would pay the complainant \$7000 compensation and that the company and the individual respondent would provide the complainant with statements of regret.

Complaints about racial hatred online

The complainants, who are of Aboriginal background, complained about a respondent social networking site. They claimed that a social group entitled, 'No I'm Not Bloody Sorry & Don't Have Anyone to Be Reconciled With!', was created and loaded onto the respondent site. The complainants alleged the members of the group made comments that racially vilified Aboriginal people. Some of the comments included:

'Why should I have to apologise for something that happened over 200 years ago? Consider it survival of the fittest.'

'I have nothing wrong with an Aboriginal being named Australian of the Year, but when it's just handed out as a token gesture rather than being EARNT...'

After being advised of the complaint, the respondent company informed the Commission that the group had been disabled from the website because it violated the site's user policy. The complainants advised the Commission that the action taken by the respondent company resolved their complaint.

Alleged racial discrimination in employment

The complainant advised that she is from Switzerland and speaks English with a French accent. The complainant applied for a position as a conference producer through a recruitment agency. She said a staff member from the agency left a message for her, but when she called back and spoke to this staff member, she was told the position was no longer available. The complainant claimed that, when her partner and friend, who do not have French accents, subsequently called to enquire about the position, they were told the position was still open. The complainant claimed the respondent agency discriminated against her because of her origin and her accent.

The managing director of the respondent agency advised the Commission that the employee named in the complaint had been dismissed. The managing director offered to meet with the complainant to discuss her concerns. The parties met a few days later and, after this meeting, the complainant advised the Commission that the action taken by the managing director resolved her complaint.

4.2.2 Sex Discrimination Act

During the reporting period, the Commission received 547 complaints under the Sex Discrimination Act. The majority of complaints related to employment (91 percent). Twenty-two percent of complaints alleged pregnancy discrimination and 22 percent of complaints alleged sexual harassment. The CHS finalised 542 complaints under this Act and 48 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Sex Discrimination Act are provided later in this chapter.

Alleged pregnancy discrimination in employment

The complainant attended an interview for a sales assistant position with the respondent retail store. She said that, during the interview, she advised she was pregnant. The complainant claimed that, the next day, she received an email from the interviewer in which he said he was impressed with her, but the owner of the company was not interested in employing her until she was back in the workforce. The complainant claimed she was refused the position because she was pregnant.

The Commission contacted the respondent company a few days after the complaint was received. The company said it did not employ the complainant because other applicants had more relevant sales experience. However, the company said that, as another employee was leaving, they could offer the complainant ongoing work.

The complaint was resolved with an agreement that the complainant would be employed as a casual sales assistant with the company.

Complaint of sexual harassment in employment

The complainant alleged she was sexually harassed by her manager while working as a cashier at the respondent retail store. The complainant claimed that her manager made comments about her breasts, touched her inappropriately and on more than one occasion, tried to kiss her. She also alleged the manager followed her home one evening and tried to assault her. The complainant claimed that, because of this, she became stressed and anxious and eventually resigned from her job.

The company denied the manager had sexually harassed the complainant and said that the complainant had not complained about sexual harassment during her employment. The company advised that, as it was a small employer, it did not have a sexual harassment policy.

The complaint was resolved through a conciliation process. The parties agreed that the company would provide the complainant with a statement of service and pay her \$33 000, representing compensation for hurt and embarrassment and reimbursement of medical and counselling costs. The company also agreed to develop a sexual harassment policy and associated grievance procedure, and engage an external company to provide anti-discrimination training for staff.

Alleged discrimination on the grounds of sex and family responsibilities

The complainant advised that she is employed on a part-time basis as an administrative officer with the respondent Commonwealth department. The complainant claimed she was asked to increase to full-time hours and work fixed hours of 9:00 am and 5:30 pm. She said she agreed to work full-time, but requested flexible working hours to accommodate her family responsibilities. The complainant claimed her request for flexible hours was refused and she was moved to another part-time position. She claimed the person who took over her position on a full-time basis was not required to work the same fixed hours.

The department said the complainant told them she could only work full-time if the hours were 7:00 am to 4:00 pm and these hours did not match operational requirements for the position.

The complaint was resolved with an agreement that the department would convert the complainant's existing position to full-time and allow her to work her hours between 7:00 am and 7:00 pm. The department also provided the complainant with a statement of regret.

Complaint of pregnancy discrimination in employment

The complainant was registered with the respondent recruitment agency and, through this agency, was offered a position as a receptionist with a small property development company. The complainant claimed that, prior to commencing employment, she found out she was pregnant and informed the recruitment agency and her future employer. The complainant said the company withdrew the offer of employment and the recruitment agency did not contact her about other employment opportunities. She alleged that the recruitment agency and the company discriminated against her because of her pregnancy.

The company advised that it is a small corporation, and the decision to withdraw the offer of employment was based on business and financial requirements. The recruitment agency said it took all reasonable steps to obtain alternative employment for the complainant, but no other work the complainant was interested in was available.

The complaint was resolved at conciliation with an agreement that the company would pay the complainant \$10 000 general damages, provide her with a written apology and develop an Equal Employment Opportunity (EEO) policy for the workplace. The recruitment agency agreed to pay the complainant \$2000 general damages.

Alleged sexual harassment in employment

The complainant claimed she was sexually harassed while working for the respondent fast food franchise. She alleged her new manager asked her questions about her sex life, such as 'What do you do when having sex?' and 'What toys have you used?' and also asked her to demonstrate using a mini vibrator. The complainant said she became quiet and withdrawn at work as a result of this behaviour, and her manager then criticised her work and removed her from the roster. She claimed that her parents tried to speak to the manager about the situation and, shortly after this, she was dismissed.

The respondents did not provide a formal response to the complaint, but agreed to participate in conciliation.

The complaint was resolved with an agreement that the company would pay the complainant \$8500 and provide her with a Statement of Service. The company also agreed to implement an EEO policy, display information in the workplace about relevant complaint bodies and arrange for the individual respondent to undertake EEO training.

Complaint of pregnancy discrimination in education

The complainant is a PhD candidate, studying to become a specialist doctor under a scholarship provided by a professional organisation. The complainant said the university granted her maternity leave from her studies; however, the professional organisation told her that her scholarship was withdrawn because of her maternity leave. The complainant said the professional organisation informed her she could re-apply for the scholarship, but there was no guarantee that a future application would be successful.

In response to the complaint, the professional organisation advised that it had developed a maternity leave policy for women on research scholarships. This policy provided that, where maternity leave is granted, the duration of the scholarship will be extended to take account of the leave.

The complaint was resolved through the development of this maternity leave policy and an agreement that the new policy would be applied to the complainant's situation, so that her scholarship would recommence at the end of her maternity leave.

