



**Australian
Human Rights
Commission**

everyone, everywhere, everyday

2008-09

Australian
Human Rights
Commission



Annual Report 2008-09

Annual Report

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Annual Report 2008-09



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25 September 2009

The Hon Robert McClelland MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney

I have pleasure in presenting the Annual Report of the Australian Human Rights Commission for the period ending 30 June 2009, 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. Catherine Branson, QC
President
Australian Human Rights Commission

Australian Human Rights Commission

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2008-09 Milestones

- Ms Catherine Branson QC was appointed as President of the Australian Human Rights Commission on 7 August 2008 and commenced her five-year term on 14 October 2008.
- Mr Tom Calma was appointed Race Discrimination Commissioner on 2 July 2008 after acting in the position since 12 July 2004.
- Mr Graeme Innes was appointed Disability Discrimination Commissioner on 2 July 2008 after acting in the position since 15 December 2005.
- In July 2008, following the completion of her national Listening Tour, the Sex Discrimination Commissioner launched the *Plan of action towards gender equality*, setting out the five areas of reform she will pursue during her term.
- The reporting period saw Parliament pass the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – Superannuation) Act 2008* (Cth) and the omnibus *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Reform) Act 2008* (Cth). The passing of these laws was an important milestone for the Commission after its *Same-Sex: Same Entitlements* report, tabled in Parliament in June 2007, identified 58 Commonwealth laws that discriminated against same-sex couples and their children on the basis of financial and workplace benefits.
- After many years of advocacy, the Commission welcomed the Australian Government's commitment to introduce a national Paid Parental Leave scheme, which is scheduled to start in 2011.
- During the reporting period, the Commission welcomed the Australian Government's formal support of the UN *Declaration on the Rights of Indigenous Peoples*, which commits Australia to respecting rights for Indigenous peoples. The Declaration has been a major focus of the UN Permanent Forum on Indigenous Issues over the last two years, sessions with which the Aboriginal and Torres Strait Islander Social Justice Commissioner has been heavily involved.
- The Commission also welcomed Australia's ratification of the *Convention on the Rights of Persons with Disabilities*, to which Australia, the Commission and Australia's disability community have made major contributions during its development. The process of developing a National Disability Strategy to implement the Convention has since begun.
- 2008-09 saw the draft Standards on Access to Premises tabled with bipartisan Legal and Constitutional Affairs Committee recommendations for the Standards to proceed.

- The Commission welcomed the signing of the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* by the Australian Government, a significant step toward establishing greater oversight and inspection of detention and immigration detention facilities.
- During 2008-09, the Commission participated in the Australian Government's National Human Rights Consultation by advocating strongly for better human rights protections in Australia through a Human Rights Act. The Commission actively encouraged others to participate in the Consultation by conducting workshops around the country.
- The Commission's sex and gender diversity project inquiry and report, *Sex files: the legal recognition of sex in documents and government records*, was completed during the reporting period.
- Partnering with the Australian Multicultural Foundation, RMIT and Monash University, the Commission launched its *Freedom of religion and belief in the 21st century* discussion paper.
- With the launch of its *African Australians: a report on human rights and social inclusion* discussion paper, the Commission began the first national assessment, from a human rights perspective, of the experiences and issues faced by African communities living in Australia.
- The Commission continued the China-Australia Human Rights Technical Cooperation Program, its most substantial international program, which is an integral part of Australia's annual inter-governmental Dialogue on Human Rights with China.
- The Commission contributed to policy development and legislative review through the many submissions it made during the reporting period. Submissions were made on a range of issues, including the Native Title Amendment Bill 2009, the Review of the *Sex Discrimination Act 1984*, the Fair Work Bill 2009, the Review of Australia's Future Tax System and the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008.
- During the reporting period, the Commission intervened, with leave of the Court, in five new matters and was involved in two matters that continued from the previous financial year. Commissioners did not seek leave to appear as *amicus curiae* in any matters, though the Disability Discrimination Commissioner was involved in one matter continued from the previous financial year.
- The President reported to the Attorney-General on one matter under the *Human Rights and Equal Opportunity Act 1986* (Cth).
- The Commission hosted eight seminars on current issues of interest in domestic and international human rights law.
- The Commission received 2253 complaints in 2008-09, an 8 percent increase in comparison with the previous reporting period. Ninety-three percent of complaints were finalised in 12 months of lodgement, 48 percent of complaints were conciliated and 68 percent of all matters, where conciliation was attempted, were successfully resolved. These results are all well above key performance standards.

- During the reporting period, the Commission issued 151 media releases. The President and Commissioner had 21 opinion pieces published and, from over 1100 media inquiries, provided in excess of 520 interviews which resulted in a significant amount of print, radio, internet and television coverage.
- In addition to Commission publications being available on the website, over 75 000 publications were dispatched in hard copy. The Commission provided online translations, in various languages, of some core publications including the general *Australian Human Rights Commission* brochure and the *Commission's complaint process* brochure. A number of education resources were updated during the reporting period, and a new resource entitled *It's your right!* resource kit was released.
- The Commission increased its use of Web 2.0 technologies. It implemented RSS and Podcasting for media releases and speeches from Commission events and launched its own YouTube channel, Twitter account, MySpace and Facebook pages. As part of the Sex files project, a blog was set up for anonymous consultation purposes. The Commission website received 3 300 132 unique visits during 2008-09, with the Aboriginal and Torres Strait Islander Social Justice, Disability Rights and Education sections attracting the most traffic.
- For the 21st year, the Commission presented its annual Human Rights Medals and Awards to winners on World Human Rights Day, 10 December 2008. On the same day, it also presented awards to three categories of winners in the 2008 Human Rights Photography Competition.

Statement from the President



The Hon. Catherine Branson, QC,
President, Australian Human
Rights Commission

This is my first annual report as President of the Australian Human Rights Commission. Since commencing my five-year term in October of last year, the people with whom I have met, the stories that I have listened to, and the community centres and immigration detention facilities that I have visited have strengthened my resolve to encourage a better understanding of the place of human rights in Australia. In particular, I am determined to encourage widespread recognition of the relevance of human rights for all people, no matter who they are, where they live or what their circumstances.

I thank my predecessor, the Hon John von Doussa QC, for laying the important groundwork for this to occur. Under his leadership, the Commission (then known as the 'Human Rights and Equal Opportunity Commission' or 'HREOC') paved the way for a number of significant human rights milestones which have been realised during this reporting period. The imprints left by him during his term as President can be found throughout this annual report. They speak for themselves.

I am particularly proud to have inherited a Commission guided by a new and powerful vision statement and strong strategic plan. Our vision statement can be seen with our logo on the cover of this report. It is: *human rights: everyone, everywhere, everyday.*

That statement is an important reminder that human rights are about us all. We all have human rights and for this reason we should all respect the human rights of others.

Over my short time as President, I have noticed that often when people talk about human rights they talk about people in foreign countries suffering from totalitarian regimes; or they talk about people 'other' than themselves who are suffering particular disadvantage; or they dismiss human rights as lofty or abstract legal concepts reserved to the domain of academia.

I find it curious that many Australians – particularly Australians who fall outside the well-documented vulnerable and disadvantaged groups – do not think that human rights have any relevance to their own lives.

I am surprised by this phenomenon because to me, and to the Commission, human rights principles reflect the fundamental values that underpin so much that we treasure as Australians – democracy, justice, fairness, participation and empowerment. They also reflect what is necessary for a dignified life – safety, family life, freedom of faith and belief, access to healthcare, housing, education and employment. A human rights approach to these issues involves developing and protecting a democratic framework that ensures that all people in our increasingly diverse society – no matter who they are – can enjoy these things without discrimination.

A community that lives by human rights values will be better prepared should things go wrong; it will be much more likely to provide the protections and the safety net that any one of us, or our family, might need one day.

It is true that there are some groups of people in our society who are more likely than others to experience disadvantage and transgressions of their basic rights. Human rights principles are, of course, designed to ensure that Aboriginal or Torres Strait Islander peoples, refugees, asylum-seekers and new migrants, people with disability or mental illness, women, the elderly, young people, people of faith, gay men and lesbians, people experiencing homelessness, detainees and prisoners, people living in remote and rural areas and, indeed, all who suffer disadvantage have their inherent dignity respected and do not experience discrimination. A human rights approach to achieving this respect and equality is an approach which seeks to empower the members of these groups so that their voices are heard and they can play a part in creating solutions that will work for them.

However, it is a mistake to quarantine the importance of human rights to these so-called 'vulnerable' groups.

First, the populations of these groups are far from stable. The advent of the global financial crisis makes it clearer than ever that any day any one of us might become a member of one of these groups. There are increasing numbers of people in our community who have suddenly become unemployed, who find themselves facing homelessness, who are at higher risk of mental illness or who are facing new family strains and need the immediate support of the community around them. Even if financial pressures are put to one side, any one of us could be in a car accident tomorrow and find ourselves in a wheelchair or with an acquired brain injury. All of us will eventually become elderly and have to navigate the discrimination and struggles that come with increasing age.

Secondly, a community that lives by the fundamental values I have described includes, by definition, all the members of that community. Rights can only truly be enjoyed by us all if they are respected by us all.

This year, perhaps more than ever before in the Commission's 23-year history, we have put a great deal of energy into engaging a diverse range of Australians in a conversation about what human rights means to them and how they can be better protected in Australia.

As part of our participation in the Australian Government's National Human Rights Consultation we distributed around 15 000 hard copy toolkits (and even more electronic copies through our website) in an endeavour to make it easier for the general community, and young people in particular, to participate in this very important conversation. We held more than 50 workshops and roundtable meetings targeting community organisations, community legal centres and young people around the country. The Commissioners and I also delivered a large number of speeches to a diverse range of audiences across Australia, encouraging participation in the Consultation and advocating for an Australian Human Rights Act.

It is both the Commission's and my personal hope that these conversations about human rights will lead to comprehensive statutory protection of human rights and a significantly enhanced national human rights education program. But, whatever the outcome of the National Consultation, the very process of involving large numbers of Australians in discussion and debate about what is important to us as Australians was a demonstration of the vibrancy of our democracy. The consultation process contributed significantly, I believe, to greater public understanding of how human rights are relevant to all of our lives.

As Australia's national human rights institution, the Commission has a vital role to play in the better promotion and protection of human rights in Australia.

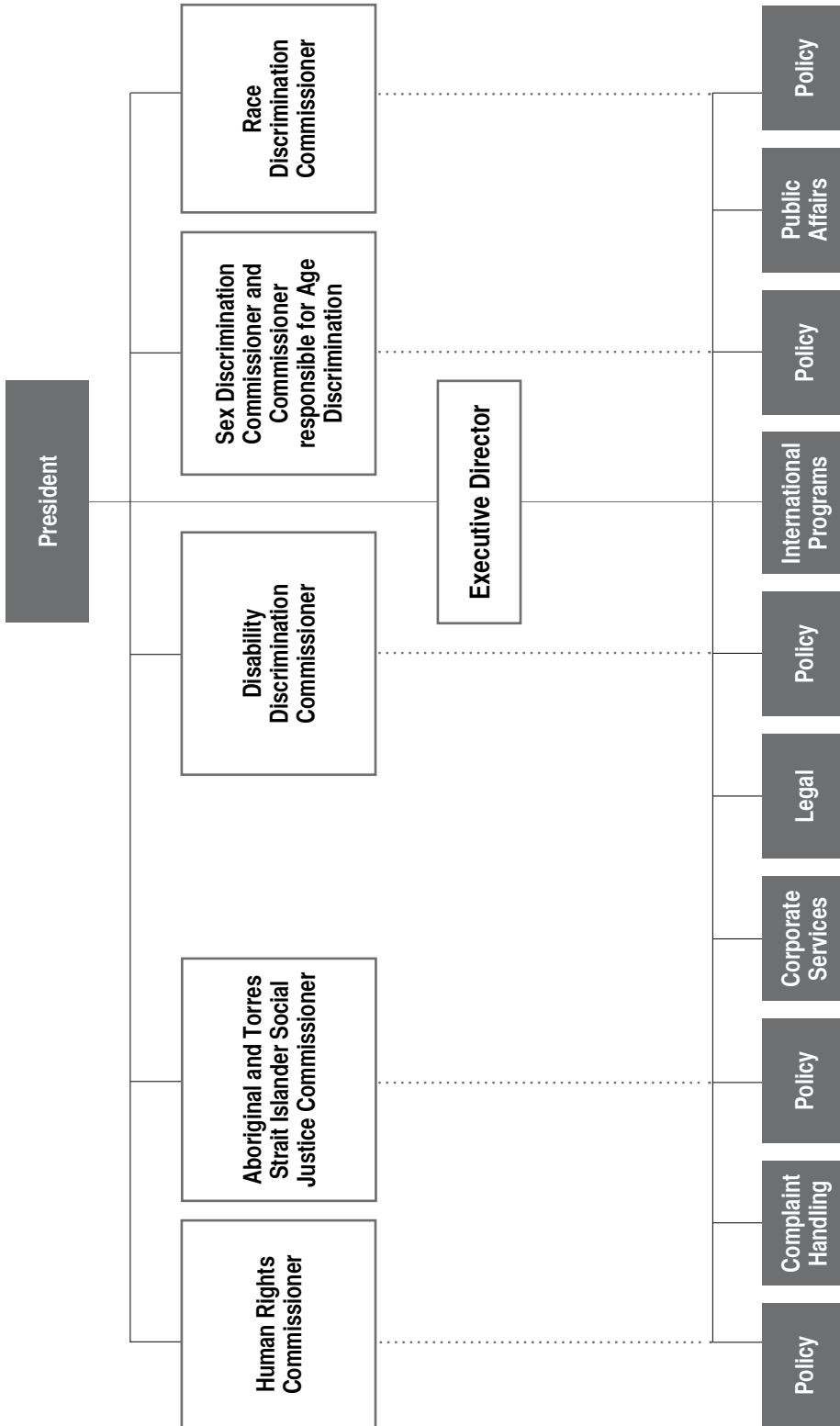
While constrained by a tight budgetary situation, with our new strategic plan in place we intend, during the next financial year, to examine how our human rights leadership can best contribute to the achievement of social change in Australia where it most matters. We plan to think about how we can provide leadership innovatively, how we can provide human rights education effectively, how we can use human rights principles to empower others and how we can best monitor Australia's compliance with its human rights obligations and undertakings.

Not everyone is familiar and comfortable with the language of human rights – but the ideas and principles captured by that language are attractive to us all. These ideas and principles can provide a moral compass for public decision-making. The Commission will continue to work towards making sure that everyone in Australia understands that respect for the human rights of all is critical to upholding a fair, inclusive, tolerant and secure society.



Catherine Branson QC

Figure 1: The Australian Human Rights Commission organisation chart



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Chapter 1:

The Australian Human Rights 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 New Strategic Plan

In September 2008, the Commission launched its strategic plan for 2008-11.

This strategic plan is the result of HREOC21, the inclusive, Commission-wide planning process described in the 2007-08 Annual Report.

The objective of the Commission's new strategic plan is to build on the Commission's strengths so that it is in a better position to help build an Australian culture where human rights are understood, respected and enjoyed by 'everyone, everywhere, everyday'.

To this end, the Commission has identified five strategic goals to guide all of its work.

Those five goals are:

Leadership

We exercise a leadership role in human rights in Australia by being visible, courageous and influential on human rights issues.

Empowerment

We support and inspire others to engage in meaningful activity on human rights.

Education

We assist all people in Australia to understand and exercise their rights and respect the rights of others.

Monitoring

We hold individuals, organisations and government responsible for their human rights obligations.

Innovation

We have a collaborative, innovative and supportive work culture that enhances the quality and impact of our work.

Flowing from the strategic plan, there have been a number of internal and external changes to the way the Commission works. For example, the Commission has:

- rebranded itself with a new name (Australian Human Rights Commission replaces the Human Rights and Equal Opportunity Commission), a modernised logo and a fresh and consistent design for all external publications
- a stronger focus on reaching new and broader audiences, and to this end, has incorporated the use of new media and social marketing strategies into its communications plan
- a stronger emphasis on developing strong and sustainable partnerships and alliances with new and existing partners, as a way to increase the breadth and depth of our impact
- launched a new intranet platform to improve internal communications
- developed more synchronised and collaborative internal planning processes.

In summary, the Commission has a stronger and clearer focus on: providing leadership on human rights issues in Australia; educating a more diverse group of people in Australia to understand the relevance of human rights to their everyday lives; and engaging those people to help create a stronger human rights culture in Australia.

1.4 Structure

The Commission is a national independent statutory body established under the *Human Rights and Equal Opportunity Commission Act 1986* (see section 1.5.1 on page 7). It has a President and five Commissioners. The five positions are currently held by three persons.

1.4.1 President – The Hon. Catherine Branson, QC



The Hon. Catherine Branson was appointed President of the Commission on 7 August 2008 and commenced her five-year term on 14 October 2008.

At the time of her appointment, she was a judge of the Federal Court of Australia, a position she had held since 1994. The jurisdiction of the Federal Court includes jurisdiction to hear and determine complaints alleging unlawful discrimination under Commonwealth anti-discrimination laws.

Justice Branson was the inaugural convenor of the Federal Court's Equality and the Law Committee, which was created in 1997. She was also the inaugural convenor of the Court's Human Rights Panel for New South Wales.

At the time of her appointment to the Federal Court, Ms Branson was a member of the Board of Examiners of the Supreme Court of South

Australia, a council member of the University of South Australia and a Trustee of the Adelaide Festival Centre Trust. She had earlier been Deputy Chair of the Adelaide Medical Centre for Women and Children and a member of the National Women's Advisory Council.

Ms Branson is a past President of the Australian Institute for Judicial Administration and a former member of the Board of Management of IDLO (a governmental organisation based in Rome enjoying observer status at the United Nations). She is a member of the International Association of Judges and the International Association of Refugee Law Judges (and was until recently convenor of the association's Human Rights Nexus Working Party).

Prior to her appointment as a judge, she practised as a barrister at the Adelaide Bar in South Australia, principally in the areas of administrative law, including discrimination law, and commercial law. She was appointed Queen's Counsel in 1992.

Between 1984-89, she was Crown Solicitor of South Australia and the CEO of the South Australian Attorney-General's Department.

Ms Branson holds a Bachelor of Arts and a Bachelor of Laws from the University of Adelaide.

(In addition to her role as President, Ms Branson was appointed Human Rights Commissioner on 13 July 2009).

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



Mr Calma is an Aboriginal elder from the Kungarakana tribal group and a member of 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, on 12 July 2004 for five years, Mr Calma managed the Community Development and Education Branch at Aboriginal and Torres Strait Islander Services where he worked with remote Indigenous communities to implement community-based and driven empowerment and participation programs. In 2003, he was Senior Adviser Indigenous Affairs to the Minister of Immigration, Multicultural and Indigenous Affairs.

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

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

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

He has also served as Race Discrimination Commissioner from 12 July 2004 until 12 July 2009.

In this role Mr Calma has convened three Australia/New Zealand Race Relations Roundtables and launched significant papers including the *Voices* publication as part of the 30th anniversary celebrations for the Racial Discrimination Act in 2005.

He has produced two *Face the facts* publications providing factual information about Australia's cultural diversity and conducted the Unlocking Doors project with police and Muslim communities in 2006-07.

Mr Calma presented a Multiculturalism Position Paper in August 2007 to reinvigorate community debate and government commitment to multiculturalism. More recently, he launched the Freedom of religion and belief in the 21st century project

in September 2008 and has undertaken a major project researching the needs of African Australians.

Commissioner Calma has been a White Ribbon Day Ambassador since 2005. White Ribbon Day is the International Day for the Elimination of Violence Against Women. Commissioner Calma has also been a national patron of the Wakakirri National Story Festival since 2006.

Mr Calma was awarded the prestigious number one position in the Indigenous category for *The Bulletin* magazine's Power 100 for 2007. The Power 100 selects the 100 most powerful people in Australia. It is judged by a group of 10 who select people they consider share one common trait – the ability and desire to drive change.

Mr Calma was also awarded the 2008 Man of Inspiration award in *GQ Australia* magazine's 2008 Man of the Year awards.

(In July 2009, Mr Calma's term as Social Justice Commissioner was extended for six months until the end of January 2010).

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



Mr Innes has been Australia's Human Rights Commissioner and Disability Discrimination Commissioner for over three years.

As Commissioner, he has led or contributed to initiatives including: the Same Sex: Same Entitlements inquiry, achieving removal of discrimination against same sex couples and their children across federal law; drafting of the United Nations Convention on the Rights of Persons with Disabilities, and ratification by Australia; three inspections of Australia's immigration detention facilities; and development of a National Disability Strategy.

Mr Innes is a lawyer, mediator and company director. He has been a human rights practitioner for almost 30 years in NSW, WA and nationally.

Mr Innes has been a Member of the NSW Administrative Decisions Tribunal, the NSW Consumer, Trader and Tenancy Tribunal; and the Social Security Appeals Tribunal, as well as a Hearing Commissioner with the Australian Human Rights Commission.

Mr Innes was Chair of the Disability Advisory Council of Australia, and the first Chair of Vision Australia, Australia's national blindness agency. He has been one of Australia's delegates to the World Blind Union, and the President of its Asia-Pacific region.

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

In 1995, Mr Innes was made a Member of the Order of Australia (AM) for his contribution to Australia's disability discrimination legislation. He was a finalist for Australian of the Year in 2003.

Mr Innes is married with an adult son and a daughter in primary school. He enjoys cricket (as a spectator) and sailing (as a participant), and relaxes by drinking fine Australian white wine.

(Mr Innes completed his term as Human Rights Commissioner on 12 July 2009 and was appointed Race Discrimination Commissioner for a three-year term on 13 July 2009).

1.4.4 Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination – Elizabeth Broderick



On 10 September 2007, Ms Broderick was appointed Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination for a five-year term.

A lawyer and businesswoman, 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 percent of the law firm's workforce now uses flexible work arrangements.

Ms Broderick has travelled the length and breadth of Australia, listening to the concerns of women and men about gender equality and age discrimination. In 2009, she took a group of Aboriginal women to the United Nations Commission on the Status of Women in New York City, where they told their story of rebuilding their community following years of alcohol abuse. This opportunity enabled community women's voices to be heard on a global stage.

Ms Broderick is an advisor on women's issues to the Australian Chief of the Defence Force, a member of the University of Technology Sydney (UTS) Advisory Board and the Vic Health Advisory Board. She is patron of the Tasmanian Education Foundation.

Ms Broderick is married and has two young children.

1.5 Legislation

The Commission is responsible for administering the following Acts:

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

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

Other legislation administered through the Commission 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 the Commission 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.*

For further information about these international instruments, see Appendix 1.

(On 25 June 2009, Parliament passed the *Disability Discrimination and Other Human Rights Amendment Act 2009* (Cth) which, among other things, changed the name of the Human Rights and Equal Opportunity Commission Act to the *Australian Human Rights Commission Act 1986* (Cth). This change commenced operation on 5 August 2009).

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 Organization (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

The Commission has a range of functions and powers under federal legislation, which can be grouped into four main areas:

- providing education and raising public awareness about human rights
- handling complaints of discrimination and breaches of human rights
- researching human rights issues and contributing to policy developments
- legal advocacy on human rights issues.

The Commission exercises its functions in a variety of ways, including those listed below.