Alleged discrimination on the grounds of sex and pregnancy

The complainant was employed as a manager with the respondent marketing company. She claimed that, after approximately one year working with the company, she went on 12 months unpaid maternity leave. She said that, when she contacted her employer the month before she was to return to work, she was told her position had been made redundant because of the acquisition of another company some months before. The complainant said that, while on leave, she was not advised of the changes occurring in the company and was not given the opportunity to apply for another position. The complainant also alleged her former position still existed, but had a new title.

The company did not provide a formal response to the complaint and agreed to attend a conciliation conference to try to resolve the matter.

The complaint was resolved with an agreement that the company would pay the complainant \$30 000 compensation.

Complaint of sexual harassment

The complainant was employed as a bar attendant at the respondent hotel. The complainant alleged that her manager sexually harassed her by kissing and touching her inappropriately. She also alleged she was dismissed because she refused the manager's sexual advances.

In a written response to the complaint, the manager and the hotel denied the complainant had been sexually harassed. The hotel claimed the complainant was dismissed because of poor work performance.

The complaint was resolved with an agreement that the respondent would pay the complainant \$6500 and provide her with a written apology. The hotel also agreed to develop a sexual harassment policy and associated complaint process, and ensure staff received training regarding the policy.

4.2.3 Disability Discrimination Act

During the reporting period, the Commission received 980 complaints under the Disability Discrimination Act. The majority of these complaints concerned employment (40 percent) and the provision of goods, services and facilities (35 percent). The CHS finalised 1117 complaints under this Act and 47 percent 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 employment

The complainant was employed on a temporary contract with the respondent state government department as an administration officer. She said her contract was continually renewed and, about 14 months later, she was diagnosed with breast cancer. She claimed her supervisor said she would be offered a permanent position and encouraged her to apply for an upcoming permanent vacancy. The complainant said her application for the permanent position was unsuccessful and her contract was not renewed. The complaint alleged this was because of her disability.

On being advised of the complaint, the respondent indicated a willingness to resolve the matter through conciliation.

The complaint was resolved with an agreement that the department would employ the complainant on a permanent basis in another position.

Alleged disability discrimination in education

The complaint was lodged by the parents of a 12-year-old boy who has cerebral palsy and uses a wheelchair. The complainants said their son attends the local public school and the school had recently purchased a new school bus that does not have wheelchair access. They said that, as a result, their son cannot attend school camps and excursions unless they transport him themselves. The complainants advised that they live in a small country town where accessible taxis or other forms of accessible transport are not available.

The school confirmed the new school bus did not have a wheelchair hoist but said an accessible bus, belonging to the local community health service, could be used on the occasions when the complainants' son was participating in school excursions. The respondent noted that, because of the student's high care needs, he was not able to attend the school camp unless accompanied by a carer.

The complaint was resolved with an agreement that the school would fit a wheelchair hoist to the new school bus and develop protocols for communication, between the school and the complainants, about their son's participation in activities.

Complaint of discrimination because of assistance dog

The complainant has a psychiatric disability and uses an assistance dog. The complainant claimed that the respondent cafe, which is located in a large shopping centre, discriminated against her because of her assistance dog. She claimed she ordered and paid for a coffee, but when the owner delivered her coffee, he told her to get out and pointed to the sign that said, 'No Dogs'. The complaint was made against the cafe and the building management company that owned the shopping centre.

On being advised of the complaint, both respondents confirmed a willingness to participate in conciliation.

The complaint was resolved with an agreement that the building management company would amend signage in its 78 shopping centres to say, 'Authorised dogs permitted'. The respondent cafe agreed to publish a written statement of regret in the local newspaper.

Alleged disability discrimination in employment

The complainant advised that she has schizophrenia and is obese. She claimed she successfully applied for a position as an administrative officer with the respondent Commonwealth department, but on her first day of work, she was told that her name had been removed from the successful applicant list. The complainant said that, when she asked why her name had been removed, she was told this was because the department had been notified that she was prone to violent outbursts.

The department confirmed the complainant applied for the position and that her application was successful. The department denied disability discrimination, and advised that the complainant was unable to commence work on the day in question because of a series of administrative oversights.

The complaint was resolved at a conciliation conference with an agreement that the department would provide the complainant with an apology and pay her \$15 000 compensation.

Complaint of disability discrimination in the provision of hospital services

The complainant advised that he is profoundly deaf, cannot speak or lip-read and his first language is Auslan. The complainant said he was a patient in the respondent hospital for 10 days and, during his stay, required an Auslan interpreter for part of every day to ensure that there was no confusion in his communications with medical staff. The complainant alleged that, despite his requests for an Auslan interpreter, no interpreter was provided.

The respondent health service confirmed that the complainant was a patient, that it was aware the complainant was deaf at the time of admission and that an Auslan interpreter was not used during the complainant's time in hospital. The health service advised that medical notes by nursing and allied health staff indicated they could communicate effectively with the complainant through written notes and other means.

The complaint was resolved through a conciliation process with an agreement that the respondent would pay the complainant \$8000 compensation.

Alleged disability discrimination in the provision of airline services

The complainant is blind and uses a guide dog. The complainant claimed that, when she attempted to book a flight with the respondent airline, she was told she could not travel because there was already one guide dog booked on that flight, and the airline has a policy of only one guide dog per flight.

The airline confirmed that, due to operational requirements, it has a limit on the number of passengers who can travel with service dogs on each flight. The airline denied discriminating against the complainant and claimed that the limit on the number of service dogs was reasonable in the circumstances. The airline advised, however, that its current policy on this issue was under review.

The complaint was resolved with an agreement that the airline would amend the policy to increase the number of service dogs that could travel with passengers on a flight. The airline also agreed to update the relevant section of its internet website to outline the assistance available to people with disabilities who travel with assistance dogs.

Complaint of disability discrimination in employment

The complainant advised that he commenced employment with the respondent manufacturing company as a production supervisor in December 2000. The complainant said he sustained a neck injury at work approximately two years ago, and returned to work on restricted duties four months later. He claimed that, some seven months after he returned to work, the company advised him that its medical advice indicated he would have to remain on restricted duties. The complainant said he obtained an independent medical assessment which indicated he was able to return to his pre-injury position. The complainant said that, despite this, his employment was terminated.

The company said the complainant's employment was finalised because medical advice indicated that the complainant could not perform the inherent requirements of the position in which he had been employed.

The complaint was resolved with an agreement that the company would pay the complainant \$15 000 compensation. The respondent also agreed to transfer the title for the house, which the complainant had leased during his employment, to the complainant.

Complaint about disability discrimination at a museum

An organisation lodged the complaint on behalf of a number of its members who are hearing impaired. The organisation said that this group of members visited the respondent museum, but could not access the facilities at the museum in the same way as other members of the public. The allegations included that they could not use public telephones in the museum, they could not access audio-visual presentations or lectures in the theatre, and museum staff did not demonstrate appropriate communication strategies to deal with people with hearing disabilities.

When advised of the complaint, the museum indicated a willingness to try to resolve the matter.

The complaint was resolved through a conciliation process, with the respondent agreeing to implement a number of measures to improve accessibility at the museum for people who are hearing impaired. These measures included: a review of communication access in relation to audio-visual displays, lectures and signage; installation of two public phones with variable volume control and an induction loop; provision of a portable TTY keyboard appliance that can be used in conjunction with the public payphones; installation of cash registers with outward facing displays; provision of information about disability access information on the museum's website; and the introduction of staff training to assist service provision to customers who are hearing impaired.

4.2.4 Age Discrimination Act

During the reporting period, the Commission received 151 complaints under the Age Discrimination Act. The majority of these complaints concerned employment (59 percent). The CHS finalised 141 complaints under this Act and 43 percent 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 60 years old. She said she had been employed with the respondent club for two years as a casual employee doing clerical and administrative duties, but had recently been made redundant. The complainant alleged she was selected for redundancy because of her age and claimed a younger person was subsequently employed in her position.

The club stated that the complainant's employment had been finalised for operational reasons. The club said new staff members were employed with specific skills to undertake particular tasks and, as a result, the complainant's duties were incorporated into other positions. The club denied a younger person was employed in the complainant's position. The club advised that the board of directors was not aware of the general manager's decision to make the complainant's position redundant.

The complaint was resolved at a conciliation conference. The club agreed to reinstate the complainant to her former position, pay her \$3000 general damages and provide her with a letter of apology.

Alleged age discrimination in the provision of travel services

The complainant and her two friends are all between 20 and 21 years of age. They claimed that, when they tried to book a cruise with the respondent company, they were told their booking could not be accepted because they were not all over 21 years of age and were intending to travel without a legal guardian.

The respondent company advised the Commission that, for safety and security reasons, it is their policy not to allow passengers under 21 years of age to travel without a legal guardian.

Four weeks after lodgement with the Commission, the complaint was resolved on the basis that the company would accept a booking from the complainant and her friends.

Complaint of age discrimination in employment

The complainant advised that she is 50 years old and works on a casual basis as a customer service representative with the respondent car hire company. The complainant said she had worked with the company since 2002, and was originally employed on a full-time basis. The complainant claimed that, at a meeting with her manager, she requested a permanent part-time position and a roster change so she would be allocated more hours. She said the manager declined her request and suggested she consider going to work for establishments where ‘... 50 to 60-year-old ladies scan products they really do not know anything about’. The complainant claimed that, following this meeting, her working hours were reduced and she believed this was because of her age.

The respondent company said the alleged incident involving the manager was investigated, and the manager was counselled for making the comment to the complainant. The company denied that the complainant’s request for a permanent part-time position and a roster change was rejected because of her age, and advised the decision was based on operational requirements.

The complaint was resolved with an agreement that the complainant would be appointed to a permanent part-time position and provided with an ex gratia payment of \$5000.

Alleged age discrimination in employment

The complainant, who is 64 years of age and a professor at the respondent university, claimed that he is required to retire when he reaches 65 years of age. The complainant said he recently received a three-year research grant which named him as the administrator of the grant, but the university told him that, because of his pending retirement, he cannot take on this role.

The university advised that its statute, which is an instrument with legislative effect, states that professors can only hold office until the end of the calendar year in which they reach 65 years of age. The university said it must act in accordance with the statute and claimed that the exemption under section 39 of the Age Discrimination Act applies.

The matter was resolved through a conciliation process. The parties agreed the university would employ the complainant as a professor on a fractional three-year fixed term contract prior to his retirement, and would appoint him as principal investigator for the research grant.

4.2.5 Human Rights and Equal Opportunity Commission Act

During the reporting period, the Commission received 179 complaints under the Human Rights and Equal Opportunity Commission Act. The majority of these complaints concerned discrimination in employment based on criminal record (40 percent) and alleged breaches of the International Covenant on Civil and Political Rights (26 percent). The CHS finalised 162 complaints under this Act and 32.5 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Human Rights and Equal Opportunity Commission Act are provided later in this chapter.

Complaint of discrimination on the ground of religion in employment

The complainant was employed on a contract basis as a teacher with a religious organisation that provides private education. The complainant claimed her teaching contract was not renewed because she is not of the same religion as the organisation.

The respondent organisation denied discriminating against the complainant on the ground of her religion, and claimed that the complainant's contract was not renewed because of operational reasons. The organisation said that, although the teacher who ultimately replaced the complainant was of the same religion as the organisation, this teacher was appointed on the basis of her qualifications, not her religion.

The complaint was resolved with an agreement that the respondent organisation would provide the complainant with a written apology and pay her \$8000 compensation. The organisation also agreed to arrange anti-discrimination training.

Alleged discrimination on the ground of criminal record

The complainant advised that, on his police record, he has convictions for driving under the influence, the most recent being in 2005, as well as a 1995 offence for possession of cannabis. The complainant sought to become a volunteer at the respondent aged care facility, which was an approved organisation for the purposes of his pension job search requirements. The complainant said that, when he provided the aged care facility with a copy of his police record, he was told he could not be accepted as a volunteer because of his criminal record.

The respondent facility advised that volunteers have unsupervised access to residents and undertake duties such as taking residents for walks, room visits and reading. The facility said the complainant was considered unsuitable because of the seriousness of the traffic offences on his police record.

The complaint was resolved with an agreement that the complainant could reapply for volunteer work in the future. The respondent facility also provided the complainant with a verbal apology.

Complaint by a detainee about an alleged breach of human rights

The complainant alleged that his right to be treated with dignity (Article 10(1) of the *International Convention on Civil and Political Rights*) was breached while in immigration detention. The complainant said that, when attending court in relation to his protection visa application, the department's service provider required him to wear handcuffs while being transported, and also in court. The complainant claimed that, at the court, he asked the officer to remove the handcuffs so he could use the toilet, but the officer refused. The complainant claimed the officer had to undress him and assist him use the toilet, and he felt humiliated and degraded by this.

The complaint was resolved within four weeks of the respondent department being advised of the matter. The department provided the complainant with a written apology. The department's service provider agreed to review its procedures regarding the use of handcuffs during transfers, and issued a new direction to its officers to ensure such incidents do not occur in the future.