- The Commission investigates and conciliates complaints of discrimination or breaches of human rights under federal laws.
- The Commission has developed an extensive and accessible website containing research, publications, resources and education programs designed for young people, teachers, community groups, business, media and the community at large. The website is one of the Commission's primary education and awareness tools.
- The Commission works closely with print, radio, television and new media to raise public awareness about important human rights issues and to promote human rights as broadly as possible.
- The Commission works closely with organisations and leaders in the community, government and business sectors to provide education on relevant human rights issues and to support them in their efforts to better protect and promote human rights.

- When the Commission identifies a systemic human rights issue of national importance, the Commission can hold public inquiries and consultations to research the problem and identify relevant, practical and principled solutions.
- The Commission works closely with the federal parliament and government to provide independent advice regarding the development of laws, programs and policies that will better protect and promote human rights.
- The Commission publishes annual reports on Aboriginal and Torres Strait Islander social justice and native title.
- The Commission makes submissions to parliamentary and other inquiries in order to identify human rights issues which may arise in proposed or existing laws and policies.
- The Commission works in the legal system through education focussed on legal professionals and by appearing as an intervener or as *amicus curiae* in cases that involve human rights.
- The Commission works at an international level to engage and support national human rights institutions around the world, particularly through the Asia-Pacific Forum of National Human Rights Institutions. The Commission also works on human rights technical co-operations programs in China and Vietnam.

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 the Commission, responsible for its financial and administrative affairs. The President is also responsible for the complaint handling function of the Commission.

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 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. In addition, the Commissioner 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 Commissioners an *amicus curiae* ('friend of the court') function. The role of an *amicus curiae* is to provide special assistance to a court in resolving issues raised by a 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 the Commission. He has a number of powers under the Human Rights and Equal Opportunity Commission Act.

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 the Commission in relation to the performance of its functions. The Commission will, at his request, report to him on Australia's compliance with *International Labour Organization Convention 111* and advise him on national policies relating to equality of opportunity and treatment in employment and occupation.

1.9 Outcome structure

The Commission has one outcome:

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

There is one output for the Commission'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			
Outcome 1 – An Australian society in which human rights are respected, protected and promoted through independent investigation and resolution of complaints, education and research to promote and eliminate discrimination, and monitoring, and reporting on human rights.			
	Budget* 2008-09 \$'000	Actual Expenses 2008-09 \$'000	Variation \$'000
	(a)	(b)	(a)-(b)
Output Group 1.1 – 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.			
Departmental Outputs			
Ordinary annual services (Appropriation Bill No.1)	13 550	13 550	–
Revenues from independent sources (Section 31)	4100	5164	(1064)
Expenses not requiring appropriation in the budget year	794	849	(55)
Subtotal for Output Group 1.1	18 444	19,563	(1119)
Total for Outcome 1			
Departmental	18 444	19 563	(1119)
Average staffing level (number)		116	
* Full-year budget, including any subsequent adjustment made to the 2008-09 Budget			

Chapter 2:

Human Rights Education and Promotion

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One of the Commission's central functions is to undertake education programs that increase public awareness and generate discussion of human rights and anti-discrimination issues within Australia.

The Commission's legislative responsibilities are:

1. To promote an understanding and acceptance of, and compliance with, the following Acts:
 - 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 following Acts:
 - 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).

These legislative responsibilities reflect Australia's international obligation to provide human rights education. 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 the Commission's work. At a basic level, everything the Commission does – from resolving individual complaints to holding national inquiries – contributes to human rights education and communication.

The aims of the Commission'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 engagement with human rights
- promote awareness of the Commission's complaint process and rights protected under its laws
- provide information about human rights to the widest possible audience in a range of accessible formats.

The Commission 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 online and at education/teaching conferences, workshops and forums around the country
- new web technologies and social networking sites (such as, Facebook, YouTube, My Space and Twitter) 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 Medals and Awards ceremony.

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

2.2 Media engagement

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

The President and Commissioners are frequently interviewed by newspapers, television, radio and online media outlets, as well as specialist, Indigenous and ethnic media.

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

In 2008-09, the Public Affairs unit received over 1100 media enquiries. In response, the President and Commissioners granted in excess of 520 media interviews, which resulted in a significant amount of print, radio, internet and television coverage. The Commission issued 151 media releases and the President and Commissioners had 21 opinion pieces published in major metropolitan newspapers and journals around Australia. All Commission media releases, opinion pieces and speeches are available at: www.humanrights.gov.au/about/media.

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

Upon taking up her position with the Commission, President Branson spoke to the media on a number of occasions about her expectations of the position and her plans for her term as President of the Commission. Ms Branson also engaged with the media on a range of human rights issues, including most notably issues that arose in the context of the National Human Rights Consultation. In 2009, Ms Branson engaged in an email exchange with the NSW Attorney-General, Mr John Hatzistergos, regarding the merits of a Human Rights Act for Australia. This exchange was published in *The Australian* newspaper.

Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma was sought out by the media for comment on a number of significant issues including: the Northern Territory Emergency Response Board's report and the government's response to it; the government's performance in Indigenous affairs after their first year in power; changes to the Native Title Act; and Mr Calma's appointment to convene the National Indigenous Representative Body Steering Committee. Other significant issues that Commissioner Calma was interviewed about included: the incidence of suicides in the Narrogin Aboriginal community; the Homelands policy in the Northern



The President and Commissioners were extensively interviewed in the media during 2008-09. In October 2008, a profile of the Sex Discrimination Commissioner ran as a feature article in the *Sydney Morning Herald* and *The Age Good Weekend* magazine.

Territory; the Queensland Government's Wild Rivers Declaration and the issues it raised in terms of Indigenous human rights. He also provided comment as leader of Close the Gap, the campaign to achieve equality in health status and life expectancy for Indigenous Australian by 2030. Commissioner Calma was also interviewed and profiled in *GQ Australia* in relation to his nomination for the magazine's 2008 Men of the Year Awards, for which he ultimately won Man of Inspiration.

As Race Discrimination Commissioner, Mr Calma provided comment on issues which included: the use of dog patrols by Ceduna and Port Augusta Shire Councils in South Australia to police dry drinking zone areas; the Commission's *Freedom of religion and belief in the 21st century* discussion paper; the Commission's national consultation with African Australians; and the issue of whether Australia is a racist country in relation to violent incidents involving foreign students.

Disability Discrimination Commissioner, Graeme Innes, was interviewed in the media about a number of subjects, including: accessibility and captioning in movies; accessibility of government and agency websites; the Government Disability Employment Strategy; the draft Disability (Access to Premises – Buildings) Standards; and accessibility for people with disability in education.

As Human Rights Commissioner, Mr Innes spoke to the media about issues which included: the removal of discrimination against same-sex couples and their children from 84 pieces of federal legislation at the end of 2008; the Commission's *Sex files* sex and gender diversity project and report; and the Commission's change of name from the Human Rights and Equal Opportunity Commission. Commissioner Innes was also interviewed about: the federal government's inquiry into immigration detention; its announcement of new directions for immigration and detention; the Commission's *2008 Immigration detention report*; and the detention conditions on Christmas Island. Additionally, Mr Innes was interviewed by the media in various states and the Northern Territory about the workshops the Commission conducted around Australia in relation to the government's National Human Rights Consultation.

Sex Discrimination Commissioner, Elizabeth Broderick, undertook over 60 interviews in relation to the launch of her agenda for her term as Sex Discrimination Commissioner on 22 July 2008. Ms Broderick also devoted a significant amount of time to engaging with the media as a high profile advocate for the implementation of a paid parental leave scheme, funding for which was announced in the May 2009 Federal Budget. She was also interviewed about: her views on the ways in which the Sex Discrimination Act should be amended; the results of the Commission's *Sexual harassment national telephone survey*; and gender pay inequality and the glass ceiling, as discussed in the Equal Opportunity for Women in the Workplace Agency *Australian Census of Women in Leadership* report. Ms Broderick was also interviewed for an extensive profile in the *Sydney Morning Herald* and *The Age Good Weekend* magazine. On 29 April 2009, Ms Broderick addressed the National Press Club of Australia about the impact of the economic slowdown on efforts to progress gender equality, and thereafter undertook a number of interviews concerning its content with radio, television and print media around the country.

Each year the Commission promotes the annual Human Rights Medals and Awards, which includes categories to recognise the outstanding contribution to human rights through the print media, radio or television. To assist in its promotion, President Branson completed a number of interviews in advance of and after the event.

2.3 Community consultations

Community consultations provide a valuable opportunity for the exchange of information between the Commission and the many different organisations with which it works.

During 2008-09 the President, Commissioners and Commission 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, African and Muslim Australians, understand discrimination faced by the sex and gender diverse communities and to respond to concerns regarding changes in Indigenous affairs.

The Commission 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** was involved in approximately 180 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 80 meetings with external stakeholders and community members. In addition, a number of staff attended the New Zealand National Diversity Forum and met with staff from the New Zealand Human Rights Commission and a range of stakeholders 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 83 community meetings/consultations, including the consultation organised for the new National Indigenous Representative Body and the government's National Human Rights Consultation.
- The **Human Rights Commissioner** and staff held approximately 151 meetings, which included consultations with people who are sex and gender diverse, regarding human rights issues that affect them.
- **Complaint Service:** A range of organisations across Australia either attended information sessions on the law and the complaint process run by Complaint Handling Section (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.

2.4 Publications and resources

Each year, the Commission produces a range of hard copy publications and resources, which generally fall into the following categories:

- fact sheets
- posters
- information brochures/booklets
- community guides
- project discussion papers
- large researched reports tabled in parliament, such as national inquiry reports or the Annual Report
- online publications for the Commission website, such as the education resources and the resources for employers
- CD-ROMs/DVDs, which offer an alternative format in which to publish materials printed in hard-copy or online formats.



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The Commission's publications and resources are produced in a range of formats including CD-ROM and DVD.

In 2008-09, a total of 75 021 publications were sent out to 4868 requests. This is an increase in the number of publications distributed in 2007-08.

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 Commission's major inquiries and reports are usually accompanied by community guides which focus on translating the detailed investigations into easily accessible information designed to educate both the affected communities and the community-at-large.

In 2008-09, the following community guides were produced:

- *2008 Social Justice and Native Title Reports*
- *2008 Climate change, water and Indigenous knowledge*
- *2008 Close the gap*
- *2009 Getting it right: progress towards a new National Indigenous Representative Body.*

Most Commission publications can also be downloaded in electronic format from the website.

2.5 The Commission website – www.humanrights.gov.au

The Commission’s website was established in 1998. Since that time it has become the organisation’s primary mode of information dissemination. It is widely used by government, the media, students and teachers, lawyers, employer organisations, NGOs and the wider community to obtain information about human rights and responsibilities and anti-discrimination law and practice.

The website is updated daily to ensure information is current and accurate. All reports, submissions, speeches, media releases and other Commission publications are available online in a variety of formats.

Web resources also include an online complaints form and information for complainants and respondents, a range of curriculum-linked human rights education resources for schools, information resources for 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 and their policy areas.

In 2008-09, the Commission website design was modified to match the new Commission styles and colours.



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Daily updates ensure the Commission website, which has become the organisation’s primary mode of information dissemination, is both current and accurate.

2.5.1 Web 2.0 technologies and social networking

In the last year, the Commission has made greater use of Web 2.0 technologies and utilised social networking approaches in its communications strategies. This includes:

- launch of the Commission Facebook page on 26 March 2009, which allows subscribers to be notified about events and projects that the Commission is promoting
- launch of the Commission YouTube channel on 22 April 2009, which features a range of videos from Commissioners and Commission projects
- launch of a Commission MySpace page on 6 May 2009, to promote the Commission’s project on the National Human Rights Consultation – *Let’s talk about rights*
- use of Twitter accounts by Commissioner Innes and Commissioner Broderick
- use of RSS and Podcasting for media releases and speeches from Commission events

- the Sex files blog, which ran from 8 August to 5 December 2008, for consultation and engagement with the sex and gender diverse community during the sex and gender diversity project
- use of more established web publishing processes (e.g. posting submissions in public inquiry processes online as they are received).

2.5.2 Sex files blog

In August 2008, the Commission developed the Sex files blog as part of the sex and gender diversity project, which looked at the difficulties that people who are sex and gender diverse experience in being identified in official documents and government records. The online blog was designed to involve the sex and gender diverse communities in the development of recommendations regarding the legal recognition of their sex. Comments on the blog were public, but participants could choose to post anonymously.

When the blog closed on 5 December 2008, there were more than 140 registered users of the blog, and more than 400 posts.

The blog received 317 173 page views, which equates to approximately 624 677 hits and 29 627 unique visits.

The blog was advertised through postcards and posters which were distributed to medical professionals and organisations, universities and support groups.

A selection of comments from the blog was used in the concluding paper of the project.

For more information about the sex and gender diversity project, refer to Chapter 8.

The screenshot shows the 'Sex and Gender Diversity Forum' page. At the top, there is a banner for 'sexfiles' with the subtitle 'THE LEGAL RECOGNITION OF SEX IN DOCUMENTS AND GOVERNMENT RECORDS'. Below the banner, there are navigation links for 'Board index', 'Sex Files: Sex and Gender Diversity', and 'Sex and Gender Diversity Forum'. There are also links for 'FAQ', 'Members', and 'Login'.

The main content area is titled 'Sex and Gender Diversity Forum' and shows a list of 7 topics. The topics are displayed in a table with columns for 'TOPICS', 'REPLIES', 'VIEWS', and 'LAST POST'. The topics are:

TOPICS	REPLIES	VIEWS	LAST POST
1. How laws describe people who are sex and gender diverse? by GInnes on 06 Aug 2008, 18:11	42	3415	by kinkyjy on 21 Oct 2008, 05:44
2. What should be the criteria for legally changing documents by GInnes on 06 Aug 2008, 18:10	91	4393	by battybattys on 11 Nov 2008, 13:47
3. What documents have you wanted to change? by GInnes on 06 Aug 2008, 18:09	39	2866	by Kathy Anne Noble on 28 Nov 2008, 14:15
4. When have your documents or records 'outed' you? by GInnes on 06 Aug 2008, 18:08	17	1888	by map on 29 Sep 2008, 13:44
5. Share your story! by GInnes on 06 Aug 2008, 18:08	19	1985	by leece on 22 Nov 2008, 22:50
6. Do you have any other comments you want to make? by GInnes on 06 Aug 2008, 17:01	53	3687	by spiritedreamer on 30 Nov 2008, 17:30
Welcome from the Australian Human Rights Commissioner by GInnes on 07 Aug 2008, 15:55	12	1624	by earthangel on 19 Sep 2008, 16:44

At the bottom of the forum list, there are controls for 'Display topics from previous:' (set to 'All Topics'), 'Sort by:' (set to 'Subject'), and 'Ascending'.

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The Commission continues to increase its use of Web 2.0 technologies and social networking media. As part of the consultation for the Sex and gender diversity project, an online blog was implemented, which allowed participants the option of providing anonymous blog comments.

2.5.3 Information for employers and employees

The Commission has a commitment to educating employers and employees about human rights and responsibilities under federal anti-discrimination laws.

The Commission has developed four short fact sheets setting out five basic steps towards integrating human rights into everyday business practices.

The fact sheets explain how human rights are relevant to Australian companies and set out the case for integrating human rights into their business practices. They also include information specific to the finance sector, the mining and resources sector and the retail and manufacturing sectors.

See humanrights.gov.au/human_rights/corporate_social_responsibility/index.html.

In December 2004, the Commission launched an information resource for employers, entitled *Good practice, good business*, which provides practical information about dealing with discrimination and harassment in the workplace. In response to feedback from employers, the Commission is currently updating the resource with new information and making the existing content more relevant and accessible. The resource is available at: www.humanrights.gov.au/info_for_employers.

Information for employees is available at: www.humanrights.gov.au/complaints_information/WOYR.html.



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The Commission is currently updating the *Good practice, good business* resource to make it more relevant and more accessible.

2.5.4 Statistics

The Commission uses a web statistics system that tracks both the number of visitors to the site and the way visitors use the site. This allows the Commission to identify materials that are particularly successful or popular and other areas that are not accessed as often.

During 2008-09, the site received approximately 18 460 234 page views on the server. This equates to approximately 93 769 855 hits on the site in total and 3 300 132 unique visits.

A summary of statistical information is provided below:

Table 2: Visitors to the Commission website by page view		
Section	Views of section home page	Views of all pages in section
Commission homepage www.humanrights.gov.au	58 827	n/a
Aboriginal and Torres Strait Islander Social Justice www.humanrights.gov.au/social_justice/	92 354	1 102 424
Complaints Information www.humanrights.gov.au/complaints_information/	59 066	319 217
Disability Rights www.humanrights.gov.au/disability_rights/	78 350	1 355 896
Human Rights www.humanrights.gov.au/human_rights/	86 608	911 090
Legal Information www.humanrights.gov.au/legal/	62 740	987 101
Racial Discrimination www.humanrights.gov.au/racial_discrimination/	65 510	451 388
Sex Discrimination www.humanrights.gov.au/sex_discrimination/	99 259	397 277
Age Discrimination www.humanrights.gov.au/age/	53 970	102 389
Information for Employers www.humanrights.gov.au/info_for_employers/	26 921	261 549
Publications www.humanrights.gov.au/about/publications/	94 440	n/a
Media Releases Index www.humanrights.gov.au/about/media/media_releases/	16 475	696 924
Job Vacancies www.humanrights.gov.au/about/jobs/	46 894	55 127
Human Rights Education Resources www.humanrights.gov.au/education/	51 669	1 061 313

2.6 Electronic mailing lists

The Commission offers subscription electronic mailing lists which allow it 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 which are offered on the basis of specific interests, including human rights education, information for employers, legal and complaints, human rights, Indigenous, disability rights, racial discrimination, sex discrimination and Human Rights Awards. 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 21 113 subscribers across the various electronic mailing lists. To join the mailing lists go to www.humanrights.gov.au/about/ mailing_lists/.

The Commission also maintains ongoing 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 the Commission's website that would be useful to educators
- upcoming human rights education events.

2.7 Human Rights Education Program for schools

The Commission'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.

The Commission's approach supports the goals and direction of the World Programme for Human Rights Education. The Programme's first phase (2005-09) focused on supporting human rights education in primary and secondary schools.

The Commission 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.

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

The Commission also plays an ongoing lobbying role to ensure 'human rights' is covered within curricula and in school policies and programs.

2.7.1 Human rights education principles

The resources that make up the Human Rights Education Program draw students into real-life situations which are relevant to their own experiences and can be explored in the context of Australian and international law.

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

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

2.7.2 Educational outcomes

The Commission's human rights education resources are designed to assist students to develop:

- 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.

2.7.3 Educational content

The Commission has linked its core human rights education resources 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 and teachers can incorporate individual activities into an existing program or teach the module as a whole.

2.7.4 Educational resources

The Commission'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 to 17 years.

The resources are designed to introduce Australian students to human rights concepts in an engaging, relevant way. They provide useful secondary resources and lesson plans to teachers for use with a range of age and ability groups, at schools, universities, workplaces and community education centres.

Activities aim to promote a human rights approach to learning, where all students are encouraged to participate in the learning process.

Educational activities are available under the following topic headings:

- child rights
- disability rights
- human rights
- Indigenous rights
- multiculturalism
- race relations
- sexual harassment.

The Commission's human rights education resources are available online at: www.humanrights.gov.au/education.

The Commission is currently revising and redeveloping its schools education activities and modules into one 'Human Rights Education Resource', which will provide high quality, informative human rights education resources for teachers and students.

This resource will bring together the education materials developed by the Commission over the past 10 years.

It will provide comprehensive and easy-to-use guidance for teachers and students on a variety of human issues like the Stolen Generations, refugees, sexual harassment, diversity and other important discrimination and human rights issues.

2.7.5 New and updated education resources

Over the last financial year the Commission has developed and updated the following education resources for inclusion in the program:

- updated the teacher and learning activities around child rights
- updated the *Human rights explained* fact sheets
- updated the teaching notes, student activities and worksheets to fit in with the updated *Face the facts: questions and answers about refugees, migrants and Indigenous people* publication
- developed *It's your right!* resource kit, in partnership with Adult Multicultural Education Services Victoria, as a teaching resource about human rights and responsibilities in Australia for people who are newly arrived in the country and who are learning English as a second language. See the resources at: humanrights.gov.au/education/esl/index.html.

2.7.6 Information for students webpage

Information for students is an online education resource for secondary school students designed 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.



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The Commission produces a wide range of human rights education resources for teachers and students, such as the *It's your right!* resource kit, produced during 2008-09.

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, and an explanation of the *Universal Declaration of Human Rights*.

It also includes more detailed information on issues such as Indigenous social justice, 'stolen children', refugees and asylum seekers, sexual harassment and discrimination; and human rights in other countries.

Information for students is also linked to other areas of the Commission's website that may interest students. The site can be found at: www.humanrights.gov.au/info_for_students/.

2.7.7 Promotion and distribution of educational resources

The Commission promotes its education resources nationally at conferences, forums and lectures. The President and Commissioners often provide keynote addresses and/or speeches to educational conferences.

The Commission regularly promotes its human rights resources by sending promotional flyers, CD-ROMs, DVDs and other hard copy education materials to professional teachers associations and schools.

The Commission has also developed partnerships with educational groups and institutions that distribute the Commission's information and education resources to teachers and students.

2.7.8 Usage of online educational resources

The Commission's online human rights education resources are widely used by educators, both nationally and internationally. During the 2008-09 financial year, the resources received 1 061 313 page views. The main resources are listed in Table 3.

Table 3: Usage of the Commission's online human rights education resources

Human rights education resources	Page views
<i>Voices of Australia</i> education module	98 247
<i>Youth challenge</i> education module	57 267
<i>Bringing them home</i> education module	67 017
<i>Information for teachers</i> web-section	532 963
<i>Information for students</i> web-section	128 312
<i>Face the facts</i> education resources	30 889
<i>Human rights explained</i> fact sheets	37 409

2.8 2008 Human Rights Medals and Awards

The prestigious Human Rights Medal and Young People's Human Rights Medal recognises individuals who have made an outstanding contribution to the promotion and protection of human rights in Australia. Seven additional award categories recognise and acknowledge outstanding contributions to human rights, social justice and equality made by individuals and organisations.

The 21st Human Rights Medals and Awards ceremony was held in the Grand Ballroom at Sydney's Sheraton on the Park Hotel on Wednesday, 10 December from midday to 3pm.

Television personality, Julian Morrow, was the MC, 380 people attended the gala awards ceremony, and President Branson delivered her inaugural Human Rights Day Oration, available on-line at: www.humanrights.gov.au/about/media/speeches/speeches_president/2008/20081210_Oration.html. During the ceremony, a specially recorded Human Rights Day video message from the UN Secretary-General, Mr Ban Ki-moon, was played to the audience.

Winners of the Human Rights Medals and Awards, as well as highly commended nominees from a strong field for each of the categories, were announced at the ceremony and presented with trophies and prizes.

The Commission congratulates all the winners, highly commended and shortlisted entrants for their achievements, and thanks all of those who nominated for their support of the Awards, as well as their commitment and dedication to promoting human rights in Australia.

Further information about the awards, including audio of acceptance interviews, is available on the Commission website at: www.humanrights.gov.au/hr_awards/index.html.

2.8.1 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 Les Malezer

The Human Rights Medal was awarded to Mr Les Malezer, who is a formidable figure in Indigenous affairs, both domestically and on the international scene.

Mr Malezer is a Gubbi Gubbi and Butchulla man from the Mary River and Fraser Island region in eastern Queensland. During his more than 30 years experience in policy and program roles in the Commonwealth and Queensland public services and Indigenous organisations, he has campaigned for Aboriginal and Torres Strait Islander self-determination.



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Mr Les Malezer is presented with the 2008 Human Rights Medal by Attorney-General, Mr Robert McLelland MP.

In 1977, Mr Malezer was instrumental in the development of the Foundation for Aboriginal and Islander Research Action (FAIRA), a community-owned and managed organisation concerned with human rights issues for Indigenous peoples. He is presently its Chairperson.

Mr Malezer has also worked for the National Aboriginal Congress and for ATSIC. In recent years, he has focussed on working towards the improvement of access to justice and human rights for indigenous peoples worldwide. He was elected by indigenous peoples of the world to lead the Global Indigenous Caucus to the UN to galvanise support for the *Declaration on the Rights of Indigenous Peoples*.

Mr Malezer is respected by UN member States, treaty bodies, NGOs and diplomats alike.

His capacity to overcome seemingly insurmountable barriers is an inspiration and a lesson for all those who work on human rights and social justice issues.



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Mr Alan Huynh received the 2008 Young People's Human Rights Medal for his work in multicultural community development, youth engagement and global health issues.

2.8.2 Young People's Human Rights Medal

Winner: Mr Alan Huynh

The Young People's Human Rights Medal was awarded for the first time this year. The recipient was University of Queensland medical student, Mr Alan Huynh, for his tireless work in multicultural community development, youth engagement and global health issues.

Mr Huynh received clinical training at Cho Ray Hospital in Vietnam, holds a John Flynn Scholarship and has completed a rural general practice placement in Central Queensland.

He has worked with various youth advisory committees, including the Inspire Foundation and Australian Red Cross (NSW) and has held leadership positions with the Asia-Pacific Model United Nations Conference.

In 2007, Mr Huynh was given the Auburn Young Citizen of the Year award in recognition of his achievements and advocacy on behalf of young people. In 2006, he was selected as a youth ambassador on the 18th Ship for World Youth, an initiative which aims to promote cross-cultural understanding and international cooperation among young people by exchanging knowledge and experiences through open dialogue and practical learning activities.

Mr Huynh is currently a volunteer tutor for the Queensland Program for Survivors of Torture and Trauma.

2.8.3 Law Award

Winner: Mr Bill Mitchell

Mr Bill Mitchell is the Principal Solicitor of Townsville Community Legal Centre. For 14 years, he has worked tirelessly to promote equality, justice and fairness for all members of the community, particularly those most in need.

The work of the Townsville Community Legal Centre encompasses disability services, anti-discrimination services, welfare services and many other areas. In his work here, Mr Mitchell has worked to increase awareness of issues of injustice and inequality in the community by drawing upon his broad grasp of a wide variety of legal issues. His contributions to the development of legal education programs, and provision of legal advice and submissions to further law reform, have resulted in community legal centres being able to provide greater access to justice. Mr Mitchell has also assisted the community to confront discrimination by mounting test cases. He has assisted those whose rights have been infringed by undertaking extensive casework and promoted greater harmony throughout Queensland and the national community by playing an active role in committees. In addition, he has helped increase the awareness of injustice with his contributions to both practical and academic education.

This award recognises Mr Mitchell's work in the promotion and advancement of human rights through the practice of law, as well as the inspiration, dedication, compassion and humility that he brings to his work.

2.8.4 Community Award (Individual)

Winner: Ms Sharon Boyce

This award recognises Ms Sharon Boyce for her remarkable efforts in development of a first-of-its-kind mobile disability and diversity awareness program.

Ms Boyce was diagnosed with Juvenile Chronic Arthritis when she was almost 12 years old, a condition that has since resulted in her becoming highly physically disabled. However, her attitude is 'Live life to the full and enjoy it every day', which has driven her to some extraordinary achievements.

Among other things, Ms Boyce is the author of a children's book, entitled *Discovery at Paradise Island*, which enables children to learn about physical disability, as well as an educational resource kit called *A day in the life...of a person with a physical disability*. She also created *Discovery Disability*, a website and educational portal for children, educators and community members. Ms Boyce holds a Masters of Education (Honours) at the University of Southern Queensland and is currently working on her Doctor of Philosophy on inclusive education and diversity at the University of Queensland. She is a registered teacher, part-time tutor, online and distance education lecturer and public speaker.

Ms Boyce has received this award for *Discovering DisAbility and Diversity*, her mobile disability and diversity awareness program which travels to regional and rural communities throughout Queensland, educating people about difference and promoting inclusive classrooms. The program is built around experiential learning and, with Dr Michael Furtado, Ms Boyce has taken it to over 1000 schools, preschools and childcare centres, as well as provided professional development to many teachers and educators.

2.8.5 Community Award (Organisation)

Winner: Refugee and Immigration Legal Service (RAILS)

Located in West End, Brisbane, RAILS is an independent not-for-profit organisation and the only organisation in Queensland that specialises in refugee and migration law. RAILS works with a large team of volunteers to provide free legal advice, assistance and community education to disadvantaged people. With a demand that far exceeds its resources, it advocates in the cases of most need before the Department of Immigration, review tribunals and, on occasions, to judicial review.

RAILS began in 1980 as a volunteer advice service at the then Brisbane Migrant Resource Centre. It did not receive government funding until 1984, when its first staff member was employed part-time.

Since then, RAILS has assisted waves of refugees, and their families, from countries suffering from major political humanitarian crises. It works closely with other support organisations to provide a network of support for the most vulnerable clients. RAILS has provided advice and assistance to a wide range of people, including onshore and offshore refugees and asylum seekers, migrants, sponsors of migrants, migrant women suffering from domestic violence and Australian citizens seeking to sponsor relatives in need, spouses and employees.

This award recognises the tireless and ongoing efforts of this organisation over the last three decades.

2.8.6 Radio Award

Winner: *Central Australia* produced by Damien Carrick and Anita Barraud – ABC Radio National, *The Law Report*

As the country prepared to change government in late 2007, *The Law Report* aired *Central Australia*, a three-episode series that dealt with Indigenous legal issues in central Australia. Using the remote communities of Hermannsburg and Mutitjulu as case studies, *The Intervention* first examined how Indigenous people had been grappling with radical changes, particularly income management, since the Howard Government had launched its emergency intervention in June 2007. Moving to the town camps of Alice Springs, *Regulating Grog* then looked at the extent to which regulating the way alcohol is sold, and where it is consumed, can reduce the enormous problems associated with it in Indigenous communities. Finally, *Bush Courts* examined the bush courts of the remote communities of the Northern Territory – accessible and flexible local courts that do not hear serious cases like rape and murder, but are used by groups such as the Ngaanyatjatjara Yankunytjatjara Women's Council to try and protect women and children from domestic violence and abuse.

This award was presented to the series for its comprehensive depiction of the real impact of the Northern Territory intervention.

2.8.7 Print Media Award

Winner: *The National Apology: Commemorative lift-out*, edited by Kirstie Parker for *Koori Mail*

This edition of *Koori Mail* was full of images, colourful quotes and transcripts of the speeches that commemorated this historic day. It was recognised for being an enduring record of the momentous and symbolic day when our Prime Minister officially said 'Sorry' to the Stolen Generations.



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Ms Sharon Boyce received the Community Award (Individual) for development of her mobile disability and diversity awareness program, which is the first of its kind.

2.8.8 Literature Non-Fiction Award

Winner: *Human Rights Overboard: seeking asylum in Australia*, by Linda Briskman, Susie Latham and Chris Goddard

Until 2005, the operations within Australia's immigration detention centres had been largely shrouded in official secrecy and the Howard Government had refused to conduct a broad-ranging investigation into immigration detention. In the wake of the Cornelia Rau scandal, all that changed. A citizen's inquiry – the People's Inquiry into Detention (as it came to be called) – was established to bear witness to events in Australia's immigration detention facilities, hearing heartbreaking evidence about the journeys of asylum seekers to Australia, the refugee determination process and their lives in and after detention.

Human Rights Overboard drew together, for the first time, the oral testimony and written submissions from the inquiry in a powerful and haunting account drawn from the voices of former and current immigration detainees, refugee advocates, lawyers, doctors, psychiatrists and former detention and immigration staff.

Together, these voices record a humanitarian disaster and this book was recognised for the clear and comprehensive warning that it represents to current and future policy makers.

2.8.9 Television Award

Winner: *In my shoes*, produced by Steve Taylor for *Four Corners*, screened on ABC TV

This program took viewers into the lives of families caring for the profoundly disabled, showing carers robbed of their own independence, but fighting fiercely for the future of their loved ones. Though they are often bone weary, stressed and increasingly desperate, Australia's 2.6 million family carers continue to care for someone else's needs. Many live in poverty. Most are women. Yet, together, they save the taxpayer around \$31 billion a year while they are increasingly battling bureaucracy which often appears to have gone mad. As well as graphically looking at the plight of carers, including young carers, this exposé also took the New South Wales and federal governments to task over their commitment to both family carers and the disabled.

The impact of the program was huge with, not only a strong response from carers, but fresh funding initiatives appearing in the ensuing federal budget, along with the announcement of a Parliamentary Inquiry into better support for carers.

This award recognised this highly emotive piece, which delved into a difficult and often desperate world and inspired significant action as a consequence.



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Ms Sonia Caton accepts the Community Award (Organisation) on behalf of Brisbane's Refugee and Immigration Legal Service (RAILS).



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An Auslan signer interprets for the audience after MC, Mr Julian Morrow, introduces a specially recorded Human Rights Day message from UN Secretary-General, Ban Ki-moon.

2.9 2008 Human Rights Photography Competition

The 2008 Human Rights Photography Competition was held in 2008 under the theme, *Dignity and justice for us all*, the official theme of the UN's 2008 Human Rights Day.

Entries for the 2008 competition closed on 7 November 2008. 380 entries were received, from which the panel of three judges (Commissioner Tom Calma, Ms Julia Dean from the United Nations Information Centre in Canberra and Dr Phil George from the College of Fine Arts, University of New South Wales) compiled a shortlist of 30 photographs.

Winners were selected in three categories: 18 and above (age at 30 June 2008), Under 18 (Male) and Under 18 (Female). Respectively, they were Belinda Mason from Sydney for her photograph entitled *Intervention*, Luke Urquhart from Nambucca Heads, NSW, for *Laughter is a smile that bursts* and Ashley Evans from Doncaster, Vic, for *Jack and Jill*.

The 2008 Human Rights Photography Competition was sponsored by Digital Camera Warehouse, *Australian Photography* magazine, Vision Graphics and Actnow.com. Category winners received a \$500 voucher for the Digital Camera Warehouse and runners-up received a 12-month subscription to Australian Photography Magazine.

The winners and shortlisted entries were displayed in the foyer of the Sheraton on the Park Hotel at the Human Rights Medals and Awards ceremony on 10 December 2008 where two of the winners were presented with their awards. The photographs were also exhibited at the Kerry Packer Civic Gallery in the Hawke Centre of the University of South Australia from 19 January to 27 February 2009 under an arrangement with the university.

Information about the 2008 Human Rights Photography Competition is available on the Commission website at: www.humanrights.gov.au/photo_comp/index.html.

Chapter 3:

Monitoring Human Rights

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

- examination and reporting on issues of race, age, sex and disability discrimination and human rights
- the assessment of legislative and policy proposals, resulting in submissions to governments, law reform bodies and parliamentary committees.

This chapter highlights the Commission'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 legislation and proposed legislation.

The Commission's submissions play an important role in fostering public debate and an awareness of human rights principles. The Commission 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.

A range of submissions made by the Commission during 2008-09 are listed in this chapter.

For further information about the Commission's submissions, refer to www.humanrights.gov.au/legal/submissions.html.

For further information about the process whereby federal legislation is made, refer to the Parliament of Australia website at: www.apf.gov.au.

3.1 Submissions made by the Commission as part of its monitoring role in relation to human rights standards

3.1.1 Native Title Amendment Bill 2009

During the first half of 2009, the Commission made three submissions to the federal Attorney-General about proposals to reform the native title system. These submissions were based on recommendations by the Aboriginal and Torres Strait Islander Social Justice Commissioner in Native Title Reports over a number of years.

The most significant of these submissions was to the Senate Legal and Constitutional Affairs Committee's inquiry into the Native Title Amendment Bill 2009. This Bill was introduced by the Attorney-General in March 2009 and contains changes designed to facilitate negotiated settlements in native title claims, rather than litigation.

The Commission supported the Government's objectives of ensuring that:

- parties to native title claims engage in effective negotiation and agreement-making
- native title contributes to closing the gap between Indigenous and non-Indigenous Australians through achieving agreements with broad benefits to Indigenous peoples.

The Commission made a number of recommendations for improvements to the Bill in relation to mediation, powers of the court and rules of evidence. The Commission also recommended that the Bill be amended to deal with additional matters including:

- shifting the burden of proof to the respondents for some elements of native title claims
- limiting extinguishment to the current tenure extinguishment and repealing the provisions that validate past extinguishment where those extinguishing acts no longer continue to have effect
- separating the right to negotiate from the progress of the native title claim
- reinstating the right to negotiate for all compulsory acquisitions of native title.

The Commission believes these further reforms are necessary if the native title system is to operate in a way that realises the human rights of Aboriginal peoples and Torres Strait Islanders.

3.1.2 Review of the *Sex Discrimination Act 1984*

The Commission made a substantial submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the effectiveness of the Commonwealth *Sex Discrimination Act 1984* (Cth) in eliminating discrimination and promoting gender equality.

The Commission made a number of recommendations for amendments to the *Sex Discrimination Act* to address problems which have emerged in the 25 years since its adoption, enhance its ability to progress substantive gender equality and promote systemic reform and fulfill Australia's international human rights obligations.

The Commission recommended a two-staged reform process. The first stage would see a number of amendments to strengthen the *Sex Discrimination Act* and improve associated institutional arrangements, for example:

- removing the comparator element of direct discrimination
- extending protection from discrimination on the grounds of family and caring responsibilities
- including breastfeeding as a separate protected ground of discrimination
- expanding the definition of 'marital status' to include those in same-sex couples
- ensuring equal protection for both women and men.

The second stage of reform would be aimed at achieving longer term change in relation to our national culture of equality and the roles of women and men in modern Australian life. This second stage of reform would take place over three years and involve holding a national inquiry about whether Australia should have

a comprehensive Equality Act; or alternatively, a reference to the Australian Law Reform Commission, or another suitable body, to consider adoption of a human rights based framework for the Sex Discrimination Act. The Commission also called for a review of the permanent exemptions under the Act, with a three-year sunset clause on the permanent exemptions that are currently in place.

3.1.3 Fair Work Bill 2009

In January 2009, the Commission made a submission on the Fair Work Bill 2009. The Commission welcomed many of the changes to the law proposed by the Fair Work Bill including the restoration of unfair dismissal rights to many employees, the facilitated bargaining framework for the low paid, and the extension of parental leave entitlements to same sex couples.

However, the Commission recommended that the Bill be amended to implement fully Australia's international human rights obligations. The recommended amendments included:

- broadening the right to request flexible working arrangements
- extending eligibility for unpaid parental leave to employees who have had a number of employers and to those in different types of employment, including part-time and casual employment
- reducing the minimum employment period to access unfair dismissal protections to three months for all employees
- providing some measure of protection for employees of small businesses from unfair dismissal.

3.1.4 Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008

In January 2009, the Commission made a submission to the Senate Inquiry into the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008. This Bill contained a number of proposed changes to the Disability Discrimination Act and the Human Rights and Equal Opportunity Act designed to improve the effectiveness of both laws in promoting and protecting human rights.

The Commission strongly supported many of the proposed changes, including statutory recognition of the United Nations *Convention on the Rights of Persons with Disabilities* in the Disability Discrimination Act, the removal of the dominant reason test in the Age Discrimination Act, the change of the Commission's legal name to the Australian Human Rights Commission, and technical changes to provisions concerning the Commission's complaint handling functions.

However, the Commission had a number of concerns about proposed changes to the Disability Discrimination Act and made recommendations that:

- the explicit requirement for a 'comparator' in the definition of direct discrimination be removed
- the definition of indirect discrimination be amended to focus on disadvantage caused by a requirement or condition to persons with the aggrieved person's disability (similar to the Sex Discrimination Act)
- the provisions relating to the duty to provide reasonable adjustments be simplified.

3.1.5 Other submissions

During 2008-09, submissions were also made to the:

- Department of Prime Minister and Cabinet on the Information Commissioner Bill 2009 and the Freedom of Information Amendment (Reform) Bill 2009
- Committee on Economic, Social and Cultural Rights about its review of Australia's report under the *International Covenant on Economic, Social and Cultural Rights*
- Australia New Zealand Policing Advisory Agency on the guidelines for police issuing statements to the media containing descriptions of ethnicity of suspected criminals
- Review of Australia's Future Tax System on the consultation paper on the retirement income system
- Expert Mechanism on the Rights of Indigenous Peoples in its inquiry into the lessons learned and challenges to achieve the implementation of the right of Indigenous peoples to education
- Standing Committee on Legal and Constitutional Affairs inquiry into draft Disability (Access to Premises) Standards
- Standing Committee of Attorneys General on the Draft Model Spent Convictions Bill and consultation paper on the Model Bill
- Department of Families, Housing, Community Services and Indigenous Affairs on the National Disability Strategy
- Queensland Minister for Natural Resources and Water on the proposed Archer Basin Wild River Declaration, the Lockhart Basin Wild River Declaration and the Stewart Basin Wild River Declaration
- Senate Rural and Regional Affairs and Transport Standing Committee Inquiry into the Water Amendment Bill 2008
- Independent review of the *Environment Protection and Biodiversity Conservation Act 1999*
- Department of the Environment, Water, Heritage and the Arts on Australia's potential ratification of the UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*
- Joint Standing Committee on Foreign Affairs, Defence and Trade Human Rights Sub-Committee in its inquiry into human rights mechanisms and the Asia-Pacific
- 457 Visa Integrity Review on the *Issues Paper on 457 Visas: Integrity and Exploitation*
- Office of Indigenous Policy, Northern Territory Department of Chief Minister in its inquiry into outstations policy
- House of Representatives Standing Committee on Employment and Workplace Relations in its inquiry into pay equity and associated issues related to increasing female participation in the workforce

- Standing Committee on Legal and Constitutional Affairs inquiry into the Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008
- Community Affairs Committee on the Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008
- Standing Committee on Legal and Constitutional Affairs on the Independent Reviewer of Terrorism Laws Bill 2008 [No. 2]
- United Nations Human Rights Committee on Australia's implementation of the *International Covenant on Civil and Political Rights*
- NSW Legislative Council's Standing Committee on Social Issues on its inquiry into overcoming Indigenous disadvantage
- Joint Standing Committee on Migration's inquiry into immigration detention in Australia
- Northern Territory Emergency Response Review Board
- Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) on its Discussion Paper: *Australia's Children – Safe and Well, A National Framework for Protecting Australian's Children*
- Legal and Constitutional Affairs Committee on its inquiries into the Same-Sex Relationships (Equal Treatment in Commonwealth Laws – Superannuation) Bill 2008; Evidence Amendment Bill 2008; and Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008
- Federal Attorney-General's Department on whether Australia should become a party to the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*
- Australian Government's Green Paper on Homelessness
- UN High Commissioner for Human Rights on combating of defamation of religions
- Standing Committee on Family, Community, Housing and Youth in its inquiry into better support for carers.

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

Table 6: Enquiries received by issue (continued)	
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

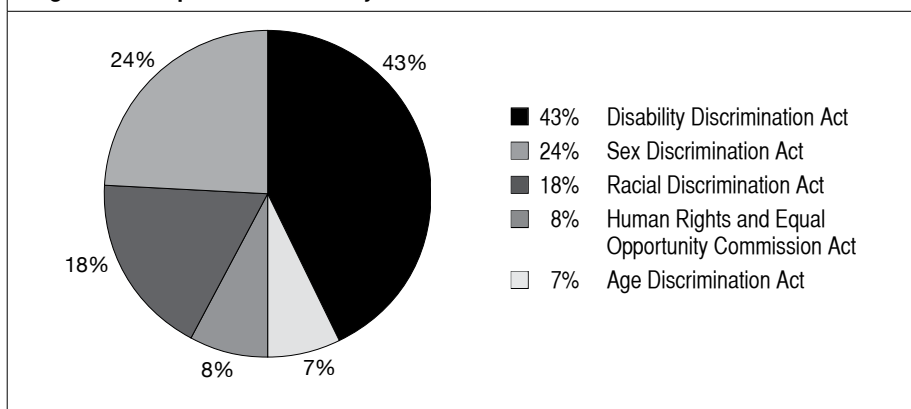
	2004-05	2005-06	2006-07	2007-08	2008-09
Received	1241	1397	1779	2077	2253
Finalised	1233	1205	1656	1883	2354

	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

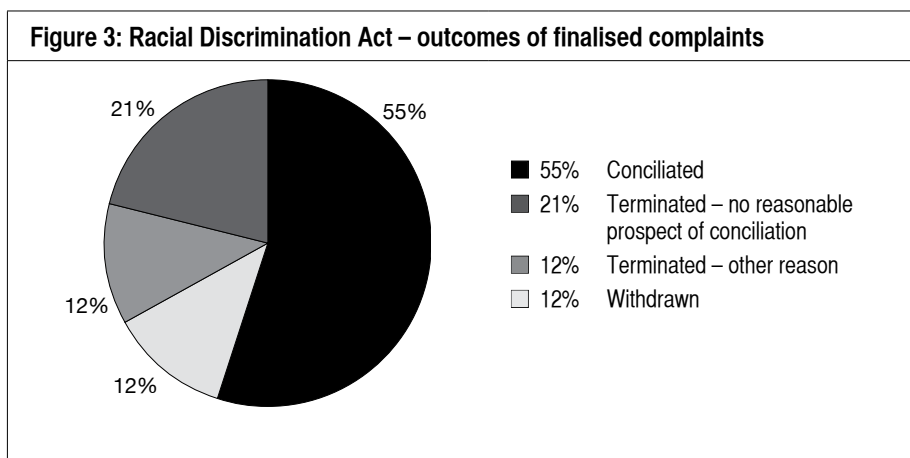
* An area is recorded for each ground, so one complaint may have multiple and different areas.

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

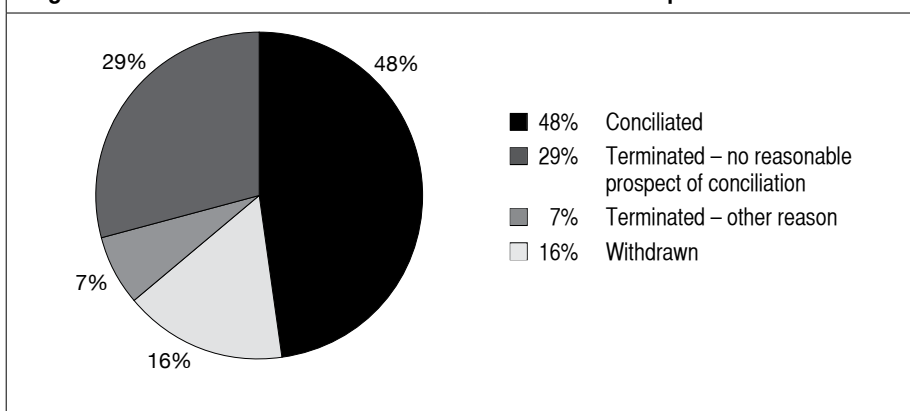
* One complaint may have multiple grounds.