Alleged discrimination on the ground of criminal record in employment

The complainant has a criminal conviction for larceny in 2002, for which she received a \$59 fine. The complainant advised that she declared her criminal record when applying for fixed term casual work with the respondent transport company. The complainant was employed for the term of her contract without incident. The complainant claimed that, some months later, she became aware that the company was offering similar work, but she was not contacted. She alleged that another employee told her that she was not offered additional work because of her criminal record.

The respondent company confirmed that the complainant was not offered further work, but denied this was because of her criminal record. The company said there was urgency to the recruitment process, so calls were made to people on a register of potential employees. The first people on the register who indicated they were available, were offered the work.

An initial conciliation conference was held, but the complaint could not be resolved, so the matter was referred to the President for further inquiry and possible reporting. At this stage, the parties were offered another opportunity for conciliation, and the complaint was resolved in this subsequent conciliation process. The conciliation agreement included that the company would provide the complainant with a written apology and pay her \$5000 compensation.

Complaint regarding a breach of the right to freedom of movement

The complainant lodged a complaint on behalf of transgender people. He claimed the Commonwealth government's policy of not issuing a gender appropriate passport, unless the transgender individual has undergone a qualifying surgical procedure, breaches the human right of freedom of movement. The complainant said the Commonwealth will issue a Document of Identity that does not specify gender, but this is not accepted in all countries or requires an additional visa to be obtained. The complainant claimed the only document that gives transgender people the same right to freedom of movement as other Australian citizens, is a passport which records a gender that is consistent with the appearance and gender identification of the transgender person.

The Department of Foreign Affairs and Trade (DFAT), which has responsibility for issuing Australian Passports, advised it has an obligation to protect the integrity and security of Australian passports, and applies a consistent policy of issuing passports based on data contained in fundamental identity documents, such as birth certificates. DFAT said that passport applicants, intending to travel overseas, have the option of applying for a passport in the gender shown on their birth certificate, or travelling on a Document of Identity that does not show any gender. DFAT advised it does not have a policy that a transgender passport applicant must undergo a qualifying surgical procedure in order to change the gender on their passport. However, the department issues passports with the details of an applicant which have been accepted and recorded by agencies that have the responsibility for determining such matters, such as the Registrar for Births, Deaths and Marriages. DFAT said there is provision for particular situations to be considered on a case-by-case basis, but departure from the requirement to provide a birth certificate, showing the reassigned gender, would only occur in exceptional circumstances.

The complaint was resolved at a conciliation conference. DFAT agreed to amend its standard exceptions policy to cover situations where an applicant claims they are unable to obtain a revised birth certificate in their identified gender because they cannot complete sex reassignment surgery due to a pre-existing medical condition, or because surgery carried a higher than normal risk, with the result that a relevant medical practitioner considered completion of the surgery to be dangerous or life threatening. The department also undertook to develop a new training package for passport interviewing officers, using material the complainant provided on the sex and gender diverse community.

Alleged criminal record discrimination in employment

The complainant advised the Commission that, on his police record, he has two charges without conviction. These are a charge of criminal damage to property in 1999, for which he had to pay \$1000 court fees, and a charge of theft of a clothing item in 2003, for which he had to pay \$100 court fees. The complainant was offered a job as a consultant at the respondent bank, subject to a satisfactory police record check. He claimed that, prior to commencing work, he advised his team leader that he had charges which may or may not show up on his police record, and explained what these were. The complainant said he worked for three weeks with the bank, and performed well, but when the bank received his police record check, his employment was terminated. The complainant claimed his criminal record did not prevent him from fulfilling his work responsibilities. He also said that, if the bank was of the view that he was unsuitable for the role, it should have raised this when he first advised of his police record.

The bank claimed the position the complainant applied for involved access to customer accounts, and therefore, it was imperative that a person in this role be honest, trustworthy and of good character. The bank said that, in light of the complainant's criminal record, it was not satisfied the complainant could fulfill the inherent requirements of the role.

The complaint was resolved with an agreement that the bank would pay the complainant \$3 000 compensation and review its policy regarding the appointment of prospective employees prior to receipt of a satisfactory police record check.

4.3 Reported complaints

As noted previously in this chapter, 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. The Commission attempts to resolve such complaints through conciliation, where appropriate. Where a complaint is not resolved, 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 recommendations are not legally enforceable.

Additional information about reports to the Attorney-General is available on the Commission's website at: www.humanrights.gov.au/legal/humanrightsreports/index.html. The Commission is working with the Australasian Legal Information Institute (Austlii) to make its reports available on the Austlii website. As a part of this process, the Commission is adopting a standard international form of citation for its reports: 'AusHRC XX'.

In 2008-09, one report to the Attorney-General was issued.

4.3.1 Immigration detainees v Commonwealth (Department of Immigration and Citizenship) (2009) AusHRC 40

This report arose from three separate complaints relating to the same events. An initial complaint was lodged with the Commission by an immigration detainee, on his own behalf, and on behalf of 21 other detainees at Villawood Detention Centre. Subsequently, three other detainees requested and were granted leave to be joined to the first complaint. Two other detainees lodged separate complaints relating to the same events. All of the complainants alleged that their human rights had been breached by the Department of Immigration and Citizenship (DIAC) (which, at the time the complaints were filed, was known as the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA)) and GSL (Australia) Pty Ltd.

The complainants advised they were asylum seekers alleging persecution by the People's Republic of China. The complainants claimed that, in May 2005, DIMIA had arranged for them to be interviewed by four Chinese Ministry of Public Security officials and, in these interviews, the officials: refused to say where they were from; revealed they had information about the complainants' families; and asked the complainants whether they had applied for protection visas. The complainants said they did not know why they were being interviewed and felt frightened and threatened. They claimed that after the interviews, some of their families in the People's Republic of China were 'disturbed' and 'interrogated'. The complainants also alleged that, after the interviews, some of them were placed in a separate detention unit for up to 15 days and were mistreated. The alleged mistreatment included being locked up for 24 hours, being given cold food, being refused medical or legal assistance, and being refused any form of communication with people outside the unit.

In response to the complaints, DIMIA confirmed that it had arranged for the complainants to be interviewed by officials from the Chinese Ministry of Public Security in order to ascertain their identity. The department conceded that supervision of the interviews was inadequate and that the interview process was flawed. DIMIA confirmed that some complainants had been placed in separate accommodation within the detention centre and kept there until the final interview had been completed. DIMIA denied that the complainants were mistreated while in separate detention.

The former President of the Commission found that the Commonwealth had breached the human rights of the 26 immigration detainees in relation to the manner in which interviews with the Chinese Ministry of Public Security were conducted, and the separate detention of some of the immigration detainees following the interviews. The former President found that the acts of the Commonwealth in relation to these events breached the right to be treated with humanity and dignity (art 10(1) of the ICCPR) and the right not to be subject to arbitrary interference with privacy (art 17(1) of the *International Covenant on Civil and Political Rights*).