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

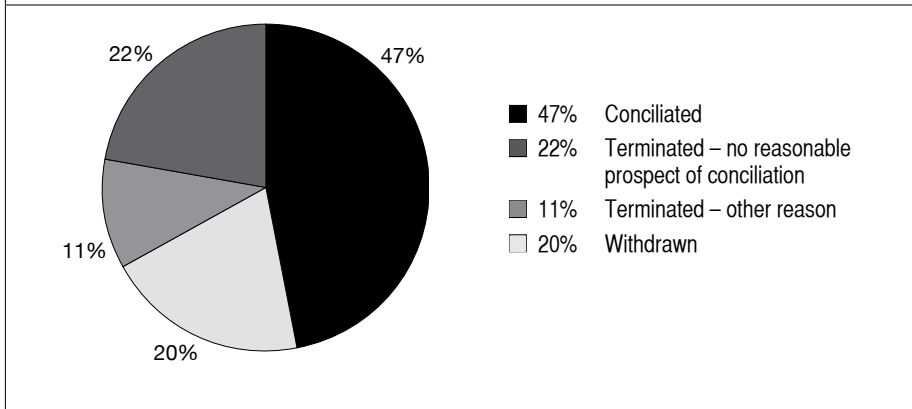
Disability Discrimination Act	Total	Percentage (%)
Education	191	9
Clubs, incorporated associations	30	2
Administration of Commonwealth laws and programs	35	2
Sport	4	–
Application forms, requests for information	2	–
Trade unions, registered organisations	–	–
Unlawful to contravene Disability Standard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

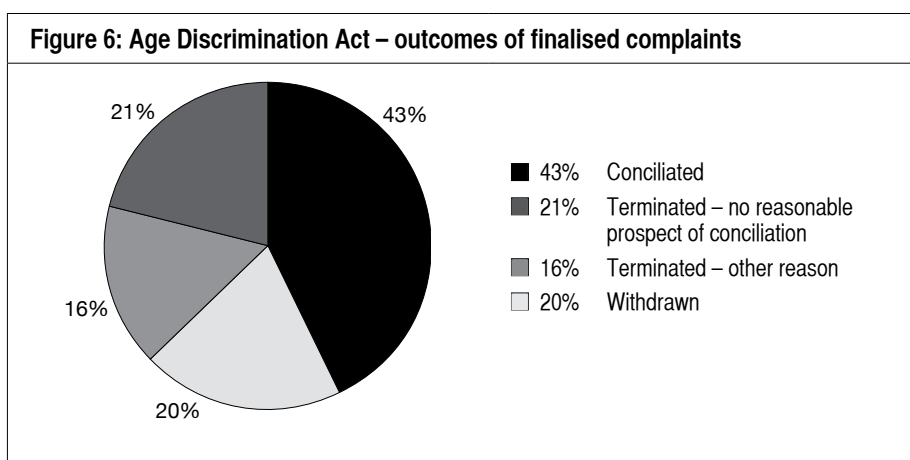
Age Discrimination Act	Total	Percentage (%)
Employment	168	59
Goods, services and facilities	88	31
Access to premises	2	0.75
Land	2	0.75
Accommodation	2	0.75
Incitement to unlawful acts or offences	–	–
Advertisements	2	0.75
Superannuation, insurance	7	2
Education	11	4
Clubs, incorporated associations	–	–
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.

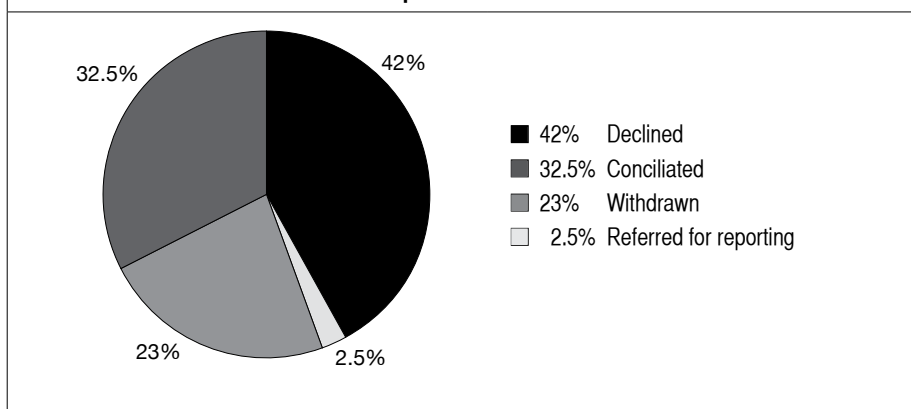
Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Prisons, prisoner	2	4
Religious institutions	–	–
Family court matters	–	–
Other law court matters	–	–
Immigration	44	81
Law enforcement agency	1	2
State agency	–	–
Other service provider (private sector)	–	–
Local government	–	–
Education 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



Chapter 5:

Legal Services

5.1 Responsibilities and overview

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

- advising on human rights, discrimination and other laws relevant to the work of the Commission
- 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 the Commission 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 the Commission 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 the Commission to consider applications for exemptions under the Sex Discrimination Act and Age Discrimination Act
- responding on behalf of the Commission to applications for access to information under the *Freedom of Information Act 1982* (Cth)
- assisting in international technical assistance work undertaken by the Commission.

5.2 Interventions and leave granted to intervene

The Commission has a 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.

The Commission'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
- section 53(1)(g) of the Age Discrimination Act.

In deciding whether to seek leave to intervene, the Commission considers whether the human rights or discrimination issues are significant and central to the proceedings and whether these issues are likely to be addressed adequately by the parties to the proceedings. The guidelines that the Commission uses to determine if it will seek leave to intervene in a matter are publicly available on the Commission's website at: www.humanrights.gov.au/legal/submissions_court/intervention/interventions_in_court_proc.html.

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

Between 1 July 2008 and 30 June 2009, the Commission intervened in five new matters and was involved in two matters that continued from the previous financial year.

5.2.1 Inquest into the death of Ian Ward

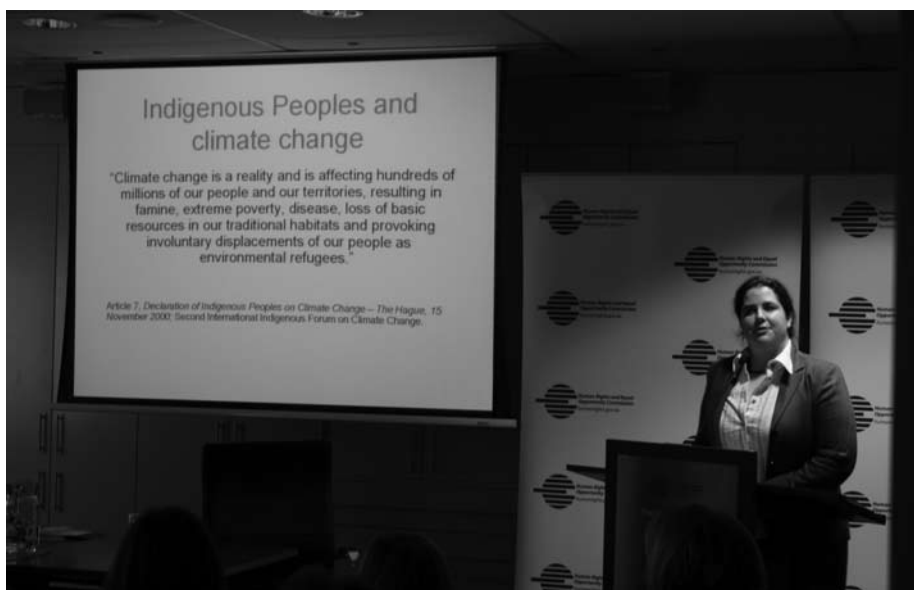
The Commission was granted leave to intervene in the inquest into the death of Mr Ian Ward in Kalgoorlie. Mr Ward died of heatstroke while being transported from Laverton to Kalgoorlie on a hot day in the rear of a van, having been remanded in custody for drink driving.

The Commission's submissions focused on systemic human rights issues connected with the death, particularly the impact of the practices of police and custodial officers on Mr Ward's right to humane and dignified treatment, his right to be free from arbitrary detention and his right to life. This included: the inappropriateness of the decision by police to arrest Mr Ward and refuse bail; the discharge of the duty of care to Mr Ward by the officers transporting him; the inappropriateness of the design and condition of the vehicle for prisoner transports across long distances in desert conditions; the inadequacies of relevant policies, procedures and training, including the failure of the pre-departure vehicle checklist to include a check on air-conditioning; and the inadequacy of the police investigation into Mr Ward's death.

The Coroner handed down his findings in June 2009. The Coroner found that Mr Ward's death was wholly avoidable and had been contributed to by the custodial officers, the custodial contractor, GSL, and the WA Department of Corrective Services.

The Coroner also found, consistent with the Commission's submissions, that the treatment of Mr Ward breached Australia's international legal obligations.

The Coroner made 14 recommendations aimed at systemic improvements, including that the Inspector of Custodial Services be empowered to issue a 'show cause' notice in cases where the Inspector is aware of issues relating to the human rights and safety of persons in custody.



The work of the Commission's legal section includes education and promoting awareness of developments in human rights and discrimination law. Ms Emily Gerrard, lawyer, was one of the speakers at a Commission seminar about Human Rights and Climate Change in August 2008.

5.2.2 Inquest into the death of David Gurrpalpa

In February 2009, the Commission was granted leave to intervene in the inquest into the death of Mr David Gurrpalpa in Darwin.

Mr Gurrpalpa died of a sudden heart attack while in police custody, either during or immediately after an intense struggle with the police. During this struggle the police held Mr Gurrpalpa in a 'prone restraint' position.

The Commission's submissions focused on the systemic human rights issues surrounding the death of Mr Gurrpalpa. These included the dangers involved in the police use of the prone restraint; the risk factors that make certain persons more susceptible to death following the prone restraint; and the need for police to monitor the health of people where practicable during the restraint, as well as immediately after the use of the prone restraint.

The Coroner handed down his findings in June 2009. The Coroner found that the struggle between the police and Mr Gurrpalpa, particularly while the police were using the prone restraint, was a material contributing factor to his death.

The Coroner adopted most of the Commission's suggested recommendations, which included recommendations for police training in the dangers of the prone restraint; the risk factors associated with the prone restraint; and the need to monitor a person's health, if practical, during and certainly immediately after a person is held in the restraint position.

5.2.3 Inquest into the death of Robert Plasto-Lehner

In February 2009, the Commission was granted leave to intervene in the inquest into the death of Mr Robert Plasto-Lehner, which was heard concurrently with the inquest into the death of Mr Gurrappa (above).

Mr Plasto-Lehner died at Royal Darwin Hospital after being held face down on the ground in a prone restraint by several police officers and hospital security guards. Mr Plasto-Lehner had been brought to the hospital by the police for a mental health assessment. He was forced onto the ground after attempting to leave the hospital building, having repeatedly requested that he be able to go outside for some fresh air and to have a cigarette. As a result of being held in the prone restraint, Mr Plasto-Lehner stopped breathing and later died.

The Commission intervened to make submissions about the systemic human rights issues surrounding Mr Plasto-Lehner's death. These issues included: the dangers and risk factors associated with the use by police of the prone restraint; the sufficiency of police training and the appropriateness of police practice in respect of the use of prone restraint; the adequacy of police training in dealing with mentally ill persons; and the adequacy of the police investigation into the incident.

In June 2009, the Coroner found that the use of the prone restraint was a material contributing factor in Mr Plasto-Lehner's death. The Coroner was critical of the police's conduct, describing Mr Plasto-Lehner's death as involving 'a litany of serious errors and misjudgements that led to the tragic and unnecessary death of the Deceased'. The Coroner also reported that a crime of assault may have been committed against Mr Plasto-Lehner.

The Coroner adopted many of the Commission's suggested recommendations in relation to police training in the dangers and risk factors of the prone restraint, and the need to monitor a person's health during and immediately after the use of the restraint. The Coroner also adopted the Commission's suggested recommendations in relation to police training on the treatment of mentally ill persons.

5.2.4 Morton v Queensland Police Service

These proceedings before the District Court in Townsville involved an appeal against a conviction of possessing more than a prescribed quantity of alcohol in a prescribed area, namely Palm Island, pursuant to section 168B of the *Liquor Act 1992* (Qld).

The appellant, Ms Morton, an Aboriginal woman from Palm Island, argued that the provisions of the *Liquor Act 1992* (Qld) and the Liquor Regulations 2002 (Qld) are invalid on the basis that they are inconsistent with section 10(1) of the Racial Discrimination Act.

The Commission was granted leave to appear as *amicus curiae*. The Commission made submissions on a range of issues, including the principles of interpretation relevant to the Racial Discrimination Act, the proper approach to section 10 of the Racial Discrimination Act and the exemption for 'special measures' in section 8(1) of the Racial Discrimination Act. 'Special measures' are measures taken for the 'sole purpose of securing the adequate advancement of certain racial or ethnic groups or individuals' in order that they may enjoy and exercise human rights and fundamental freedoms equally with others.

The Court held that section 10, which protects the right to equality before the law, was not 'invoked' by the Queensland legislation because the legislation operated by reference to a particular area (Palm Island) rather than race. In the alternative, the legislation was a special measure.

5.2.5 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.

The Commission 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*. The Commission was granted leave to intervene in March 2006 and the matter was heard by a single judge of the Family Court in November 2007.

Judgment remains reserved at the time of publication.

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

5.2.6 R v Wei Tang

The Commission was granted leave to intervene in the High Court in *R v Wei Tang* in May 2008. Ms Wei Tang, a Melbourne brothel owner, was convicted in the Victorian County Court of ‘using’ and ‘possessing’ five Thai women as slaves. Ms Tang successfully appealed against her conviction on the ground that the trial judge had misdirected the jury. The Crown appealed to the High Court of Australia, which considered the elements of the offence slavery and how to interpret the definition of slavery.

The Commission made submissions about the correct interpretation of the definition of slavery under the *Criminal Code Act 1995* (Cth) in light of the international jurisprudence about the meaning of slavery.

The Commission 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 of or all of the powers attaching to the right of ownership.

The Commission relied on the International Criminal Tribunal for the Former Yugoslavia case, *Prosecutor v Kunarac*, to identify the indicia of contemporary forms of slavery. These indicia include the control of movement, psychological control, and the denial of personal autonomy. Deception, physical or psychological abuse, and false promises may render consent either irrelevant or impossible.

In August 2008, the High Court handed down a majority decision upholding the Crown appeal against the Victorian Court of Appeal’s decision to quash Ms Tang’s conviction and to order a retrial.

The High Court held that the definition of ‘slavery’ in the Criminal Code is not restricted to historical concepts of ‘chattel slavery’, where a person is treated like the property of another without control over any aspect of their life. The question of whether the powers exercised by the accused can be described as powers attaching to the right of ownership will depend on the nature and extent of the powers.

Consistent with the approach advocated by the Commission, the Court focused on a range of factors to identify whether an offence of slavery had occurred. The Court accepted that the indicia of slavery identified in *Prosecutor v Kunarac* can help distinguish between harsh and exploitative employment arrangements and the condition of slavery. The Court also added that the commodification of an individual, by treating him or her as an object of sale and purchase, is a powerful indicator of slavery.

5.3 Amicus curiae

Guidelines for the exercise of the Commission's *amicus curiae* function are publicly available on the Commission's website at: www.humanrights.gov.au/legal/submissions_court/amicus/amicus_guidelines.html.

As with the Commission's intervention functions, the Commissioners attempt to enhance the educational role of their *amicus curiae* function by placing all submissions on the Commission website. These are available at: www.humanrights.gov.au/legal/submissions_court/index.html.

During 2008-09, Commissioners did not seek leave to appear as *amicus curiae* in any matters. The Disability Discrimination Commissioner was involved in one matter which was continued from the previous financial year, summarised below.

5.3.1 Vijayakumar v Qantas

The applicant, Mr Vijayakumar, alleges that he was discriminated against by Qantas when he was required to pay excess baggage fees for his disability aids. The events took place in Mumbai (India) on the return journey of a ticket purchased in Australia for travel between Sydney and Mumbai. Mr Vijayakumar claims that he could not afford the fees imposed and was effectively required to abandon most of his personal belongings at the airport.

Qantas has 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. By contrast, Mr Vijayakumar argues that the relevant discrimination occurred by virtue of the conditions of his flight, which was purchased in Australia.

The 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 remains reserved.

5.4 Review of administrative decisions made by the Commission

People affected by administrative decisions made by the Commission may be entitled to seek a review of those decisions before a court or tribunal.

5.4.1 Judicial review

Judicial review of Commission decisions can be sought by application to the Federal Court or the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977* (Cth).

In accordance with established legal principle, the Commission (as decision maker) usually does not play an active role in those proceedings. This is to avoid a perception of bias in the event that a matter is remitted to the Commission for further determination. Instead, the Commission agrees to be bound by the decision of the Court and leaves the substantive parties (usually the complainant and respondent to a complaint that was before the Commission) to argue the matter.

The Commission was a respondent to two applications brought under the *Administrative Decisions (Judicial Review) Act* in 2007-08. One of those applications was unsuccessful, the other was ongoing at the end of the reporting period.

5.4.2 Merits review

Some decisions of the Commission or its 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 was one application for merits review of a Commission decision during the reporting period. It was ongoing at the end of the reporting period.

5.5 Education and promotion

The Legal Section plays a significant role in human rights legal education, including through publishing regular journal articles, presenting seminar papers and speaking as guest lecturers to university students on discrimination and human rights law issues.

Three of the Legal Section's significant ongoing human rights education projects are listed below:



At a Commission legal seminar held in October 2008, Mr Bret Walker SC spoke about Modern Day Slavery in Australia. Mr Walker appeared as Senior Council for the Commission in *R v Wei Tang*.

5.5.1 Federal Discrimination Law

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.

Following the launch of the 2008 edition *Federal Discrimination Law*, the Legal Section has periodically updated the online version, *FDL Online*, to take into account recent developments in the law. Users can register for free updates via the Commission's website at: www.humanrights.gov.au/legal/FDL.

5.5.2 Workplace Discrimination Seminar Series

Members of the Legal Section presented seminars on workplace discrimination in all capital cities to promote the 2008 edition of *Federal Discrimination Law*.

5.5.3 Human Rights Law Seminars

The Legal Section organises Human Rights Law Seminars on topics of current interest in domestic or international human rights law. The seminars and speakers for 2008-09 were as follows:

20 August 2008: Climate Change and Human Rights

The former President, John von Doussa QC, presented this seminar with Ms Emily Gerrard, who discussed the impact of climate change on Indigenous rights.

16 October 2008: Modern Day Slavery in Australia: R v Wei Tang

Commission President, Catherine Branson QC, chaired this seminar in which Mr Bret Walker SC provided comment on the High Court's decision in *R v Wei Tang*, and Sex Discrimination Commissioner Elizabeth Broderick spoke about current issues in the area of people trafficking.

11 December 2008: Human Rights, Equality and Fundamental Freedoms: What Difference does a Human Rights Act Make?

Lord Bingham of Cornwall, former Senior Law Lord of the House of Lords, discussed the impact of the UK Human Rights Act, and Professor David Kinley, the Chair in Human Rights Law at the University of Sydney, provided a reply from an Australian perspective.

17 February 2009: Human Rights Acts and Parliamentary Sovereignty

Mr Murray Hunt, Legal Adviser to the UK Joint Committee on Human Rights, presented this session, chaired by the President, Catherine Branson QC. The seminar covered the operation of the UK Human Rights Act 10 years after its enactment and the impact of the UK Human Rights Act on the UK Parliament.



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In December 2008, Professor David Kinley, Chair in Human Rights at the University of Sydney Faculty of Law and Lord Bingham, former Senior Law Lord of the House of Lords, were introduced as speakers by Human Rights Commissioner, Mr Graeme Innes, at the seminar, *Human Rights, Equality and Fundamental Freedoms: What Difference Does a Human Rights Act Make?*

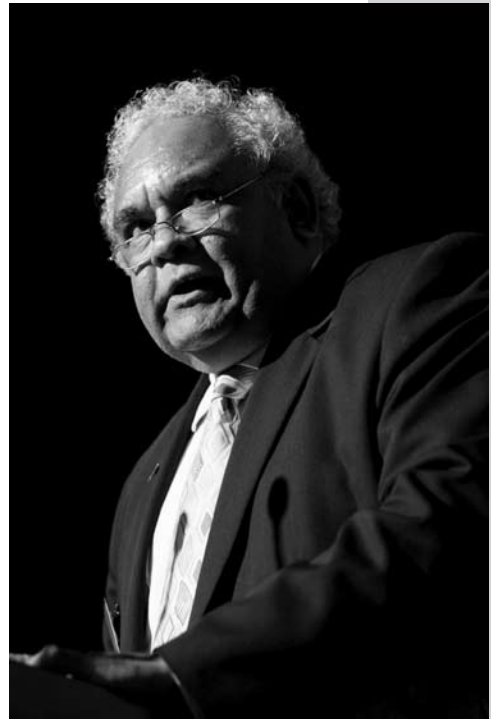
5 March 2009: A Human Rights Act, the Courts and the Constitution

The Hon Michael McHugh AC, QC, distinguished jurist and former Justice of the High Court of Australia, presented his views on human rights in Australia and their protection through a Human Rights Act. The seminar was chaired by the President, Catherine Branson QC.

28 April 2009: The Constitution and a Human Rights Act

This seminar was conducted in conjunction with the Centre for Comparative Constitutional Studies at the University of Melbourne. It considered potential Constitutional issues raised by a Human Rights Act. The seminar was chaired by the President, Catherine Branson QC, and featured a panel of Professor Adrienne Stone, Mr Mark Moshinsky SC and Associate Professor Kristen Walker.

Chapter 6: Aboriginal and Torres Strait Islander Social Justice



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Mr Tom Calma
Aboriginal and Torres Strait
Islander Social Justice
Commissioner

6.1 Statement from the Commissioner

As the Social Justice Commissioner, this past year I have focused my energies on bearing witness to some of the self-evident truths in Aboriginal and Torres Strait Islander affairs. One of my core functions has been to take the voices and the truth of peoples' lived experiences to government. It has been to ensure that the discussion and debate about Indigenous peoples and social justice is based on reality.

In this respect, the past year has been an important one for building stronger relationships between Indigenous and non-Indigenous Australians that are based on honesty, acknowledgment and understanding.

We still have a relatively new federal government, which has continually stated its desire to 'reset the relationship' with Indigenous peoples based on mutual respect and good faith. It has joined with all Australian governments to make extremely significant commitments to close the gap, including by working in new ways and with accountability processes that have never meaningfully existed in the past.

Even though it has not all been heading in the right direction, and at times there have been inconsistencies and contradictions in the approaches adopted, we are nevertheless moving forward. This past year has been the opportunity to build on the Apology, and move forward in re-negotiating the relationship between Indigenous peoples and governments.

The pinnacle for me of this emerging new relationship was the government's commitment to formally support the United Nations *Declaration on the Rights of Indigenous Peoples*, which it did on 13 April 2009. It was a watershed moment in Australia's relationship with Aboriginal and Torres Strait Islander peoples.

The Declaration's strength is that it provides a set of internationally endorsed objective standards to guide the relationship with Indigenous peoples, and to promote actions that respect and protect Indigenous culture. In making this formal statement of support, the federal government is committing to a framework which fully respects Indigenous peoples' rights and creates the opportunity for all Australians to be truly equal. The Declaration must now be the pre-eminent reference on all issues relating to Aboriginal and Torres Strait Islander peoples.

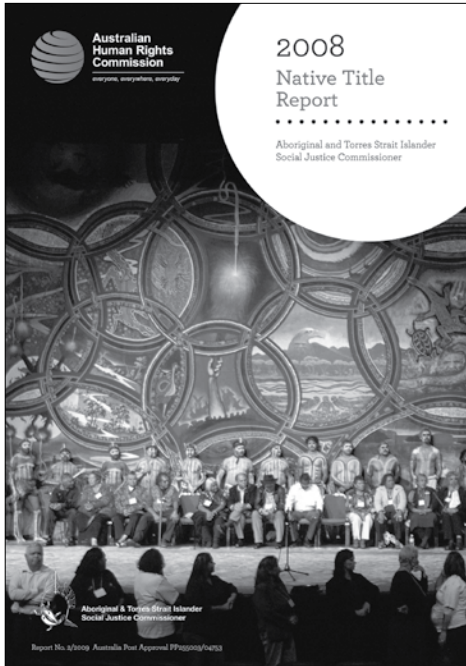
The government's commitment to re-setting the relationship with Indigenous peoples was also evidenced this year by the steps taken towards the development of new Indigenous representative structures to ensure a seat at the table for Indigenous peoples in decisions that affect us.

I started the year with the release of an Issues Paper that identified what I believed were some of the issues that have to be considered in developing a new national representative body. Soon after, I was asked by the government to select a Steering Committee, consult with Aboriginal and Torres Strait Islander peoples and together, develop a model for a new national representative body. Through the course of the year we have brought representatives from communities all over Australia to be a part of the process of thinking through the issues and developing a model that is grounded in the strongest principles of integrity. The process has been an insightful and rewarding journey for everyone involved. A proposed model will be submitted to the government by end of July 2009.

Another area of important reforms has been that of native title. Under the current system, it continues to be a long, hard road for Traditional Owners to achieve what seems simple on paper: recognition of their pre-existing rights to their country.

Native title and connection to land and waters is at the core of spirituality and physical and emotional wellbeing for Indigenous Australians. After 15 years of native title and very little evidence of any marked improvement in the lives of Indigenous Australians, we now have the benefit of learning from what has gone and learning from past experience of engaging in this unique system.

Over this past year, I have welcomed the Attorney-General's efforts to ensure that the behaviour and attitude of all parties facilitates effective negotiation and agreement-making through the systems established under the Act. However, in addition to making recommendations for the improvement of the Act, I have continued to comment on the need for greater transparency and proper consultation.



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The *Native Title Report 2008* includes detailed discussion of the challenges that climate change and water resources create for Indigenous peoples.

In the *Native Title Report 2008*, I discuss in detail the challenges that climate change and water resources create for Indigenous peoples, whose voices in these processes, to date, have been marginal at best. This is despite the fact that Indigenous knowledge and traditional practices can contribute much to mitigate the effects of climate change and to support Indigenous economies at the same time. The critical importance of ensuring engagement of Indigenous peoples in the climate change debate is but one example of what needs to occur if we are to reset the relationship in good faith.

More broadly, in terms of Indigenous policy making, there emerged the strong need for a new direction. I agree with Lieutenant General John Sanderson, Chairman of the Indigenous Implementation Board in Western Australia, who said, 'If you find yourself riding a dead horse, the best policy is to dismount'.¹

The relationships between Indigenous Australians and the Australian Government must be based on respect for culture and human rights, on the principles of justice, equality and non-discrimination. Responsible governance requires clear benchmarks and targets. Governments must be accountable for these benchmarks and targets. They must meet the commitments they make to Aboriginal and Torres Strait Islander peoples with all of the necessary funding, staffing and infrastructure support to ensure a possible success. And they must ensure that they work in real partnership with Aboriginal and Torres Strait Islander peoples.

1 Lieutenant General John Sanderson, AC. Speech at the Local Government and Indigenous Communities Conference, University of Western Australia. 29 April 2009.

The Council of Australian Governments (COAG) made significant inroads in putting in place the COAG National Indigenous Reform Agenda to overcome Indigenous disadvantage in the areas of health, housing and employment.

The Close the Gap Campaign Steering Committee for Indigenous Health Equality, of which the Aboriginal and Torres Strait Islander Social Justice Commissioner is Chair, has proactively engaged with many of the Indigenous and health reform processes initiated under the COAG National Reform Agenda. The Steering Committee has also engaged in the development of national health strategies for hospital reform, primary health care and preventative health care.

I am also pleased that there have now been preliminary discussions about how the 'close the gap' approach can be applied to Indigenous education. Already, the Australian Education Union, the National Centre for Indigenous Studies at the Australian National University, the National Indigenous Higher Education Council and senior Indigenous education professionals have started this conversation together. I hope we will see further developments in this regard in the coming year.

At the international level, Indigenous Australians made significant headway, which will in turn contribute to Indigenous development here in Australia. Indigenous Australians presented strongly at both the inaugural meeting of the UN Expert Mechanism on Right of Indigenous Peoples (August 2008) and at the Eighth Session of the UN Permanent Forum on Indigenous Issues – making interventions on Indigenous women, Indigenous youth, climate change, the compulsory acquisition of town camps and Indigenous economic and social development.

Finally, the *Social Justice Report 2008* this year reflected on what are some of the fundamentals that we still need to address. These fundamentals are broadly as follows:

- ensuring our participation in decision making that affects us
- adequately protecting our human rights
- ensuring education is available to all of our children
- being proactive about crime prevention by investing in our communities
- seeing native title as a core part of the social justice agenda.

To me, each of these should be self-evident. We must return to the truths that exist – in our relationships, and from our history. Only by doing this will we achieve social justice for Aboriginal and Torres Strait Islander peoples and in doing so, equality for all Australians.

I have been privileged to play a role in the constructive development of Indigenous affairs agendas at both the national and international level. But all of us, both government and community, benefit, if we can contribute together to the discussions on how Indigenous human rights can be better protected and realised in the laws, policies and programs.

6.2 Monitoring and reporting

A state-of-the-nation review of progress on Indigenous policy and human rights compliance is provided annually by the *Social Justice Report* and *Native Title Report*.



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The *Social Justice Report 2008* focuses on what is needed to improve Indigenous human rights protection, remote indigenous education, healing and health equality.

6.2.1 *Social Justice Report 2008*

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

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

The *Social Justice Report 2008* was transmitted to the Attorney-General on 6 February 2009 and tabled in the House of Representatives, out of session, on 29 April 2009. The report was officially launched on 4 May 2009 in Sydney at an event open to the media and the general community.

The *Social Justice Report 2008* focuses on what is needed to improve Indigenous human rights protection, remote Indigenous education, healing and health equality. The report sets out some of the key steps that governments can take over the next 18 months to progress a new agenda for Indigenous affairs, including:

- establishing a credible national Indigenous representative body
- reinstating the protection of the Racial Discrimination Act in the Northern Territory
- making human rights a central part of the new relationship with Aboriginal and Torres Strait Islander peoples, by amending the Constitution, establishing a national Human Rights Act and formally supporting the UN *Declaration on the Rights of Indigenous Peoples*

- developing a remote Indigenous education strategy and accountability framework
- establishing an independent national Indigenous healing body
- putting in place a properly-funded, long-term plan of action to achieve Indigenous health equality and objectively monitoring its progress.

The *Social Justice Report 2008*, a community guide, a media kit and other information are available online at: humanrights.gov.au/social_justice/sj_report/sjreport08/index.html.

6.2.2 Native Title Report 2008

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

In accordance with section 46C(1)(a) of the Human Rights and Equal Opportunity Commission Act, the Commissioner also reports on the impact that changes to policy and legislation related to land and waters has on the enjoyment and exercise of human rights by Aboriginal and Torres Strait Islander peoples.

The *Native Title Report 2008* was transmitted to the Attorney-General on 6 February 2009 and tabled in the House of Representatives, out of session, on 29 April 2009. The report was officially launched on 4 May 2009 in Sydney at an event open to the media and the general community.

The *Native Title Report 2008* provides an overview of changes to native title law and policy, and considers the implications of various court decisions that were handed down during the reporting period. It also examines the topical issues of climate change and water management and the need to promote and protect Indigenous traditional knowledge which can be used to respond to these challenges. Two case studies were undertaken to show these impacts. One focused on the rights of Torres Strait Islanders, and the other on the rights of the First Nations of the Murray-Darling communities.

The *Native Title Report 2008* provides over 30 recommendations to government on how it can better realise the rights of Aboriginal people and Torres Strait Islanders.

The *Native Title Report 2008*, community guides, a media kit and other information are available online at: humanrights.gov.au/social_justice/nt_report/ntreport08/index.html.

6.2.3 Community guide and CD-ROM

Two community guides were printed and made available on the Commission website. The first was a community guide to the *Native Title Report 2008* and *Social Justice Report 2008*. The second, entitled *Climate change, water and Indigenous knowledge: Community Guide* outlines the issues arising for Indigenous communities in the context of climate change and the need for Indigenous Australians to be engaged in developing and advancing a national climate change policy.

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

6.2.4 Evaluation

Evaluation surveys for the *Social Justice Report 2008* and the *Native Title Report 2008* were developed and distributed through:

- online evaluation surveys made available through the Commission website from mid-May 2009 to 29 June 2009
- emailing and posting the evaluation surveys to over 1500 people on the report distribution lists, with a deadline of 29 June 2009
- and an alert, that was sent out to 1610 people on the Social Justice e-list on 21 May 2009, with a link to the online version of the evaluation surveys.

There were 33 responses to the *Social Justice Report* survey and 43 responses to the *Native Title Report* survey. The large majority of respondents were familiar with the reports and found this year's reports to be 'very useful' and informative. Several suggestions for issues that could be covered in future reports were given. Most respondents indicated they would read future reports.

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 A National Indigenous Representative Body

The Australian Government has committed to set up a new national representative body to provide an Aboriginal and Torres Strait Islander voice within government.

On 12 July 2008, the Aboriginal and Torres Strait Islander Social Justice Commissioner released an Issues Paper outlining key considerations in the development of a new National Indigenous Representative Body.

The government then undertook the first round of community consultations between July and December 2009. The government held 80 public meetings and received more than 100 written submissions.

In December 2008, the government requested the Aboriginal and Torres Strait Islander Social Justice Commissioner to convene an independent Indigenous steering committee to oversee the second stage of the process, led by Indigenous Australians. The Steering Committee was tasked with consultation for and development of a preferred model for a national representative body for Aboriginal and Torres Strait Islander peoples.

In March, the Steering Committee convened a national workshop in Adelaide to identify the key elements of a new national representative body. Consensus was reached at this workshop on a range of issues, but further consultation and discussion is needed to address four outstanding issues: how the body can best represent Aboriginal and Torres Strait Islander peoples in a way that includes local and regional issues; what should be the structure of the national representative body; what should its relationship be with Government and the Parliament; and how should it be funded.

The Steering Committee will report on a preferred model to the Australian Parliament by the end of July 2009, with an interim body commencing shortly after.

Copies of the Issues Papers and Community Guides are available at: humanrights.gov.au/social_justice/rebody/index.html.



Members of the Steering Committee for the establishment of a new national representative body for Aboriginal and Torres Strait Islander peoples: (left to right from front) Yananymul Mununggurr, Dr Lowitja O'Donoghue (Patron), Dr Jackie Huggins AM, Tom Calma (Chair), Nala Mansell-McKenna, Dr Mark Bin-Bakar, Prof Mick Dodson (Expert advisor), Josephine Bourne (Secretariat), Jason Glanville, John (Toshi) Kris and Darren Dick (Secretariat).

6.3.2 Indigenous health equality

Over the period 1 July 2008 to 30 June 2009, the Close the Gap Campaign Steering Committee for Indigenous Health Equality (Committee) worked to consolidate the outcomes of the National Indigenous Health Equality Summit (Summit), held in Canberra from 18 to 20 March 2008. It also engaged with many of the Indigenous and health reform processes initiated under the COAG National Reform Agenda and by the Australian Labor Party since resuming government in November 2007.

The major outcome of the Summit was the *Close the Gap Statement of Intent*. It was signed by the Prime Minister, the Minister for Health and Ageing, the Minister for Indigenous Affairs and the Opposition leader, as well as the leaders of every peak Indigenous and non-Indigenous health and health professional body on the final day of the Summit. This was a ceremonial occasion held at Parliament House, Canberra on 20 March 2008.

Another major Summit outcome was the finalising of the *Close the Gap Indigenous Health Equality Targets*. These were developed by the Steering Committee with the help of Indigenous health experts over the months prior to the Summit and presented to the delegates there in draft form. The targets were presented by the Committee to the Minister for Health and Ageing on 28 July 2008. Thereafter, they were widely disseminated, including to every parliamentarian in Australia, and published on the Commission's website.

The targets support the commitments in the Statement of Intent. The targets are specific, time-bound commitments that create a blueprint to achieve the goal of closing the gap between Indigenous and non-Indigenous life expectancy in a generation. The four categories of targets include: partnership targets, health status targets, primary health care and other health services targets and infrastructure targets.

The Committee continues to work with COAG and Australian governments to progress the adoption of the targets and their integration with a variety of monitoring frameworks.

The Committee convened a workshop in Sydney on 26 and 27 November 2008 to advance the commitments in the Statement of Intent and to consider how the health equality targets may contribute to a national action plan to achieve health equality.

The workshop was attended by senior bureaucrats from nearly every state and territory, as well as across federal government departments, and representatives of Indigenous health organisations and the Committee. There were five working sessions during the workshop that focused on the following themes:

- creating partnerships for change
- planning to achieve health equality by 2030
- coordinating our efforts
- monitoring and accountability for the achievement of Indigenous health equality
- a way forward.

The workshop enabled participants to define what 'partnership' would mean in the context of achieving Indigenous health equality. A workshop report was circulated to the Minister for Health and Ageing, key bureaucrats and the participants.

The workshop saw the announcement of billion dollar investments by COAG in several National Partnerships for Indigenous Health. In total, since May 2008, \$4.6 billion has been invested in improving Indigenous health outcomes (with a focus on chronic disease and child health) and the social determinants of Indigenous health (housing, education and employment). On several occasions, the Committee has been acknowledged by government ministers as being a primary driver of the making of these investments by COAG. This has heartened and energised the campaign partners, and given the campaign significant credibility.

A major focus of the Committee has been on building a partnership approach to allocations for the \$1.6 billion National Partnership for Improving Indigenous Health outcomes.



On 28 July 2008 at Parliament House in Canberra, Commissioner Calma talks to the media after the *Close the Gap Indigenous Health Equality Targets* were presented to the Minister for Health and Ageing.

Other Summit outcomes that came to fruition during 2008-09 include:

- the development of a *Close the gap* brochure based on the Social Justice Unit's community guides to the Social Justice Report
- the second National Close the Gap Day in April 2009 – over 500 community events marked the day
- the Prime Minister's first report on closing the Indigenous socio-economic (including health) gaps (April 2009)
- the signing of the Statement of Intent by the governments of Victoria, Queensland and Western Australia.

The Aboriginal and Torres Strait Islander Social Justice Commissioner and Committee members continued to give many speeches promoting the campaign.

Political engagement to further partnership and national planning is now the major focus of the campaign. An ambitious agenda has been agreed upon for 2009-10.

Ongoing activities include:

- social and cultural determinants targets development – the latter, in particular, stands to make a significant contribution to how Indigenous health and wellbeing is understood in Australia
- working with the \$10 billion Health and Hospital Fund to secure significant allocations towards Indigenous health

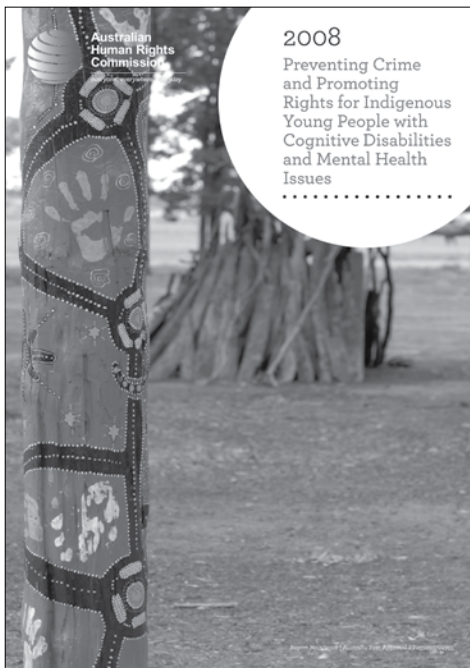
- working with the National Rugby League to promote the Close the Gap campaign
- working to get the remaining states and territories to sign up to the *Close the Gap Statement of Intent*
- working to ensure that the budget for the maintenance of the Secretariat for Close the Gap is secured for the coming 18 months to two years.

6.3.3 ***Preventing crime and promoting rights for Indigenous young people with cognitive disabilities and mental health issues report***

In November 2008, the Commission launched the *Preventing crime and promoting rights for Indigenous young people with cognitive disabilities and mental health issues report*. This research was funded by the Australian Government Attorney-General's Department to investigate early intervention and diversion for Indigenous young people with cognitive disabilities and/or mental health problems who are at risk of involvement with the juvenile justice system.

This report builds on an earlier report by the Commission and considers the evidence on Indigenous young people with cognitive disabilities and/or mental health problems, maps some of the services currently available, and looks at a variety of case studies that point to a framework for early intervention and diversion.

The report identifies the very high needs of this particular group, as well as systemic failures and discrimination which impact on their life chances. Despite these high needs, there is very little research about this group and the specific interventions that can assist. The report starts to address this knowledge gap and has been well received by government and those working in the field.



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This report, released in November 2008, is the result of research into early intervention and diversion for Indigenous young people with cognitive disabilities and/or mental health problems who are at risk of involvement with the juvenile justice system.

6.3.4 National Indigenous Climate Change Working Group

On behalf of the Aboriginal and Torres Strait Islander Social Justice Commissioner, staff from the Commission attended meetings of the National Indigenous Climate Change Working Group in Melbourne on 12 September 2008 and 16 October 2008.

The purpose for the meeting was to develop a scoping/research exercise on the impacts and opportunities from climate change for Indigenous communities in four different climatic regions across Australia, and to ascertain how these communities might respond. Identified project sites include the Kimberley, Cape York/Torres Strait Islands, Cooper Basin/South Australia and Southern Victoria/Tasmania.

Project partners include the CSIRO, Monash University and the four Indigenous regions.

6.3.5 Indigenous water rights forums

The Aboriginal and Torres Strait Islander Social Justice Commissioner has been engaged in a number of forums related to Indigenous peoples' rights and interests in water.

Commission staff attended a number of Australian Indigenous Water Focus Group meetings hosted by North Australian Indigenous Land and Sea Management Alliance, Murray Lower Darling Rivers Indigenous Nations and the National Water Commission. The primary objectives of the Australian Indigenous Water Focus Group are to:

- identify and overview specific water issues for Indigenous communities
- formulate strategic development of a future National Indigenous Water Roundtable dialogue and engagement at the national level
- examine guiding principles for Indigenous engagement in water planning
- consider the formation of a National Indigenous representative group (a steering committee) to assist with advancing Indigenous water access entitlements and Indigenous engagement in water issues at the national level.

As a result of the Indigenous Water Focus Group meetings, Commission staff have been involved in the establishment of the First Peoples' Water Engagement Council. Once fully established, this Council will aim to work with the National Water Commission to ensure an Indigenous perspective is incorporated into National Water Initiative processes and projects.

6.4 Education and promotion

In 2008, the Social Justice Commissioner and Commission staff undertook numerous actions to promote awareness of Indigenous rights. These included reports, speeches and seminars, media, the production of information materials on Indigenous rights and the development and delivery of human rights training. Copies of all speeches, media releases and information materials are available at: humanrights.gov.au/social_justice/index.html.

The Social Justice Commissioner also supported education activities conducted by a range of organisations. These included but were not limited to:

- patronage of the Wakakiri story festival
- support for the Dare to Lead organisation and Foundation

- involvement in the design and delivery of Diplomacy Training Programs for Indigenous peoples (including by linking to our international funding for UN participation).

This year the *Social Justice Report 2008* contained a chapter dedicated to remote Indigenous education.

6.4.1 Community Legal Education

During 2008, the Commission delivered a second phase of training for predominantly Indigenous Community Legal Education (CLE) workers as preparation for their employment in Family Violence Prevention Legal Services. The training aimed to prepare workers to raise awareness amongst Indigenous Australians about the standards of Australian law that are relevant to family violence, and to clarify the relationship between Australian law and customary law.

The training program is underpinned by community development theory and practice and human rights frameworks. The principal aim of the program is to provide CLE workers with appropriate skills and knowledge for employment.

6.4.2 Indigenous Human Rights Network of Australia

Oxfam is providing \$330 000 funding to the Commission over three years for engagement of a full-time person to establish and advance a network of Indigenous people to advocate for Indigenous rights. This project commenced in September 2008. A Network Coordinator was appointed in February 2009. The Network will be launched in late 2009.

6.5 Legislative development

The Social Justice Unit contributes to legislative development by making written and oral submissions to parliamentary and other inquiries, including reports to international human rights bodies and forums. These submissions are listed in Chapter 3: Monitoring Human Rights.

6.6 International activities

6.6.1 The UN Permanent Forum on Indigenous Issues

The Forum is one of two major annual United Nations events on Indigenous affairs. It has been described as the 'marketplace' or 'fair' at which much information and networks can be established in relation to issues affecting Indigenous peoples.

A major focus of the Forum in the past two years has been on the UN *Declaration on the Rights of Indigenous Peoples*. The Forum is named as having a key implementation role in Article 42 of the Declaration and has adopted the Declaration as the framework for its work.

The Social Justice Commissioner has participated in six of the eight sessions of the Forum. Since 2005, the Commission has also supported attendance at the forum by Indigenous organisations and coordinated their input through the Indigenous Peoples Organisations (IPO) Network. The IPO is an association of Aboriginal and Torres Strait Islander organisations established for the promotion and protection of the human rights of Aboriginal and Torres Strait Islander people in Australia.

The eighth session of the United Nations Permanent Forum on Indigenous Issues (UNPFII) was held in New York from 18 to 29 May 2009. Commissioner Calma attended with two Commission staff. For the eighth session, the Commission provided financial support to ten Indigenous organisations to assist with attendance costs for 12 Indigenous delegates.

Other indigenous organisations and delegates participated in the Permanent Forum session. Overall, including Commission-supported delegates, there were 40 representatives.

Commission staff provided technical support to all Australian Indigenous delegates at the session.

Delegates participated in the preparation and delivery of a number of interventions in accordance with the UNPFII agenda, and also provided reports to the UNPFII Members on the issues of Indigenous Women, and the Comprehensive Dialogue with UN Agencies. This involved a significant workload for Commission staff, who coordinated the preparation and presentation of interventions and recommendations while in New York.

Delegates also conducted a number of side events at the UNPFII.

On a number of occasions during the session, the Social Justice Commissioner and the IPO Network of Australia met with James Anaya, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. At these meetings, preparations for a country visit to Australia in August 2009 were discussed. The IPO Organising Committee attended a number of meetings, and individual organisations were also provided with an opportunity to talk with Mr Anaya about issues of concern.