The former President recommended that the Commonwealth pay \$5000 in compensation to those complainants who had their human rights breached as a result of the interviews and an additional \$4000 to those complainants who were placed in separate detention. The former President also recommended that the Commonwealth provide a formal written apology to each of the complainants. Finally, the former President made recommendations about actions that should be taken by the Commonwealth to prevent such breaches in the future. These recommendations included that such interviews should only be conducted when all other means of ascertaining identity have been exhausted, and should be conducted by the department with the assistance of overseas officials, rather than by the overseas officials themselves.

The Department of Immigration and Citizenship has informed the Commission that it accepts certain acts complained of were inconsistent with the complainants' human rights and proposes to take action in accordance with the President's recommendations.

4.4 Complaint statistics

4.4.1 Overview of statistics

Enquiries and complaints received

Over the past five reporting periods, the Commission received an average of 15 366 enquiries per year. In 2008-09, the Commission received 20 188 enquiries, which represents a 31 percent increase in comparison with the average and an eight percent increase in comparison with the number received in the previous reporting period. Over the past five years, the number of enquiries the Commission receives each year has increased by 103 percent.

Over the past five years, the Commission received an average of 1749 complaints per year. In 2008-09, the Commission received 2253 complaints, which represents a 29 percent increase in comparison with the average and an 8 percent increase in comparison with the number received in the previous reporting period. Over the past five years, the number of complaints the Commission receives has increased by 81 percent.

In 2008-09, 43 percent of complaints received were lodged under the Disability Discrimination Act, 24 percent under the Sex Discrimination Act, 18 percent under the Racial Discrimination Act, 8 percent under the Human Rights and Equal Opportunity Commission Act and 7 percent under the Age Discrimination Act. For the past five reporting periods, the majority of complaints have been lodged under the Disability Discrimination Act and the Sex Discrimination Act.

As in previous years, employment was the main area of complaint under all federal anti-discrimination legislation. In 2008-09, complaints regarding employment constituted: 54 percent of complaints under the Racial Discrimination Act; 91 percent of complaints under the Sex Discrimination Act; 40 percent of complaints under the Disability Discrimination Act; and 59 percent of complaints under the Age Discrimination Act.

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

Conciliation of complaints

Out of the complaints finalised in 2008-09, 48 percent were conciliated. This is the same as the conciliation rate for the previous reporting period and is 6 percent higher than the average conciliation rate over the past five reporting periods. In matters where conciliation was attempted in 2008-09, 68 percent were able to be resolved.

As was the case in the last reporting period, complaints under the Racial Discrimination Act had the highest conciliation rate (55 percent) and a high conciliation success rate (72 percent). The higher conciliation rate for race discrimination complaints, over the past two reporting 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 (48 percent) and a conciliation success rate of 63 percent. Complaints under the Disability Discrimination Act had a conciliation rate of 47 percent and a conciliation success rate of 69 percent. In this reporting period, complaints under the Age Discrimination Act had a conciliation rate of 43 percent and a conciliation success rate of 67 percent, while 32.5 percent 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, 13 and 14 below.

Demographic data obtained during the complaint process indicates that 48 percent of complaints were lodged by individual females, 46 percent by individual males and 6 percent by other categories, for example, multiple complainants and organisations or individuals on behalf of others.

Forty-one percent of complainants reported that they knew about the Commission prior to lodging their complaint. The main identified sources of information for others were legal centres or private lawyers (12 percent), family members or friends (11 percent), the internet (6 percent), a government agency (4 percent) and a disability organisation or advocate (4 percent).

The majority of complainants (62 percent) indicated that their main source of income at the time of the alleged act was from full-time, part-time or casual employment.

Approximately 35 percent of complainants indicated that they had legal or other representation at the beginning of the complaint process. Forty percent of this group were represented by privately funded solicitors. Other forms of representation were: other advocate groups such as working women's centres or disability advocacy services (24 percent); community legal centres, such as Indigenous or disability legal services (14 percent); family members or friends (11 percent); and trade unions or professional associations (11 percent).

Data collected on respondent categories indicates that, in the last reporting period, approximately 48 percent of complaints were against private enterprise, 12 percent were against state departments/statutory authorities and 9 percent were against Commonwealth departments/statutory authorities. These have been the main respondent organisation categories for the last five reporting periods. Complete information on respondent categories is provided in Table 15 below.

4.4.2 Complaint Information Service

Table 4: Website enquiries	
Complaint Handling Section webpage views	319 217

Table 5: Telephone, TTY, email, in-person and written enquiries received	
Enquiry type	Total
Telephone	16 757
TTY	12
Email	2485
In-person	132
Written	802
Total	20 188

Table 6: Enquiries received by issue	
Issue	Total
Race	2754
Race – racial hatred	738
Sex – direct	819
Sexual harassment	1139
Sex – marital status, family responsibilities, parental status, carers responsibilities, breast feeding	551
Sex – pregnancy	848
Sexual preference, transgender, homosexuality, lawful sexual activity	212
Disability – impairment	3250
Disability – HIV/AIDS/Hepatitis	79
Disability – workers compensation	270
Disability – mental health	631
Disability – intellectual/learning disability	274
Disability – maltreatment/negligence	39
Disability – physical feature	135

Issue	Total
Age – too young	171
Age – too old	501
Age – compulsory retirement	7
Criminal record/conviction	390
Political opinion	35
Religion/religious organisations	284
Employment – personality conflicts/favouritism	301
Employment – union/industrial activity	137
Employment – unfair dismissal/other industrial issues	4953
Employment – workplace bullying	2680
Human rights – children	176
Human rights – civil, political, economic, social	1231
Immigration – detention centres	71
Immigration – visas	254
Prisons/prisoners	173
Police	312
Court – family court	190
Court – other law matters	307
Privacy – data protection	156
Neighbourhood disputes	95
Advertising	58
Local government – administration	96
State government – administration	588
Federal government – administration	832
Other	2636
Total*	28 373

* One enquiry may have multiple issues.