A joint statement between the Australian Government, the Commission and the IPO Network was drafted at the session, which was a major development. This was the first statement of its kind to be presented to the Permanent Forum. It identifies issues of common interest and agreement and focuses on positive developments over the past year. Issues of disagreement were incorporated into separate statements on different thematic issues during the course of the session.

Following UNPFII, the Commission coordinated and hosted the IPO Network Meeting to review the outcomes of the UNPFII, and to prepare for attendance at the Expert Mechanism on the Rights of Indigenous Peoples, which will be held in Geneva from 10 to 14 August 2009.

6.6.2 UN Expert Mechanism on Rights of Indigenous Peoples

The United Nations Expert Mechanism on Indigenous Issues is a subsidiary expert mechanism of the Human Rights Council with a specific mandate. Composed of five experts, the Expert Mechanism is established in accordance with resolution 6/36 of the Human Rights Council.

The Social Justice Commissioner and Commission staff attended the first session of the Expert Mechanism at the United Nations Office in Geneva from 1 to 3 October 2008. The Commission supported two other Indigenous delegates to attend: Brian Wyatt, the Chairperson of the National Native Title Council and Les Malezer, Chairperson of the Foundation for Aboriginal and Islander Research Action.

The first session considered the mandate of the Expert Mechanism. The mandate includes providing thematic expertise on the rights of Indigenous peoples to the Human Rights Council, primarily through providing studies and research-based advice. The Mechanism can also suggest proposals, that fall within the scope of its work, to the Council for its considerations and approval.

The Commissioner made an intervention at the meeting, supporting the provision for National Human Rights Institutions to participate and inform the work of the Expert Mechanism.

6.6.3 Indigenous Peoples Organisations – Special Commemorative Meeting

The IPO is supported by the Commission to meet twice a year to discuss issues of national interest and to coordinate Aboriginal and Torres Strait Islander contributions to relevant international human rights mechanisms.

On 3 December 2008, the IPO and the Commission held a public forum entitled, 'The 60th Anniversary of the Universal Declaration on Human Rights: The situation of human rights and fundamental freedoms of the Aboriginal and Torres Strait Islander people in Australia'. Speakers on the day included:

- Professor James Anaya, UN Special Rapporteur on the human rights and fundamental freedoms of Indigenous peoples
- Commissioner Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner at the Australian Human Rights Commission
- Mr Les Malezer, Chair of the Pacific Indigenous Peoples Caucus.

The meeting was attended by approximately 30 representatives of Indigenous organisations, as well as government departments and staff of the Commission.



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UN Special Rapporteur, Professor James Anaya and Chair of the Pacific Indigenous Peoples Caucus, Mr Les Malezer, were speakers at a public forum hosted by the IPO and the Commission on 3 December 2008.

6.7 Speeches

A selection of public addresses made by the Aboriginal and Torres Strait Islander Social Justice Commissioner during 2008-09 is listed below. Full speeches can be accessed on the Commission's website at: www.humanrights.gov.au/about/media/speeches/social_justice/index.html.

Indigenous Studies and Indigenous Knowledge Conference – University of Tasmania, Hobart, 3 July 2008.

Essentials for Social Justice: Land and Culture – Economic Development – Department of the Environment, Water, Heritage and the Arts, Parkes, NSW, 7 July 2008.

Following on from the Apology – where to from here from a HREOC perspective – NSW Dept of Premier and Cabinet, Sydney, 10 July 2008.

NAIDOC Week 2008 – Ministerial Event – NSW Department of Aboriginal Affairs, Sydney, 10 July 2008.

Building a sustainable National Indigenous Representative Body – Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Seminar Series, AIATSIS, Canberra, 4 August 2008.

Caring for culture, caring for country – Indigenous Climate Change and Land Use Management Conference, *Garma Festival of Traditional Culture*, Gulkula, Northeast Arnhem Land, 8 August 2008.

'Be Inspired': Indigenous Education Reform – Victorian Association of State Secondary Principals Annual Conference, Melbourne, 18 August 2008.

Indigenous Affairs in Australia – Post the Apology – Orakei Marae, Auckland, 26 August 2008.

Human Rights and Reconciliation – Australian Human Rights Centre Annual Public Lecture, University of New South Wales, Sydney, 25 September 2008.

'Still Riding for Freedom' – An Aboriginal and Torres Strait Islander Human Rights Agenda for the Twenty-First Century – Charles Perkins Oration, University of Sydney, 23 October 2008.

Essentials for Social Justice: The Future – University of South Australia, Adelaide, 12 November 2008.

A human rights agenda for the Northern Territory – Northern Territory Parliament House, Darwin, 17 November 2008.

World Indigenous Peoples Conference on Education – Rod Laver Arena, Melbourne, 9 December 2008.

The Informa 3rd Annual Negotiating Native Title Forum – Savoy Hotel, Melbourne, 20 February 2009.

Indigenous Issues in the Durban Review – Monash University, Melbourne, 20 February 2009.

Launch of 'Indigenous Legal Relations in Australia' by Larissa Behrendt, Chris Cunneen and Terri Libesman – Tranby College, Glebe, 27 February 2009.

Native Title Reform – Where should we go from here? – Tranby College, Sydney, 8 April 2009.



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Performers pose at the Garma Festival of Traditional Culture, Gulkula, Northeast Arnhem Land. The Indigenous Economic Development Conference was held at the Festival in 2008, during which Commissioner Calma delivered a speech.

Launch of Social Justice and Native Title Reports 2008 – Ultimo College, Sydney, 4 May 2009.

Maximising opportunities in a new era of Indigenous affairs – Philanthropy Forum, Grosvenor Place, Sydney, 5 May 2009.

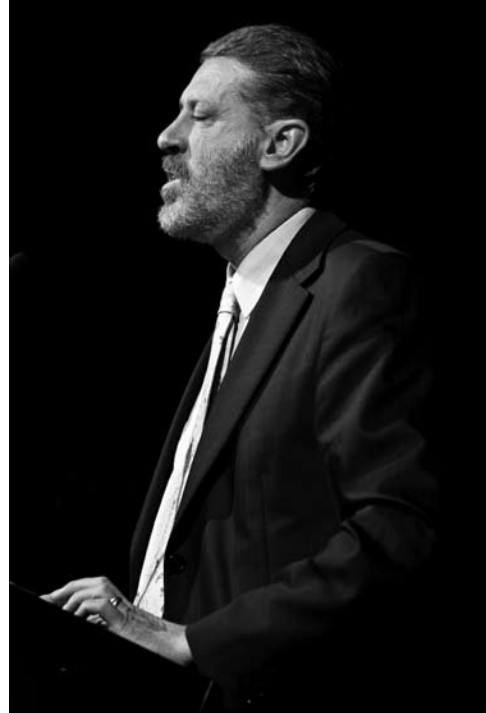
Who's driving the agenda? – Native Title Conference, Melbourne Cricket Ground, 3 June 2009.

From self-respect comes dignity, and from dignity comes hope: The Mabo Oration – Queensland Performing Arts Complex, Brisbane, 5 June 2009.

Partnership builds success: An Indigenous perspective of educational partnerships – Dare to Lead Conference, Adelaide, 14 June 2009.

They are our children, this is our community – AIATSIS Research Symposium on Bilingual Education, National Museum of Australia, Canberra, 26 June 2009.

Chapter 7: Disability Rights



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Mr Graeme Innes AM
Disability Discrimination
Commissioner

7.1 Statement from the Commissioner

The Commission's policy work on issues of human rights and disability has involved sustained focus, and engagement with government, disability community experts and representatives, and industry bodies over many years, and particularly since the passage of the Disability Discrimination Act in 1992.

This policy focus – clearly appropriate and necessary, since nearly half the complaints received by the Commission concern disability – has produced very significant results on particular issues (such as accessibility of public transport and communications). But it is clear that even more comprehensive social change is required, and possible, for the full and equal enjoyment of human rights and social and economic participation and inclusion for people with disability in Australia.

This year has seen significant progress in mapping out the journey from exclusion to equality.

Australia ratified the *Convention on the Rights of Persons with Disabilities* (the Disability Convention) – which Australia, the Commission, and the Australian disability community made major contributions in developing.

The Australian Government has begun the process of developing a National Disability Strategy to implement the Disability Convention. There are promising similar developments well under way in several states. The Government has also moved to put into practice the provisions of the Disability Convention, calling for international cooperation on disability rights.

The Commission has received funding through AusAID to conduct a project, in partnership with the Pacific Disability Forum to build the capacity and knowledge of disabled people's organisations and government representatives in nine Pacific island countries to progress disability issues in the Pacific.

The Attorney-General has added the Disability Convention to the international instruments by reference to which the Commission's statutory functions are defined – recognising a major role for Australia's independent national human rights institution as part of Australia's framework for implementation and monitoring of the Disability Convention. We will be working with government and the community to develop that role further in the coming year.

Some of the improvements to the Disability Discrimination Act, recommended by the Productivity Commission in 2004, have at last been made, with the passage of the Disability Discrimination and Other Legislation Amendment Bill – including confirmation that the Disability Discrimination Act includes duties to make reasonable adjustments.

Adoption of Disability Standards on Access to Premises is now very close with the tabling of draft Standards on Access to Premises and a bipartisan Legal and Constitutional Affairs Committee recommendation for the Standards to proceed – subject to a series of improvements which very closely reflect the Commission's submissions. This follows many years of effort by governments, the Australian Building Codes Board, the Commission, and building industry and disability community representatives working in partnership. This project has been under discussion for almost a decade, during which thousands of buildings have been built or renovated without sufficient access for people with a disability. The Committee has now delivered a thorough and realistic set of recommendations which should allow government and its partners to move forward quickly to complete this vital project. This is another area of progress in human rights law reform, with potentially even larger impacts for social inclusion in practice than the Disability Standards for Accessible Public Transport. These Standards will provide certainty for industry, and promote better access for all of us (particularly as we grow older, as individuals and as a community), through a nationally consistent framework which harmonises building laws and discrimination laws.

Substantial progress has also been made in a number of other areas as detailed in this report. However, it remains all too clear that, for many people with disability, their experience remains one of disadvantage for them and their families; of exclusion from participation and opportunity; in many cases an experience of abuse or neglect; an experience, in short, of denial of human rights.

I hope, and believe, that the Disability Convention will give Australian governments fresh impetus and opportunity to change these unacceptable realities to the benefit of all of us in Australia.

7.2 Research and policy

7.2.1 *Convention on the Rights of Persons with Disabilities*

In July 2008, the Commission welcomed Australia's ratification of the Disability Convention, and commended both the current and the former Government for their support in this area. The Commission has continued to work with government and with disability community experts to assist in development of effective implementation strategies for the Disability Convention. This has included contribution to development of the forthcoming National Disability Strategy, work to develop options for increasing awareness and understanding of the Disability Convention amongst disability advocates and relevant policy makers, and contributing to development of the Australian Government Overseas Aid Program's disability strategy.

7.2.2 Employment and disability

During 2008, the Commission welcomed the commencement of work towards development of a National Disability Employment Strategy, which was the principal recommendation of the Commission's National Inquiry into Employment and Disability. The Commission's Inquiry report emphasised the importance, in addressing this critical aspect of economic and social inclusion for people with disability, of adopting a coordinated whole-of-government approach – including in removing economic barriers to participation. The Commission has been providing advice through the National Mental Health and Disability Employment Strategy Advisory Committee, both to inform the shape of the final National Disability Employment Strategy and to provide input on specific initiatives on employment, including provision of employment related services and supports. The Commission has also continued to contribute to work on disability employment issues by the Department of Education, Employment and Workplace Relations, the Australian Fair Pay Commission and Safe Work Australia (formerly the Office of the Australian Safety and Compensation Council).

In view of the continuing under-representation of people with disability in the Australian Public Service, and a continuing decline of employment of people with disability in the Australian Public Service, the Commission has emphasised the need for Government to lead by example on employment of people with disability. It has also outlined a series of possible strategies by which employment of people with disability in the Australian Public Service could be improved, drawing on the Commission's *Final Report of the National Inquiry into Employment and Disability*, and the Australian Public Service's own Management Advisory Committee report (*Employment of People with Disability in the APS*).

7.2.3 Captioning and media access

The Commission has continued to contribute to the investigation, by the Department of Broadband, Communications and the Digital Economy, into media access issues, including captioning. Pending the results of this investigation, the Commission has assisted government and industry bodies and community representatives in negotiating for practical progress in this area in several respects:

- *Free to air television captioning:* Broadcasters have agreed, through the temporary exemption process administered by the Commission, to further increases in captioning levels on free to air television. Broadcasters have agreed to increase captioning levels to reach 85 percent of programming during the broadcast day over the next three years, and to review and report

on possibilities for further subsequent increases. The outcomes achieved through the Commission's processes in this area are clearly a significant advance on the current requirements of the *Broadcasting Services Act 1992* (Cth), which apply only to news, current affairs and prime time programming. Accordingly, this has been estimated to require between 38 and 40 percent captioning. The Commission has also assisted in discussions between industry and consumer representatives on quality of captions.

- *Subscription television captioning:* Subscription television broadcasters are not currently subject to any specific captioning targets under the Broadcasting Services Act, but have submitted a proposal for further increases in captioning through the Commission's temporary exemption process.
- *Cinema:* The Commission welcomed the announcement by the Minister for Ageing, earlier this year, that funds would be made available to assist a number of independent cinemas to improve access. The Commission is assisting in discussions between the larger cinema chains and disability community representatives on possibilities for further expansion of cinema access, including trials of new technologies.

7.2.4 Electoral access

The Commission has commenced discussion with government and with disability community experts on options for ensuring that this fundamental civil and political right to voting in a secret ballot is respected and ensured for all people. These discussions commenced following the recommendation by the Joint Standing Committee on Electoral Matters. The Committee recommended that the trial of electronically assisted voting, undertaken in the most recent Federal Election, not be persisted with on financial grounds. This recommendation was made despite this being the only means to date offered for achieving a secret ballot for Australians who are blind or have other print disabilities.

7.2.5 Health access

The Commission has continued to work with government and with the Royal Australian College of General Practitioners to promote the provision of effective and equitable access to primary health care. One ongoing project concerns the wider provision of adjustable-height examination beds to reduce one of the many barriers to health care outcomes experienced by people with disability.

7.2.6 Universal housing design

By 2050, more than 26 percent of the population will be over 65, and almost 8 percent will be over 85. As people live longer, they are living a greater part of their life with a disability – on average for almost 20 years. The Commission has continued to work with governments, industry and community advocates towards a national action plan on lifetime housing, which would include the adoption of a nationally consistent set of low cost and no cost universal design features. Such an outcome would improve the accessibility of housing and enable people to remain living in their own homes as long as possible, while they age, rather than being forced to move because of inadequate access features.

Promising initiatives to respond to these emerging social, economic, and human rights issues have occurred in 2008-09 at state government level, including through the Victorian Government's *Build for Life* program which will include consideration of mandating greater accessibility in new housing developments. Discussions of further national initiatives are well advanced.

7.2.7 Violence against women

The Commission has worked to promote more effective inclusion of disability issues in national strategies and structures intended to reduce violence against women and children. This work has been undertaken in view of clear evidence of higher rates of violence and abuse of women and girls with disability, as well as gaps in existing strategies and services for preventing and responding to women and girls with disability experiencing violence.

7.2.8 Indigenous people with disability

The Commission has commenced work to identify the impacts of hearing impairment and deafness in Aboriginal and Torres Strait Islander communities. Initial research conducted by the Commission indicates the impacts are wide-ranging, significant and inhibit the enjoyment of many human rights. A project is now under way, which will culminate in the production of a research paper. The paper will collate evidence about the extent to which hearing impairment and deafness, as one form of disability, can affect the rights of Aboriginal and Torres Strait Islander peoples, as well as identify possible solutions and opportunities for action.

7.3 Exemptions

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

Under the Commission's temporary exemption policy, exemption processes are open to public participation. This can be done through online publication of the Commission's notice of inquiry and details of applications, and publication of submissions from interested parties. Further information about the temporary exemption policy is available on the Commission's website at: www.humanrights.gov.au/disability_rights/exemptions/exemptions.html

The Commission views the temporary exemption mechanism as an important means for managing the process of transition from discriminatory and inaccessible systems and environments, to inclusive, accessible non-discriminatory systems and environments.

7.3.1 Free to air television captioning

Through the temporary exemption process under the Disability Discrimination Act, free to air broadcasters – metropolitan and regional, including public sector, as well as commercial broadcasters – have committed to providing for further increases in captioning levels. The commitment is to reach an average of 85 per cent of programming, between 6 am and 12 midnight on free to air television, by the end of 2011. This builds on commitments, under an earlier exemption granted by the Commission in 2003, which required captioning levels to reach 70 per cent by 2008.

7.3.2 Subscription television captioning

In 2004, the Australian Subscription Television and Radio Association (ASTRA), on behalf of its member broadcasters, was granted an exemption, subject to conditions. The conditions included the implementation by ASTRA members of a plan for providing increasing levels of captioning during the exemption period, and the submission to the Commission of a proposal for a further plan for captioning.

ASTRA has reported the required captioning levels as having been met or exceeded and has submitted a proposal for further increases pursuant to a second exemption application, which is currently being considered by the Commission through a public inquiry process.

7.3.3 Queensland and Western Australian Taxi Councils

Taxi industry representative bodies in these two states have applied for their member radio co-operatives to be exempted from the Transport Standards requirement that accessible cabs and other taxis have equal response times. A decision on this matter has been deferred, pending further discussions on possible alternative compliance measures with industry, government and community representatives.

7.3.4 Regional Express Airways

In October 2008, the Commission granted Regional Express Airways (REX) temporary exemptions: permitting REX to require reasonable notice of requirements for disability related assistance and reasonable advance check-in periods; exempting REX from being required to assist passengers by manual lifting where this is unable to be performed safely, on condition that REX undertake and report on trials of improved access procedures; and permitting REX to require passengers to be accompanied by an assistant where unable to understand safety instructions.

7.3.5 Australian Railways Association

During 2007-08, the Commission decided to grant a series of temporary exemptions to members of the Australasian Railways Association (ARA) in relation to provisions of the Disability Standards for Accessible Public Transport and of the Disability Discrimination Act. These temporary exemptions were granted on condition that its members meet a set of revised compliance requirements and report to the Commission 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 the Commission.

The ARA had indicated that its application was, in part, a response to delays in addressing areas of uncertainty through the first five-year review of the Disability Standards for Accessible Public Transport. With the continuation of this delay the ARA has been working, in consultation with the Commission and community representatives, on a compliance code for accessibility in rail services. It has advised that it will consider submitting a further exemption application based on this code.

7.3.6 WizzBus

The Commission received an application from WizzBus Bus and Coach for a temporary exemption under section 55 of the Disability Discrimination Act. The application was in regard to a bus service to be established between Moorabin airport and Melbourne under a contract being sought with the Victorian Department of Infrastructure. The application indicated that WizzBus had not, to date, been able to acquire an accessible 30 seat capacity bus to suit its service. The application sought an exemption for five years, being the anticipated initial contract period, to enable the service to commence and enable WizzBus to verify the economics of operating a low floor route bus.

The Commission refused the application. While the objects of the Disability Discrimination Act may be promoted by granting exemptions in return for commitments to improve access over time, in this instance the application did not provide any specific commitments, seeking simply to have five years during which the Disability Discrimination Act need not be complied with. The Commission noted that this decision prevented the applicant seeking to establish a defence of unjustifiable hardship in response to complaints. However, the Commission considered that the exemption process was not the appropriate vehicle for seeking to establish such a defence.

7.4 Promotion of awareness, understanding and compliance

The Disability Discrimination Act provides that the Commission promote an understanding and acceptance of, and compliance with, the Act. Since the International Year of Disabled Persons in 1981, there have been a wide range of government, community-based and commercial sources of disability awareness and information provision. The Commission has sought to avoid duplicating this work, and has instead concentrated on:

- bringing together and making available practical information on how to achieve non-discriminatory outcomes
- compliance promotion efforts which are closely connected to policy work and legislative and regulatory development, principally reported on under those headings in this report.

7.4.1 Website

The disability rights section of the Commission's website continues to be the area of the Commission's information and education materials that is used the most, with 1 355 896 page views recorded in 2008-09. This level of usage reflects a particular effort made to provide as much practically useful information as possible and to gather and act on user feedback.

7.4.2 Resource for employers on mental health issues

The Commission is currently developing a resource for employers, which provides practical guidance on a range of workplace adjustments or accommodations for workers with mental illness. The resource aims to enhance successful participation and productivity for these workers in the workplace. It has been prepared jointly with Safe Work Australia (formerly the Office of the Australian Safety and Compensation Council) and is now in the final stages of preparation for release.

7.4.3 Resource for business and local government

The Commission has continued to encourage local government and community organisations to use, adapt and distribute its resource materials on access and inclusion. This applies in particular to the *Missed business* resource for small business. The Commission has re-issued the CD, *The good, the bad and the ugly*, which provides information and guidance about ensuring accurate application of design and construction requirements for access. More than 8000 copies of this CD

have been distributed to building professionals and access consultants. Plans to finalise a partnership with a number of local government bodies, to provide a copy of the CD to all commercial development applicants in their areas, are well advanced.

7.4.4 Work with Commonwealth agencies on accessibility issues

Physical access issues

The Commission has worked with the Department of Education, Employment and Workplace Relations and the Department of Families, Housing, Community Services and Indigenous Affairs to ensure that information on access issues is available to participants in the Building the Education Revolution and Housing Affordability funding programs. The Department of Education, Employment and Workplace Relations has issued a fact sheet, with Commission input, which has been circulated to all bodies accessing funds under the Building the Education Revolution program.

The Housing Affordability Fund program has advised that recipients, whose infrastructure projects include the construction of homes, will be expected to complete a checklist which includes a number of access design features.

Information access issues

In September 2008, the Commission established a WebWatch page on its website to highlight web accessibility issues on government websites. When a website is listed on the WebWatch page, the Commission notifies the heads of the agencies or departments concerned, as well as the relevant Minister and the Australian Government Information Management Office (AGIMO). The Commission also asks to be advised of the remedial measures taken, so that the listing can be removed, if appropriate. WebWatch is available at: www.humanrights.gov.au/disability_rights/webaccess/webwatch.htm.

This initiative has led to positive discussions with a number of Commonwealth Departments, and with AGIMO, about strategies for improvement of accessibility. These discussions have taken the recent release of the second edition of the World Wide Web Consortium's Web Content Accessibility Guidelines into account. The Commission has also commenced considering revisions to the Commission's own guidelines in this area.

7.5 Legislative reform and assessment

7.5.1 *Convention on the Rights of Persons with Disabilities:* Addition to Commission statutory roles

On 24 June 2009, the Commission welcomed the Attorney-General's announcement of the declaration of the Disability Convention as a relevant international instrument under the Human Rights and Equal Opportunity Commission Act. This declaration formally includes the rights recognised in this Convention as part of the definition of human rights under which the Commission operates, and gives the Commission important roles in monitoring and promoting implementation of the Disability Convention. It is anticipated that further discussions will be held with the government, about the Commission's role as part of Australia's national framework for the monitoring and implementation of the Disability Convention, including issues of resourcing.

7.5.2 Amendments to the Disability Discrimination Act

On 24 June 2009, the Commission also welcomed the passage of the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008 by both houses of Parliament and with bipartisan support.