State of origin	Total	Percentage (%)
New South Wales	6824	34
Victoria	4390	22
South Australia	1330	6
Western Australia	1330	6
Queensland	3008	15
Australian Capital Territory	549	3
Tasmania	534	3
Northern Territory	354	2
Unknown/overseas	1869	9
Total	20 188	100

4.4.3 Complaints overview

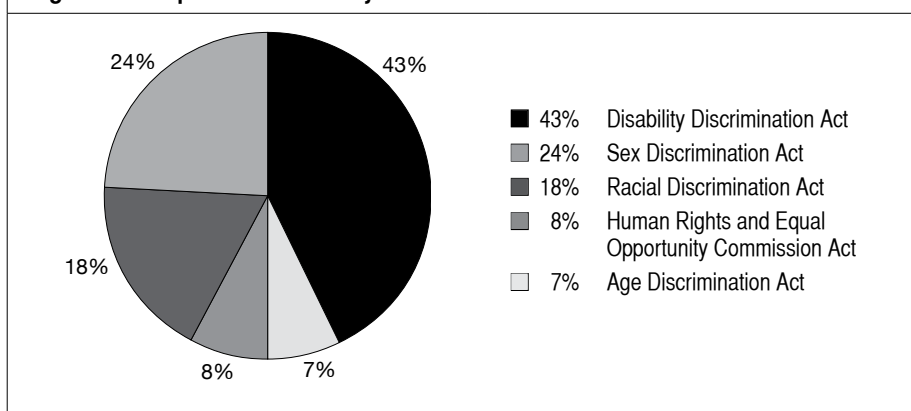
	2004-05	2005-06	2006-07	2007-08	2008-09
Received	1241	1397	1779	2077	2253
Finalised	1233	1205	1656	1883	2354

	2004-05 %	2005-06 %	2006-07 %	2007-08 %	2008-09 %
Terminated/ declined	46	44	48	39	34
Conciliated	38	39	38	48	48
Withdrawn	16	16	14	13	18
Reported (Human Rights and Equal Opportunity Act only)	–	1	–	–	–

State of origin	Total	Percentage (%)
New South Wales	753	33
Victoria	480	21
South Australia	236	11
Western Australia	160	7
Queensland	485	22
Australian Capital Territory	61	3
Tasmania	32	1
Northern Territory	17	1
Unknown/overseas	29	1
Total	2253	100

Act	Received	Finalised
Racial Discrimination Act	396	392
Sex Discrimination Act	547	542
Disability Discrimination Act	980	1117
Age Discrimination Act	151	141
Human Rights and Equal Opportunity Commission Act	179	162
Total	2253	2354

Figure 2: Complaints received by Act



	2004-05	2005-06	2006-07	2007-08	2008-09
Racial Discrimination Act (RDA)	167	259	250	376	396
Sex Discrimination Act (SDA)	348	347	472	438	547
Disability Discrimination Act (DDA)	523	561	802	988	980
Age Discrimination Act (ADA)	78	106	106	126	151
Human Rights and Equal Opportunity Commission Act (HREOCA)	125	124	149	149	179
Total	1241	1397	1779	2077	2253

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Born in Australia	50	52	56	65	39	53
Born outside of Australia	45	16	15	27.5	23	22
Unknown/unspecified	5	32	29	7.5	38	25

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Aboriginal	42	2	2	2	3	9
Torres Strait Islander	–	–	–	–	–	–
None of the above	58	98	98	98	97	91

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Individual male	15	26	6.5	10	8	13
Individual female	5	4	4	3	4	4
Private enterprise	28	53	53	57	39	48
Commonwealth government department/statutory authority	7	7	8	6	28	9
State government department/statutory authority	23	3	13	6.5	14	12
Local government	1	–	2	–	1	1
Government Business Enterprise	–	1	2.5	0.5	1	1
Educational institution	2	2	6	6	1	4
Trade union/professional association	1	1	–	3	0.5	1
Not for profit organisation /non government	16	1	1	3	2	4
Clubs/incorporated associations	1	2	3	3	0.5	2
Other	1	–	1	2	1	1

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Cumulative Total (%)
0-6 months	60	56	49	53	52	53
6-9 months	78	82	76	78	78	78
9-12 months	88	95	93	93	93	93
More than 12 months	100	99	100	100	99	100
More than 24 months	–	100	–	–	100	–

4.4.4 Racial Discrimination Act

Table 17: Racial Discrimination Act – complaints received and finalised	
Racial Discrimination Act	Total
Received	396
Finalised	392

Table 18: Racial Discrimination Act – complaints received by ground		
Racial Discrimination Act	Total	Percentage (%)
Colour	40	7
National origin/extraction	65	11
Ethnic origin	95	15
Descent	4	1
Race	316	51
Victimisation	20	3
Racial hatred	50	8
Aids, permits or instructs	6	1
Association	2	–
Immigrant	19	3
Total*	617	100

* One complaint may have multiple grounds.

Table 19: Racial Discrimination Act – complaints received by area		
Racial Discrimination Act	Total	Percentage (%)
Rights to equality before the law	1	–
Access to places and facilities	10	2
Land, housing, other accommodation	2	–
Provision of goods and services	140	23
Right to join trade unions	–	–
Employment	331	54

Racial Discrimination Act	Total	Percentage (%)
Advertisements	–	–
Education	14	2
Incitement to unlawful acts	2	–
Other – section 9	54	9
Racial hatred	63	10
Total*	617	100

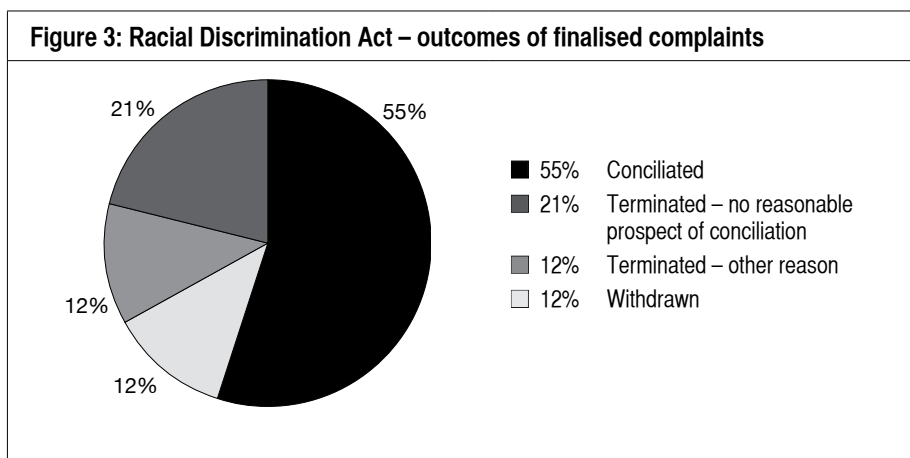
* An area is recorded for each ground, so one complaint may have multiple and different areas.