The Commission has identified further possibilities for improvements to the Disability Discrimination Act. In conjunction with recommendations for similar improvements to the Sex Discrimination Act, and in the context of harmonisation of anti-discrimination laws nationally, the Commission will continue to pursue opportunities to see these improvements made.

7.5.3 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.

The Commission supports development of Disability Standards as offering potential to increase certainty and clarity of rights and responsibilities for relevant parties, and thereby advance the objects of the Act.

Access to premises

As noted in the Commissioner's statement in this report, the House of Representatives Standing Committee on Legal and Constitutional Affairs delivered its report on the draft Disability Standards for Access to Premises on 15 June. The Committee recommended that the Standards proceed promptly to authorisation, subject to a series of improvements consistent with the Commission's recommendations. These included: improved access features on stairways; improvements in relation to new small holiday type accommodation such as B&B and cabins; clarification regarding the unjustifiable hardship provisions; continuing work on emergency access provisions; and consideration of the Disability Discrimination Commissioner being given the power to investigate non-compliance with the Premises Standards and to bring a complaint where there is non-compliance.

Education

The Commission has continued to respond to requests for advice on the application of the Disability Standards for Education, adopted in August 2005, and has commenced planning for contribution to the initial five-year review of those Standards.

Accessible public transport

Pending further progress in the initial five-year review of the Disability Standards for Accessible Public Transport, the Commission has participated in initiatives in relation to specific modes of transport for improved accessibility.

- *Aviation:* The Department of Infrastructure, Transport, Regional Development and Local Government has convened an ongoing forum in response to the forum on aviation access issues in April 2008, convened jointly by the Commission and the Parliamentary Secretary for Disability. This ongoing forum facilitates cooperative work between the aviation industry, representatives of people with disability, and relevant government departments and agencies, including the Commission. This working group has made good progress towards improved industry and regulatory approaches to aviation access.

- *Bus stops:* Draft guidelines on accessible bus stops have been prepared and circulated to an expert reference group, with wider circulation due early in 2009-10.
- *Rail access:* As noted in the exemptions section of this chapter, the Commission has been assisting the Australasian Railways Association in relation to its development of a rail access code.

7.6 Action Plans under the Disability Discrimination Act

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

As at 30 June 2009, 602 plans were registered with the Commission (increased from 554 in June 2008), comprising 55 business enterprises, 69 non-government organisations, 37 federal government and 82 state and territory government departments and agencies, 170 local governments and 189 education providers.

The Register of Action Plans, and those plans provided electronically to the Commission (581 of the total), are available on the Commission website at: www.humanrights.gov.au/disability_rights/action_plans/Register/register.html. This register assists other organisations interested in developing their own plans and 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 2008-09.

The Commission has been involved in work by several state governments on more effective use of disability action plans, including in relation to development of cross government frameworks for disability issues in response to the Disability Convention.

7.7 International activities

To progress disability issues in the Pacific, the Commission, in partnership with the Pacific Disability Forum, has received funding through AusAID's Pacific Governance Program to build the capacity and knowledge of disabled people's organisations (DPOs) and of government representatives in nine Pacific nations.

The overall objective of the initiative is to improve quality of life for people with disability living in the Pacific by: promoting the rights of people with disability (including ratification and implementation of the Disability Convention); and building the capacity of DPOs and governments to respond to the numerous barriers preventing people with disability from enjoying all their human rights, including freedom from violence and abuse, and full and effective participation in society on an equal basis with others.

The Commission, in partnership with the Pacific Disability Forum, is developing a three-day training program. Tailored for each country, the training program focuses on the Disability Convention, policy development, successful approaches to advocacy and improving governance of each DPO, including building the capacity of women with disability to participate in all DPO activities.

During 2008-09, the Commission also attended international disability conferences to discuss the use of the Disability Convention as a tool for progress.

7.8 Speeches

A selection of speeches on disability rights issues, made by Commissioner Innes and Commission staff during 2008-09 are listed below. Full speeches and papers are available on the Commission website at: www.humanrights.gov.au/disability_rights/speeches/speeches.html.

Going for Gold – Implications of the Convention on the Rights of Persons with Disabilities for Australian Law and Social Policy – Human Rights Indicators Seminar, Queensland Advocacy Incorporated, Brisbane, 20 August, 2008.

Keeping Disability Action Plans on Track – Victoria statutory authorities workshop, Melbourne, 26 August 2008.

Employment of People with Disability in the Australian Public Service – Employers Network on Disability Forum, Canberra, 24 September 2008.

Keynote address – Disability, Disadvantage and Development Conference, Canberra, 29 September 2008.

City of Sydney Access Inclusion Plan launch – Sydney, 1 December 2008.

International Day of People with Disability – Breakfast Meeting, High Court of Australia, Canberra, 1 December 2008.

Presentation to Western Australian State and Local Government CEOs – Perth, 2 April 2009.

Keynote address – Creating Welcoming School Communities Conference, Perth, 3 April 2009.

Rights Denied – Seminar towards a national agenda on abuse, neglect and exploitation of persons with cognitive disability in Australia, Sydney, 22 May 2009.

Using the Disability Convention for Practical Change – Australian Federation of Disability Organisations Conference, Melbourne, 29 May 2009.

Matt Laffan Memorial Address – Sydney University Law School, 23 June 2009.

The following speech was also given by Bruce Maguire from the Disability Discrimination Unit, Australian Human Rights Commission:

Telecommunications Access and the Convention on the Rights of Persons with Disabilities – Signposts Telecommunications and Disability Forum, Melbourne, 16 February 2009.

Chapter 8: Human Rights



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Mr Graeme Innes AM
Human Rights
Commissioner

8.1 Statement from the Commissioner

2008-09 has been a year of positive developments in the human rights area. While many human rights challenges lie ahead, as Human Rights Commissioner, I have been excited by the progress that Australia has made in human rights, both domestically and internationally during the year.

It has been especially uplifting to witness the passage through the Australian Parliament of legislation removing discrimination against same-sex couples and their children. Parliament finally passed the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – Superannuation) Act 2008* (Cth) and the omnibus *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Reform) Act 2008* (Cth) at the end of 2008. This legislation removes discriminatory provisions in a wide range of areas including taxation, social security, employment, Medicare, veteran's affairs, superannuation, workers compensation and family law. The amendments were the culmination of the recommendations made in the Commission's 2007 report of the Same-Sex: Same Entitlements Inquiry.

On the international front, on 19 May 2009, the Australian Government signed the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT). OPCAT is an international agreement which establishes a two-tiered system of inspections of places of detention, with the aim of preventing torture and cruel, inhuman or degrading treatment or punishment.

I welcome Australia's significant step towards establishing greater oversight and inspection of its places of detention, including immigration detention, and I look forward to final ratification of the treaty.

The Commission has continued to monitor conditions of detention through my annual inspections of immigration detention facilities, and the publication of the *2008 Immigration detention report*. In the report, we were especially concerned about the lack of substantial improvements at Villawood Stage One and the remoteness of the Christmas Island facilities, which will continue to make it difficult to ensure immigration detention meets human rights standards.

There have been many positive developments in immigration detention over the year, including the budget announcement that Villawood Stage One will be rebuilt, and the government's stated commitment to pursuing a more humane approach to asylum seekers and immigration detainees. However, I am concerned that the increase in numbers of boat arrivals in 2009 will be seen as an excuse to politicise refugee issues.

The sex and gender diversity project commenced in 2008. The project was an opportunity to give voice to the human rights concerns of people who are sex and gender diverse. In the latter half of 2008, the project utilised a blog to gather the views of people in a non-confrontational way. The Concluding Paper from the project – *Sex files* – concentrated specifically on the legal recognition of sex in documents and government records. I hope it will place some of the concerns of this diverse, and often marginalised, group of communities on the government agenda.

Lastly, the National Human Rights Consultation, announced by the Attorney-General in December 2008, has made it an especially encouraging year. Conducted during the first half of 2009 by an independent Committee, the Consultation has presented a significant opportunity for the Commission and all people in Australia, to participate in a national conversation on human rights and how they can be better protected. The Commission dedicated itself to encouraging others to participate in the Consultation and to advocating for better human rights protections through a Human Rights Act. As Human Rights Commissioner, I was especially concerned with ensuring that children and young people had a voice in the Consultation. With the help of the Foundation for Young Australians, the Commission conducted a program of 26 workshops with children, young people and their advocates. Their stories and ideas for better human rights protections have been presented to the Consultation Committee in the hope that the final report of the Committee will reflect their views on human rights.

This is my final annual report as Human Rights Commissioner. I leave the position with a feeling of optimism and with strong expectations that progress in the human rights area will be achieved in the years to come.

8.2 Research and policy

8.2.1 Same-Sex: Same Entitlements

The Australian Parliament finally passed the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – Superannuation) Act 2008* (Cth) and the omnibus *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Reform) Act 2008* (Cth) at the end of 2008. The amendments were the culmination of the recommendations made in our 2007 report of the Same-Sex: Same Entitlements Inquiry.

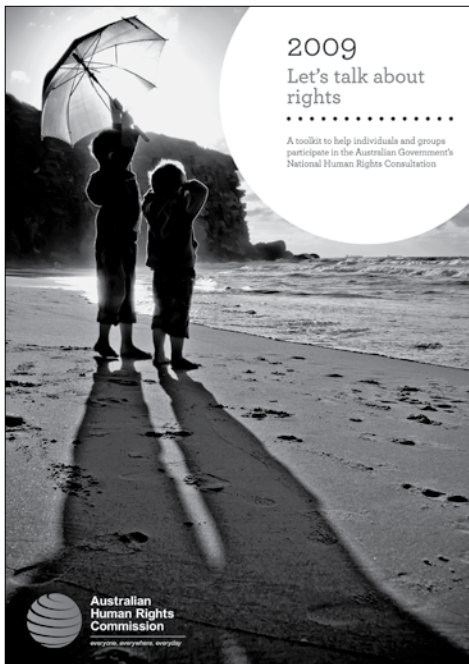
The Commission made submissions to, and appeared before inquiries into both of these Bills conducted by the Senate Legal and Constitutional Affairs Committee, as well as to a related inquiry into the Evidence Amendment Bill 2008.

The Commission also participated in community sector consultations about the implementation of reforms and raised concerns with the Attorney-General about the impact of the reforms on people on aged pensions.

8.2.2 The National Human Rights Consultation

Participation in the National Human Rights Consultation was a priority for the Commission this year.

The Commission decided that the most important role it could play would be to encourage as many people as possible to participate in the consultation process. The Commission developed a consultation toolkit, called *Let's talk about rights*, which provided succinct information about human rights and a guide to making submissions to the Consultation. The toolkit was accompanied by a series of information sheets about specific human rights issues in Australia.



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The Commission developed a toolkit designed to provide guidance to people and organisations that wished to make a submission to the Australian Government's National Human Rights Consultation.

The Commission also developed materials to support the participation of children and young people in the Consultation.

Commission staff developed and delivered a national series of workshops to encourage community sector organisations to participate in the Consultation. In addition, the Commission conducted 26 workshops with children and young people around the country.

Finally, the Commission made a detailed submission to the Consultation which, among other things, advocated for a Human Rights Act for Australia. The Commission also made the following key recommendations to government:

- refer to the Australian Law Reform Commission for inquiry and report the question of how best to strengthen, simplify and streamline federal anti-discrimination laws
- begin a process of constitutional reform to protect the principle of equality for all people in Australia
- resource a significantly enhanced nation-wide human rights education program
- enhance the powers, functions and funding of the Australian Human Rights Commission, particularly if a Human Rights Act is adopted. Any new functions should be accompanied by appropriate funding.

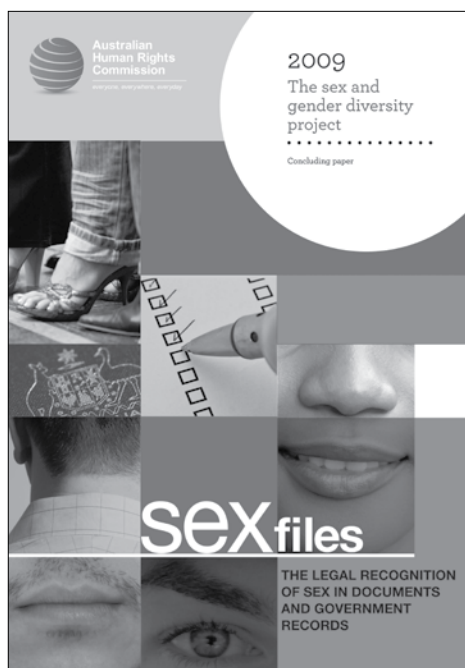
8.2.3 Sex and gender diversity

The sex and gender diversity project developed out of consultations held during 2008 with members of sex and gender diverse communities about the discrimination they experience. One of their key human rights concerns was that many people who are sex and gender diverse are unable to change the sex markers in official documents or government records, for example birth certificates. Consequently, in July 2008, the Commission decided that the sex and gender diversity project would focus on the legal recognition of sex in official documents and government records.

As part of the project, the Human Rights Commissioner conducted public meetings in Brisbane, Canberra, Hobart, Melbourne, Perth and Sydney. These public meetings enabled the Commissioner to hear firsthand the difficulties faced by people who are sex and gender diverse in having their identity recognised.

On 8 August 2008, the Commission launched an online blog and discussion board known as Sex files. The Sex files blog aimed to consult further with the sex and gender diverse community about the legal recognition of sex in official documents and government records. The Sex files blog was used to gather information about the current system and seek feedback on how the system could work better. As the project concerned identity, an online consultation in cyberspace was an opportunity for participants to self-identify their sex or gender and escape scrutiny of their bodies and appearance.

In March 2009, the Commission launched the Concluding Paper of the sex and gender diversity project – *Sex files: the legal recognition of sex on documents and government records* – at Parliament House, Canberra. The paper identifies some problems with the existing systems for recognising sex identity in documents and government records. It also makes recommendations to the federal government for changing the system and provides options for implementing these changes.



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 In March 2009, the Commission released its concluding paper for the Sex and gender diversity project.

8.3 Monitoring and adhering to human rights

8.3.1 *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*

The Australian Government signed the OPCAT on 19 May 2009, but has not yet ratified the agreement.

Under the OPCAT, state parties agree to international inspections of places of detention by the Sub-Committee on the Prevention of Torture. State parties are also required to establish an independent National Preventive Mechanism (NPM) to conduct inspections of places of detention.

The Commission has recommended that the Australian Government should ratify the OPCAT and establish an independent NPM to conduct regular inspections of all places of detention, including immigration detention.

In late 2008, the Commission released a report of research it commissioned into options for implementing the OPCAT in Australia. The report suggests that Australia should establish a 'mixed' NPM model, with separate NPMs in each state and territory and a national coordinating NPM. The report suggests that, given its focus on Australia's international human rights obligations, the Commission is the appropriate body to be the national coordinating NPM.

8.3.2 Immigration detention, refugees and asylum seekers

Since 2006, the Commission has conducted annual visits to immigration detention facilities to monitor conditions for detainees, with the aim of ensuring they meet internationally recognised human rights standards. In January 2009, the Commission released the *2008 Immigration detention report: summary of observations following visits to Australia's immigration detention facilities*. The report provides a summary of visits made to all immigration detention facilities in Australia, including Christmas Island, between June and September 2008. In addition to speaking to staff and detainees in secure facilities during the visit, the Commissioner and staff also spoke to a number of people in 'community detention' in several cities.

In the 2008 report, the Commission welcomed many of the government's new immigration detention values, announced in July 2008. However, despite having observed improvements in Australia's immigration detention facilities over the past few years, the Commission expressed significant ongoing concerns about the immigration detention system. In particular, the 2008 report noted that the legal architecture of the mandatory detention system remains in place, with some people still being held for long and indefinite periods. The report also expressed concerns with off-shore processing of asylum seekers on Christmas Island, in particular in the new immigration detention centre on the island. Further, while children are no longer held in immigration detention centres, they are still held in other closed immigration detention facilities, both on the mainland and on Christmas Island.

The report also reiterated concerns expressed in previous reports about the dilapidated and prison-like conditions of Stage One section of Villawood Immigration Detention Centre, and repeated recommendations that it should be demolished. There are also a number of other detailed recommendations, some being concerned with issues affecting all detention facilities and others being specific to individual facilities.

The Commission has also provided comment to the Department of Immigration on a variety of immigration-related policy documents and in consultative forums. These have included draft policy guidelines on the behavioural management of detainees, the exercise of Ministerial discretion and on the Government's new directions in immigration detention.

In November 2008, the Commission hosted a seminar entitled, *Complementary protection: meeting Australia's obligations to people fleeing danger*. The Commission subsequently provided comments to the Department of Immigration about the development of a system of complementary protection for people who do not fit the definition of refugee under the Refugee Convention, but to whom Australia has non-refoulement obligations.

In January 2009, the Commission published a background paper on immigration detention and visa cancellation under section 501 of the Migration Act (the 'character' provisions) on its website. This will be updated to reflect policy changes implemented by the Department of Immigration on 15 June 2009.



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The Christmas Island Immigration Detention Centre. The Commission has visited immigration detention facilities each year since 2006 in order to monitor whether conditions for detainees adhere to internationally recognised human rights standards.

8.4 Education and promotion

8.4.1 Corporate social responsibility

In 2008-09, the Commission continued its project on corporate social responsibility by producing fact sheets on integrating human rights into Australian business practices.

The fact sheets set out five basic steps towards integrating human rights into everyday business practices. One fact sheet explains how human rights are relevant to Australian companies and the business case for integrating human rights. It also provides links to practical tools. The other fact sheets focus on the specific human rights issues and practical tools relevant to the Australian finance sector, the Australian mining and resources sector, and the Australian retail and manufacturing sectors.

The fact sheets are available on the Commission website and have also been printed and distributed to a database of about 100 business and human rights contacts. See: www.humanrights.gov.au/human_rights/corporate_social_responsibility/index.html.

8.5 Legislative development

The Commission contributes to legislative development by making written and oral submissions to parliamentary and other inquiries. Information about these submissions can be found in Chapter 3: Monitoring Human Rights.

8.6 International activities

8.6.1 Asia-Pacific Forum Workshop on Yogyakarta Principles

On 5-7 May 2009, the Commission participated in an Asia-Pacific Forum (APF) Workshop on National Human Rights Institutions (NHRIs) in the Promotion and Implementation of the Yogyakarta Principles. The workshop was held in Yogyakarta, Indonesia, and hosted by Komnas HAM, Indonesia's national human rights institution.

The workshop brought together member institutions to discuss the role of NHRIs in promoting implementation of the Yogyakarta Principles on the implementation of international human rights law in relation to sexual orientation and gender identity.

The Human Rights Commissioner presented a brief paper on the role of the Commission in this area.

The workshop issued a concluding comment strongly deploring 'all forms of stereotyping, exclusion, stigmatisation, prejudice, intolerance, discrimination and violence' against gay, lesbian, bisexual and transgender people, and made recommendations for further work to be pursued by NHRIs and the APF in this area.

8.7 Speeches

In addition to the Commission's workshops on the National Human Rights Consultation, the Human Rights Commissioner delivered a significant number of speeches during the year. Full transcripts of the speeches are available on the Commission website at: www.humanrights.gov.au/about/media/speeches/human_rights/index.html.

Monitoring the Convention on the Rights of the Child in Australia – International Conference on Child Labour and Child Exploitation, Cairns, 4 August 2008.

Speech about human rights in Australia – Henry Parkes Primary Schools Citizenship Convention, NSW Parliament, Sydney, 10 November 2008.

Does Australia Need a National Charter of Rights? – Law Institute of Victoria panel discussion, Melbourne, 13 November 2008.

Speech about the work of the Commission – Human Rights Defenders Program, Sydney, 26 November 2008.

Launch of Tasmanian Human Rights Week – Hobart Town Hall, Hobart, 1 December 2008.

Critical Community Engagement for Effective Accountability – Victorian Police Conference, Melbourne, 8 December 2008.

National Human Rights Bodies as Agents of Social Change: Legal Cases that Matter – Guest lecturer at Latrobe University Human Rights Masters course, Melbourne, 8 December 2008.



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Senior Lecturer in the Faculty of Law, UNSW, Dr Jane McAdam and Director of the Edmund Rice Centre in Sydney, Mr Phil Glendenning, spoke on 3 November 2008 at the Commission's seminar, *Complementary protection: meeting Australia's obligations to people fleeing danger* (see 8.3.2).

Evatt Lecture – Evatt Trophy United Nations Youth Association, Sydney, 9 December 2008.

Global to Local: Making Human Rights a Reality in Australia today – United Nations Association of Australia Conference, NSW Parliament, Sydney, 10 December 2008.

Australia Day Ambassador Address – Cessnock Shire Council, Cessnock, 26 January 2009.

A Human Rights Act for Australia – Queensland Charter Group Forum, Brisbane, 11 February 2009.

The National Human Rights Consultation: Your Chance to be a Human Rights Hero – NSW Parliament Schools Leadership Forum, Sydney, 6 March 2009.

Human Rights and Corporate Social Responsibility – Victorian Equal Opportunity and Human Rights 'Everyday People, Everyday Rights' Conference, Melbourne, 16 March 2009.

Launch of the Sex files: The Legal Recognition of Sex in Documents and Government Records Concluding Paper – Parliament House, Canberra, 17 March 2009.

Speech about the human rights consultation – Australian Lawyers Alliance Conference, Hunter Valley, 20 March 2009.

Launch of Diversity Week – University of Wollongong, Wollongong, 23 March 2009.

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Human Rights of Children and Young People Across Australia – RMIT Conference, Melbourne, 29 May 2009.

Launch of Asylum Seeker Project – Melbourne, 12 June 2009.

Keynote address to the St Vincent De Paul CEO Sleepout – Luna Park, Sydney, 18 June 2009.

Chapter 9: Race Discrimination



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Mr Tom Calma
Race Discrimination
Commissioner

9.1 Statement from the Commissioner

This report covers my final year as the Race Discrimination Commissioner, a position I have occupied for five years alongside my position as the Aboriginal and Torres Strait Islander Social Justice Commissioner.

Something that is often asked of me in these roles, particularly following incidents involving racial tension or attacks, such as the Cronulla riot or the attacks on Indian students, is 'Is Australia a racist country?' I find this an interesting question to ask in such situations, more because of what it tells me about those posing the question, than the response it elicits. What it appears to be asking for is some reassurance that, despite the reports, despite how it looks on the news, the fundamental values of tolerance and a fair go are still operating and are still matters over which we can feel national pride.

What I say to this question is 'yes', these values are still part of our social framework and are still matters over which we can feel some pride. But I also say that we cannot go on indefinitely relying on our recent history as a tolerant multicultural society to support our present self image as a

tolerant country. We have to renew our national commitment to racial equality and respect for diversity. We have to take an active approach to maintaining these values as fundamental to our relations with each other.

Racism, like any anti-social practice, needs to be challenged to prevent it becoming an accepted norm. The real question we need to ask is not whether Australia is a racist country, but whether Australia is doing enough to stop racism becoming more prevalent.

In my view, the answer to that question is 'No'.

We have no national action plan to combat racism, no multicultural policy since 2006 and little political commitment to the ideals of multiculturalism and racial equality before that. These ideals now need to be reaffirmed and reinvigorated so that they can meet the new challenges that a culturally diverse society continues to present.