Racial Discrimination Act	Total	Percentage (%)
Media – press/TV/radio	15	30
Disputes between neighbours	8	16
Personal conflict	3	6
Employment	4	8
Racist propaganda	1	2
Internet – email/webpage/chat room	9	18
Entertainment	–	–
Sport	2	4
Public debate	–	–
Provision of goods and services	5	10
Other	3	6
Total*	50	100

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

Table 21: Racial Discrimination Act – outcomes of finalised complaints	
Racial Discrimination Act	Total
Terminated	126
At complainant's request – s 46PE	–
Not unlawful	1
More than 12 months old	6
Trivial, vexatious, frivolous, misconceived, lacking in substance	38
Adequately dealt with already	1
More appropriate remedy available	–
Subject matter of public importance	–
No reasonable prospect of conciliation	80
Withdrawn	43
Withdrawn, does not wish to pursue, advised the Commission	43
Withdrawn, does not wish to pursue, settled outside the Commission	–
Conciliated	206
Administrative closure*	17
Total	392

* Not an aggrieved party, state complaint previously lodged.



4.4.5 Sex Discrimination Act

Table 22: Sex Discrimination Act – complaints received and finalised	
Sex Discrimination Act	Total
Received	547
Finalised	542

Table 23: Sex Discrimination Act – complaints received by sex of complainant		
Sex Discrimination Act	Total	Percentage (%)
Female	471	86
Male	73	13
Other category (joint/multiple or individual/ organisation on behalf of other)	3	1
Total	547	100

Table 24: Sex Discrimination Act – complaints received by ground		
Sex Discrimination Act	Total	Percentage (%)
Sex discrimination	419	43
Marital status	28	3
Pregnancy	215	22
Sexual harassment	209	22
Parental status/ family responsibility	63	7
Victimisation	30	3
Aids, permits, instructs (s 105)	–	–
Total*	964	100

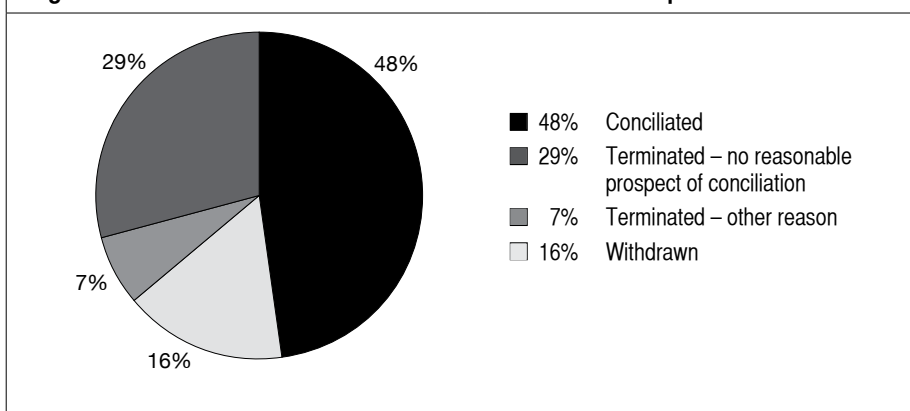
* One complaint may have multiple grounds.

Sex Discrimination Act	Total	Percentage (%)
Employment	879	91
Goods, services and facilities	67	7
Land	–	–
Accommodation	2	–
Superannuation, insurance	–	–
Education	6	1
Clubs	2	–
Administration of Commonwealth laws and programs	7	1
Application forms etc	–	–
Trade unions, accrediting bodies	1	–
Total*	964	100

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

Sex Discrimination Act	Total
Terminated	183
At complainants request – s 46PE	–
Not unlawful	7
More than 12 months old	7
Trivial, vexatious, frivolous, misconceived, lacking in substance	20
Adequately dealt with already	2
More appropriate remedy available	–
Subject matter of public importance	–
No reasonable prospect of conciliation	147
Withdrawn	79
Withdrawn, does not wish to pursue, advised the Commission	79
Withdrawn, does not wish to pursue, settled outside the Commission	–
Conciliated	246
Administrative closure*	34
Total	542

* Not an aggrieved party, state complaint previously lodged.

Figure 4: Sex Discrimination Act – outcomes of finalised complaints

4.4.6 Disability Discrimination Act

Table 27: Disability Discrimination Act – complaints received and finalised

Disability Discrimination Act	Total
Received	980
Finalised	1117

Table 28: Nature of complainant's disability

Disability Discrimination Act	Total	Percentage (%)
Physical disability	221	15
A mobility aid is used (e.g. walking frame or wheelchair)	103	7
Physical disfigurement	15	1
Presence in the body of organisms causing disease (e.g. HIV/AIDS)	15	1
Presence in the body of organisms causing disease (other)	7	1
Psychiatric disability	180	12
Neurological disability (e.g. epilepsy)	176	12
Intellectual disability	29	2
Learning disability	36	2
Sensory disability (hearing impaired)	46	3
Sensory disability (deaf)	85	6

Disability Discrimination Act	Total	Percentage (%)
Sensory disability (vision impaired)	170	12
Sensory disability (blind)	21	1
Work-related injury	88	6
Medical condition (e.g. diabetes)	202	14
Other	80	5
Total*	1474	100

* One complainant may have multiple disabilities.

Disability Discrimination Act	Total	Percentage (%)
Disability of person(s) aggrieved	1912	94
Associate	53	3
Disability – person assisted by trained animal	17	1
Disability – accompanied by assistant	1	–
Disability – use of appliance	6	–
Harassment	7	–
Victimisation	14	1
Aids, permits or instructs	25	1
Total*	2035	100

* One complainant may have multiple grounds.

Disability Discrimination Act	Total	Percentage (%)
Employment	822	40
Goods, services and facilities	710	35
Access to premises	44	2
Land	2	–
Accommodation	27	1
Incitement to unlawful acts or offences	–	–
Advertisements	–	–
Superannuation, insurance	15	1

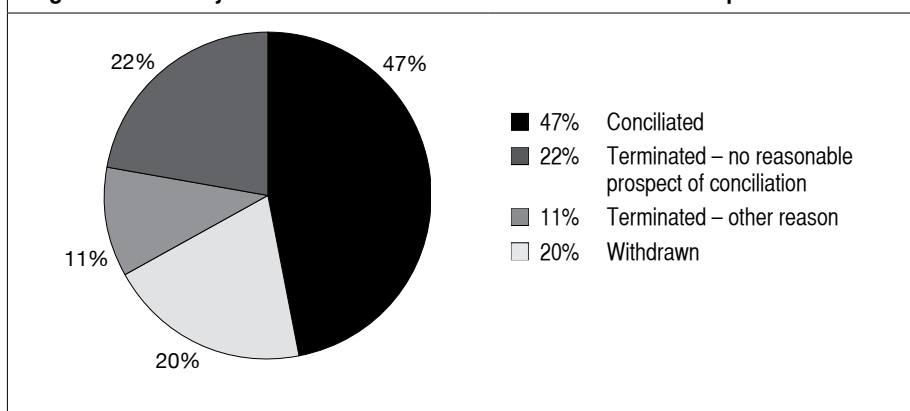
Disability Discrimination Act	Total	Percentage (%)
Education	191	9
Clubs, incorporated associations	30	2
Administration of Commonwealth laws and programs	35	2
Sport	4	–
Application forms, requests for information	2	–
Trade unions, registered organisations	–	–
Unlawful to contravene Disability Standard	153	8
Total*	2035	100

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

Disability Discrimination Act	Total
Terminated	357
At complainants request – s 46PE	–
Not unlawful	12
More than 12 months old	4
Trivial, vexatious, frivolous, misconceived, lacking in substance	97
Adequately dealt with already	3
More appropriate remedy available	4
Subject matter of public importance	–
No reasonable prospect of conciliation	237
Withdrawn	224
Withdrawn, does not wish to pursue, advised the Commission	223
Withdrawn, does not wish to pursue, settled outside the Commission	1
Conciliated	518
Administrative closure*	18
Total	1117

* Not an aggrieved party, state complaint previously lodged.

Figure 5: Disability Discrimination Act – outcomes of finalised complaints



4.4.7 Age Discrimination Act

Table 32: Age Discrimination Act – complaints received and finalised

Age Discrimination Act	Total
Received	151
Finalised	141

Table 33: Age Discrimination Act – complaints received by age of complainant

Age Discrimination Act	Total	Percentages (%)
0 – 14 years	3	2
15 – 24 years	21	14
25 – 34 years	10	7
35 – 44 years	8	5
45 – 54 years	27	18
55 – 64 years	47	31
> 65 years	23	15
Unknown	12	8
Total	151	100

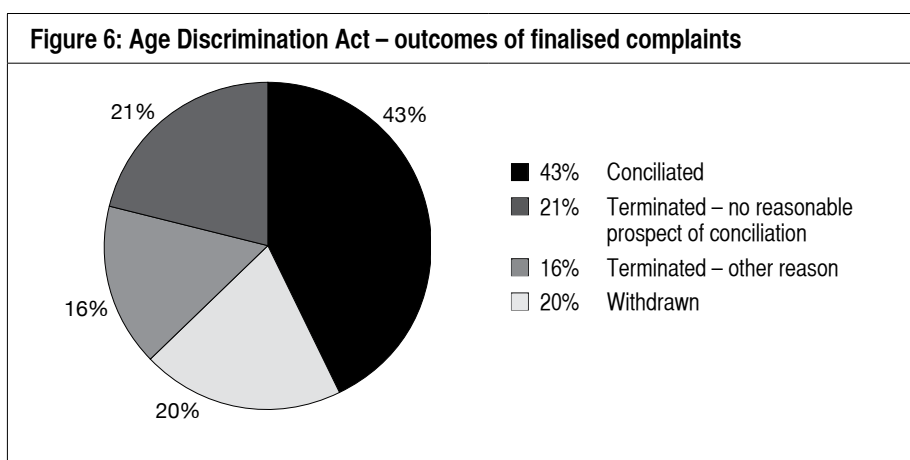
Age Discrimination Act	Total	Percentage (%)
Employment	168	59
Goods, services and facilities	88	31
Access to premises	2	0.75
Land	2	0.75
Accommodation	2	0.75
Incitement to unlawful acts or offences	–	–
Advertisements	2	0.75
Superannuation, insurance	7	2
Education	11	4
Clubs, incorporated associations	–	–
Administration of Commonwealth laws and programs	3	1
Sport	–	–
Application forms, requests for information	–	–
Trade unions, registered organisations	–	–
Total*	285	100

* One complaint may have multiple and different areas.

Age Discrimination Act	Total
Terminated	51
At complainants request – s 46PE	–
Not unlawful	4
More than 12 months old	–
Trivial, vexatious, frivolous, misconceived, lacking in substance	18
Adequately dealt with already	–
More appropriate remedy available	–
Subject matter of public importance	–

Age Discrimination Act	Total
No reasonable prospect of conciliation	29
Withdrawn	27
Withdrawn, does not wish to pursue, advised the Commission	27
Withdrawn, does not wish to pursue, settled outside the Commission	–
Conciliated	60
Administrative closure*	3
Total	141

* Not an aggrieved party, state complaint previously lodged.



4.4.8 Human Rights and Equal Opportunity Commission Act

Human Rights and Equal Opportunity Commission Act	Total
Received	179
Finalised	162

Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Race (ILO 111)	–	–
Colour (ILO 111)	–	–
Sex (ILO 111)	–	–
Religion (ILO 111)	23	13
Political opinion (ILO 111)	2	1
National extraction (ILO 111)	–	–
Social origin (ILO 111)	–	–
Age (ILO 111)	–	–
Medical record (ILO 111)	–	–
Criminal record (ILO 111)	72	40
Impairment (including HIV/AIDS status) (ILO 111)	1	0.5
Marital status (ILO 111)	–	–
Disability (ILO 111)	–	–
Nationality (ILO 111)	–	–
Sexual preference (ILO 111)	17	9
Trade union activity (ILO 111)	14	8
International Covenant on Civil and Political Rights	48	26
Declaration on the Rights of the Child	–	–
Declaration on the Rights of Mentally Retarded Persons	–	–
Declaration on the Rights of Disabled Persons	1	0.5
Convention on the Rights of the Child	4	2
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	–	–
Not a ground within jurisdiction	–	–
Not a human right as defined by the Act	–	–
Total*	182	100

* One complaint may have multiple grounds.

Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Acts or practices of the Commonwealth	54	30
Employment	128	70
Not act or practice of the Commonwealth (not employment cases)	–	–
Total*	182	100

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

Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Prisons, prisoner	2	4
Religious institutions	–	–
Family court matters	–	–
Other law court matters	–	–
Immigration	44	81
Law enforcement agency	1	2
State agency	–	–
Other service provider (private sector)	–	–
Local government	–	–
Education systems	–	–
Welfare systems	3	6
Personal or neighbourhood conflict	–	–
Health system	–	–
Other	4	7
Total	54	100

Table 40: HREOCA – outcomes of finalised complaints

Human Rights and Equal Opportunity Commission Act	Total
Declined	104
Does not constitute discrimination	18
Human rights breach, not inconsistent or contrary to any human right	5
More than 12 months old	2
Trivial, vexatious, frivolous, misconceived, lacking in substance	31
Adequately dealt with already	4
More appropriate remedy available	7
Withdrawn, does not wish to pursue, advised the Commission	37
Withdrawn, does not wish to pursue, settled outside the Commission	–
Withdrawn or lost contact	–
Conciliated	52
Referred for reporting*	4
Administrative closure**	2
Total	162

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

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

Figure 7: Human Rights and Equal Opportunity Commission Act – outcomes of finalised complaints