What we need is a multilayered approach. In the short-term, we need to ensure the safety and security of those who are vulnerable to racially motivated hatred and attack. In order to secure their safety, we need to strengthen legal protections against serious racial vilification by making it an offence punishable by law which, despite our international obligations, it currently is not. This issue was discussed at a forum hosted by the Commission in November 2008 entitled, *Words that wound: freedom of speech and race hate speech in Australia*. Participants in the forum also discussed the new manifestation of hate speech taking place on the internet.

The longer-term solution is to work at the community and policy level to promote respect and tolerance. For example, the Commission's participation in the Sport, Race and Diversity Conference, affirmed the potential of sport as a vehicle for anti-racism activities and promotion. We also need to look at how the media represents the diversity of the Australian community and seek to promote standards that prevent the demonisation of particular groups. The Commission's publication of *Face the facts* in 2008 provides extensive factual information that can assist in this regard.

As part of a longer term strategy we also need to develop a policy framework to ensure that services such as education, aged care, housing and policing are delivered consistently with respect and tolerance. Reinvigorating our multicultural policy would provide benchmarks by which to evaluate these essential services against the human rights standards of equality and cultural diversity. Hand in hand with this policy development, we need further investment in social research which produces clear direction on where racism is occurring and how it can best be addressed. To this end the Commission is participating in the research being coordinated by the University of Western Sydney, entitled *Constructing Regionally Appropriate Responses to Racism*.

It is also timely to take a fresh look at the Racial Discrimination Act to ensure it remains relevant to contemporary Australian society. As the first federal anti-discrimination law in Australia, the Racial Discrimination Act declared unambiguously to the Australian people that racism and discrimination were no longer acceptable in our society. Over time, the Racial Discrimination Act has slipped behind similar racial equality legislation in other Western countries in its capacity to protect our citizens from racial discrimination and equality.

In the five years that I have been Race Discrimination Commissioner, little was done to maintain the infrastructure of tolerance and respect inherited from our previous national multicultural policies. Unless a concerted effort is made towards renewing this infrastructure, I'm afraid the next Race Discrimination Commissioner may not be able to give a positive response to the question of whether our fundamental values of tolerance and a fair go are still matters over which we can feel national pride.



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Author, Ms Hanifa Deen and Commission President, Catherine Branson QC were two of the three featured speakers at the *Words that wound: freedom of speech and race hate speech in Australia* seminar on 18 November 2008.

9.2 Research and policy

9.2.1 Constructing Regionally Appropriate Responses to Racism Project

The Commission, along with the South Australian Equal Opportunity Commission and the Victorian Equal Opportunity and Human Rights Commission, are official partners in the Constructing Regionally Appropriate Responses to Racism Project.

The project, which commenced in 2006 and is being conducted over four years, is coordinated by the University of Western Sydney. The research focuses on attitudes about race and peoples experiences of racism. Data has been collected through staggered national telephone surveys.

The purpose of this project is to:

- map racist attitudes and experiences of racism across Australia
- develop typologies of racism across Australia
- develop context sensitive anti-racism strategies to respond to local variations of racism and intolerance.

Project data, racism typologies and anti-racism strategies will be available shortly on the University of Western Sydney website.

9.3 Education and promotion

9.3.1 Face the facts 2008

In 2008, the Commission launched the 2008 edition of *Face the facts*, a publication which provides answers to frequently asked questions regarding Aboriginal and Torres Strait Islander peoples, migrants, refugees and asylum seekers. The Commission also produced a teaching resource based on *Face the facts*, which is linked to curriculum requirements.

Face the facts is an evidence-based publication that contains current statistical and policy data from a number of sources, including the Australian Bureau of Statistics. It is one of the Commission's most requested resources and is used widely by teachers, students, non-government organisations and state and federal government departments. *Face the facts* is available online at: www.humanrights.gov.au/racial_discrimination/face_facts/index.html.

9.3.2 Australia and New Zealand Annual Race Relations Roundtable

The annual Australia and New Zealand Race Relations Roundtable meeting was held at the University of Auckland, New Zealand on 27 August 2008. The meeting was co-chaired by the Australian Race Discrimination Commissioner and the New Zealand Race Relations Commissioner. Attendees included Commissioners and staff from Australian state and territory equal opportunity commissions.

The Roundtable meeting was held concurrently with the New Zealand Diversity Action Program and the UNESCO Roundtable on Religious Diversity.

A number of agenda items were discussed at the meeting, including developments in the Northern Territory Intervention, the Close the Gap Campaign, climate change, media and racism, international students and discrimination as well as the New Zealand Diversity Action Program model.

Two guest speakers delivered presentations to roundtable members. Dr Henare Manuka, Associated Dean, School of Maori and Pacific Development, University of Auckland, forecast a picture of success for Indigenous peoples from 2008 to 2028. Ms Nareen Young, Chief Executive Officer, Diversity Council Australia, presented research that focused on strategies for improving the employment retention rates of Indigenous peoples.

9.3.3 Sport, Race and Ethnicity Conference

The Sport, Race and Ethnicity Conference: Building a Global Understanding, was held from 30 November to 2 December 2008 in Sydney. The conference was co-hosted by the Commission, the Department of Immigration and Citizenship and the University of Technology, Sydney. It was attended by local and international academics, athletes, diversity practitioners, sports administrators and policymakers. Conference themes included:

- anti-racism initiatives in sport
- sport and social inclusion
- sport, race and identity
- sport, race and youth engagement
- race and gender in organised sport.

As part of the conference program, the Commission held a session that focused on persistent and emerging issues regarding sport and racism in Australia.

9.3.4 *Universal Declaration of Human Rights*

On 18 November 2008, as part of its promotion of the 60th Anniversary of the *Universal Declaration of Human Rights*, the Commission hosted a public seminar entitled *Words that wound: freedom of speech and race hate speech in Australia*.

Participants in the forum focused on the relationship between the right to freedom of expression and the right to non-discrimination on the basis of race and religion, both at international law and within the Racial Discrimination Act. Participants also discussed the new ways in which extreme forms of race hate were being expressed, particularly through the language of care, including care for the environment and care for national values. The forum attracted a diverse audience including community members, legal practitioners, media workers and government officers.



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An updated 2008 edition of *Face the facts* was produced in late 2008.

9.4 International activities

9.4.1 Durban Review Conference

The Durban Review Conference took place from 20 to 24 April 2009 in Geneva, Switzerland. The Commission was one of 39 National Human Rights Institutions that attended the conference.

The Durban Declaration and Programme of Action (DDPA) and Outcome Document, adopted at the Conference, provided a comprehensive framework for states, NHRIs and civil society to work together to combat racism. For more information, see: www.un.org/durbanreview2009/ddpa.shtml.

The Commission participated in a number of events at the conference including:

- panel discussion and presentation on the role of National Human Rights Institutions in implementing the Durban Declaration and DDPA
- panel discussion on the *UN Declaration on the Rights of Indigenous Peoples* and its contribution to the realisation of the DDPA
- panel discussion on policing in diverse societies.

9.5 Community Partnerships for Human Rights Program

In 2005, COAG examined the emerging issues around Australia's social cohesion, harmony and security. This led the Ministerial Council on Immigration and Multicultural Affairs to develop a national action plan, which builds on recommendations and principles agreed between state and territory based Muslim communities and other faith and community leaders.

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

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

9.5.1 Program projects

The Commission, while broadly interpreting the National Action Plan 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, the Commission is developing education strategies and resources associated with civic responsibility, discrimination and human rights and responsibilities. It is exploring arts and culture as a means of positive engagement, and conducting research relevant to issues relating to Muslim youth. The Commission is working with law enforcement agencies across Australia to build their engagement with Muslim communities and to help address discrimination and vilification that is targeted at Muslim Australians.

The Commission 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 active in a total of ten areas, some of which have multiple sub-projects. It includes evaluation processes and a community engagement strategy.

A summary of the Commission's current Community Partnerships for Human Rights Program projects 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, Human Rights Curriculum Resources for New Arrivals:* In partnership with Adult Multicultural Services Victoria, this project developed a new set of education resources for use by English as a Second Language 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. The resource, *It's your right!*, was launched at the inaugural Settlement Council of Australia Conference in Canberra by the Attorney-General, the Hon Robert McClelland, on 28 May 2009. More information about this project, as well as a copy of the teaching resources, can be downloaded from the Commission's website at: www.humanrights.gov.au/partnerships/projects/hrres_newarrivals.html.
- African Australians: their human rights and social inclusion:* This project is the first national assessment, from a human rights perspective, of the experiences and issues faced by African communities. The project is about hearing the many voices of African communities and other stakeholders through national consultation processes. The final report will reflect these voices as well as research, findings and recommendations. The project is co-funded by several partner agencies: Australian Red Cross, the Department of Families, Housing, Community Services and Indigenous Affairs, the Adult Multicultural Education Service (Vic) and the Diversity Health Institute.



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The African Australians project is the first national assessment, from a human rights perspective, of the experiences and issues faced by African communities in Australia.

- Human Rights E-Network:* In partnership with the Institute for Cultural Diversity, this project establishes an electronic forum and clearing house to communicate across the community, government, service provision, non-government/advocacy, academic and other relevant sectors with an interest in racism, cultural and religious diversity and the promotion of human rights. There will be a specific focus on issues relevant to the Muslim community.

- *Community Language Schools Human Rights Curriculum Resource and Campaign Project:* This is another education-oriented project in which the Commission is partnering with Australia's peak national body for community language schools, Community Languages Australia. The project is developing a learning-a-language-other-than-English resource about discrimination, human rights and cross-cultural respect. Over this year the project has established a Project Advisory Group, which has advised and supported the content development. The resource is called *Being ME: Knowing You*. Trialling of the story board and content with different stakeholders and audiences is underway.
- *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. Details of the projects can be found on the Commission's website at: www.humanrights.gov.au/partnerships/projects/projects_funded09.html.
- *A Community Arts and Culture Initiative with Muslim Australians:* Under this initiative, arts and community cultural development are being explored as a safe and constructive environment for self-expression and inclusion. Delivered over three years as a national partnership with the Australia Council for the Arts, the Commission is working with various organisations across Australia in different settings. The following projects are currently supported under this initiative:
 - *The Young Muslim Women's Short Animation Film Project:* The Commission has partnered with the Bankstown Area Multicultural Network for this project. This project has brought together ethnically-diverse young women to develop creative expression and skills in digital animation and produce a short film, *Huriyya and Her Sisters*, which is to be launched in July 2009 at the Arab Film Festival Australia.
 - *Arab Film Festival Australia:* The Commission has partnered with the Information and Cultural Exchange for this project. The project includes the annual festival held in Sydney, as well as forums, workshops, and a national touring festival. Films in the festival reflect the diversity of identities and experiences within the Arab world and communities within the diaspora.
 - *The Islamic Spectrum in Australia project:* The Commission has partnered with Nexus Multicultural Arts Centre for this project. It is a program of events that will explore the many faces of Islamic culture in Australia: art, architecture, food, religion, history and music.
 - *The Frontline Project:* The Commission has partnered with Darwin Community Arts for this project. It will involve Muslim/African/African Muslim and Indigenous youth participation in locative media activities.

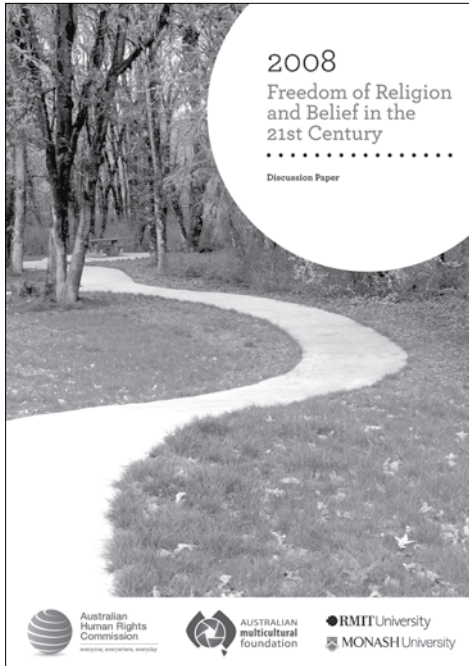
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Held in Sydney in July, the Arab Film Festival is one of the Community Arts and Culture Initiatives with Muslim Australians, supported by the Commission in partnership with the Australia Council for the Arts.



- *Evaluation Project:* Evaluation plays a central role in the program. The evaluation project uses a program-logic approach and works across the eight initiatives. The evaluation will provide information that internal and external stakeholders will be able to use to make decisions about program design and delivery, accountability, strategic direction, policy and future funding. The Commission's partnership and participatory approach has meant collaboratively creating the evaluation plans for the eight initiatives with its partners and stakeholders. The evaluation encompasses processes, impacts and outcomes across the main evaluation domains, which are implementation, scope, usage, reach, awareness, perceived value and quality achievement of objectives, changes in attitudes, confidence, skills, knowledge and behaviour.
- *Intersections between the Law, Religion and Human Rights:* a roundtable between judicial officers, academics, religious and community leaders. This project brings together members of the judiciary, key legal representatives, academics and religious and community leaders to examine religious and cultural accommodation in the Australian justice system through a series of roundtable meetings. Partnerships and collaborations have also been established with the Research Unit for the Study of Society, Law and Religion at Adelaide University; the Australasian Institute of Judicial Administration; the Department of Justice, Victoria; and the Victorian Multicultural Commission. The principal focus of the project is on issues affecting faith communities. Issues so far identified for further discussion include freedom of religion, anti-discrimination legislation and alternative dispute resolution.



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The *Freedom of religion and belief in the 21st century* discussion paper was released on 17 September 2008. The Commission has partnered with the Australian Multicultural Foundation, RMIT and Monash Universities on this project.

- *Freedom of religion and belief in the 21st century project:* For this project, the Commission 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 revise the Commission’s 1998 report on freedom of religion and belief given, since that time, the complexity and prominence of faith-based issues that have emerged (including faith-based violence) in global and local affairs.

9.5.2 Additional, related, policy development work

The Commission is using the opportunities provided by the Community Partnerships for Human Rights initiative to refocus on the critical issues that relate to religious harmony. The human rights impacts of religious belief, cultural practice and spirituality in a globalised world need to be closely examined. The Commission is contributing to policy development and to international reports on these issues.

For example, the Commission prepared a detailed report to the Office of the United Nations High Commissioner for Human Rights on General Assembly resolution 62/154 on combating the defamation of religions, submitted July 2008 (www.humanrights.gov.au/partnerships/religiousdefamation/index.html) and the Director of the Commission’s Education and Partnerships Section attended inter-faith related seminars in Auckland, New Zealand, in August 2008; in Brisbane in November 2008 (arranged by the Commonwealth Secretariat on Respect and Understanding to review the *Civil Paths to Peace* report from an Australia-Pacific youth perspective), and in Phnom Penh, Cambodia, in May 2009, to share the Commission’s experience in promoting community harmony in a multi-faith, multicultural society.

Similarly, the Commission is using the opportunities provided by the Community Partnerships for Human Rights initiative to focus on the critical relationship between societal harmony, social inclusion, human rights, 'race'-related discrimination and culture. For example, the Education and Partnerships Section coordinated two submissions to the Commonwealth Department of the Environment, Water, Heritage and the Arts, supporting the ratification of two important international treaties: the *UNESCO 2003 Convention for the Safeguarding of Intangible Cultural Heritage* (www.humanrights.gov.au/legal/submissions/2008/20081024_UNESCO.html) and the *UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (www.humanrights.gov.au/legal/submissions/2008/20081105_UNESCO.html).

9.6 Speeches

The Race Discrimination Commissioner delivered a number of speeches during the reporting period, a selection of which appear below. Full transcripts of the speeches are available on the Commission website at: www.humanrights.gov.au/about/media/speeches/race/index.html.

Human Rights, Multiculturalism and Indigenous Rights – the Multicultural Development Association, Reconciliation Strategy Launch, Brisbane, 30 July 2008.

Keynote speech – International Unity in Diversity Conference, Townsville, 14 August 2008.

Like Oil and Water? The Intersection of Freedom of Religion and Belief with Human Rights – Launch of the *Freedom of religion and belief in the 21st century* discussion paper, Canberra, 17 September 2008.

Indigenous Issues in the Durban Review Conference – Castan Centre Public Forum: 'Can the UN Combat Racism', Melbourne, 20 February 2009.

Research Hopes to Offer Insight into Experiences of African Australians – Victorian Equal Opportunity and Human Rights Commission's Human Rights Conference, Melbourne, 16 March 2009.

Chapter 10: Sex and Age Discrimination

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Elizabeth Broderick
Sex Discrimination
Commissioner and
Commissioner responsible
for Age Discrimination

10.1 Statement from the Commissioner

This year marked the end of my nationwide Listening Tour and the beginning of what has been a busy but rewarding time in my term as Commissioner. I am delighted to report that it has been an exciting year for progressing gender and age equality in Australia.

The Listening Tour played an important role in setting the agenda for my term. In deciding where the Commission should focus its efforts, I was guided by three questions that emerged from the Listening Tour:

- what are the most important issues for individuals and stakeholders;
- where can the Commission have the greatest impact given our current political, social and economic context; and
- how can the Commission best complement the excellent work already being done by a great number of organisations?

On 22 July 2008, I released the *Plan of action towards gender equality*. With the resources available to me, this plan sets out the five areas of reform that would be pursued by the Commission during my term as Sex Discrimination Commissioner.

These priorities have been shaped by the stories I have heard from women and men across Australia. The diverse experiences of all women including Indigenous women, women with disability, women from culturally and linguistically diverse backgrounds, older women and younger women over their life cycle have underpinned our work in these areas. They will continue to do so for the remainder of my term as Commissioner.

A key achievement this year has been the Australian Government's commitment to introduce a national Paid Parental Leave scheme starting in 2011. This significant milestone is the culmination of years of advocacy from Sex Discrimination Commissioners, past and present, unions, women's groups, business representatives and individual women and men. The scheme is an important step towards building workplaces that enable both women and men to balance their paid work and family responsibilities.

The Senate Inquiry into the Effectiveness of the Sex Discrimination Act in eliminating sex discrimination and promoting gender equality was also a major development of the last year. It presented historic opportunities to assess how well the Sex Discrimination Act is addressing sex discrimination and sexual harassment experienced by individuals, as well as how effectively it is promoting gender equality in Australian society. The Commission made recommendations that were largely accepted by the Committee. If implemented, the changes will greatly enhance the capacity for the Sex Discrimination Act to achieve its objectives.

This year, on behalf of the Commission, I also had the privilege of supporting two inspirational women from Fitzroy Crossing for their attendance at the Commission on the Status of Women meeting at the United Nations in New York. On a global stage, they shared their courageous story of how the women in their community united to successfully address alcohol abuse and violence by lobbying for a ban on the sale of take-away full strength alcohol. Their presentation, told through the film, *Yajilarra*, was important for building international awareness of their successful community-based initiatives for combating family violence in Aboriginal and Torres Strait Islander communities. Their story received widespread interest from around the world and has inspired other communities struggling with endemic alcohol abuse and violence.

The establishment of key stakeholder relationships and identification of key priorities in the area of age discrimination has also been a priority of the last year. I have met with business groups, community groups, unions, academics and representatives from relevant government departments to seek feedback on current and emerging issues in the area. Based on these meetings, as well as research undertaken on age discrimination issues, I have, on behalf of the Commission, identified a number of policy reform priorities to remove workplace discrimination against mature age workers.

As we celebrate and reflect on this progress, it is important to consider the inequalities that remain in the areas of sex and age discrimination. Gender inequality remains a daily experience in Australia, and age-based discrimination and prejudice continues to affect the lives of many. With this in mind, I look forward to the challenges and opportunities of the year ahead.

10.2 Research and policy

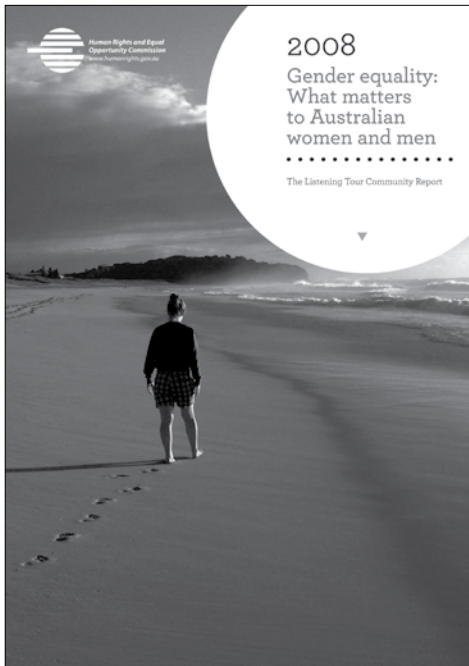
10.2.1 The Listening Tour and *Plan of action towards gender equality*

The Sex Discrimination Commissioner completed a national Listening Tour in June 2008, the aim of which was to seek community and stakeholder views on gender equality in Australia. The findings of the Listening Tour were used then to inform the policy priorities of the Commissioner.

The Sex Discrimination Commissioner launched the *Listening Tour Community Report*, together with the Commissioner's *Plan of action towards gender equality*, on 22 July 2008 at Sydney Girls' High School. Approximately 200 key stakeholders attended the event, along with media.

The *Plan of action towards gender equality* identified five policy priorities for the Sex Discrimination Commissioner:

1. Increasing the number of women in leadership positions, including supporting Indigenous women's leadership.
2. Achieving greater balance between paid work and caring responsibilities for men and women.
3. Driving down the incidence and reducing the impact of sexual harassment.
4. Reducing the gender gap in retirement savings and increasing women's economic security over the lifecycle.
5. Strengthening laws to address sex discrimination and promote gender equality.



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The Sex Discrimination Commissioner released the Listening Tour Community Report, *Gender equality: what matters to Australian women and men* at the launch of her *Plan of action towards gender equality* on 22 July 2008.

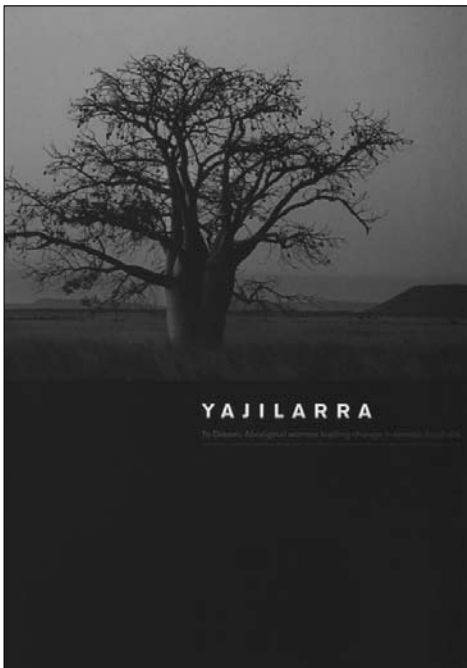
10.2.2 UN Commission on the Status of Women

The Commission participated as part of the Australian Delegation to the United Nations Commission on the Status of Women (CSW) 53rd Session in New York. CSW is the principal global policy-making body dedicated exclusively to gender equality and advancement of women. Every year, representatives of Member States gather at United Nations Headquarters in New York to evaluate progress on gender equality, identify challenges, set global standards and formulate concrete policies to promote gender equality and advancement of women worldwide.

10.2.3 *Yajilarra*: Aboriginal women leading change in remote Australia

On 4 March 2009, the Commission co-hosted a side event to the CSW Session with the Federal Office for Women. The side event featured June Oscar and Emily Carter from Marninwarntikura Women's Resource Centre, who showed the documentary film, 'Yajilarra' ('To Dream' in the Bunuba language). *Yajilarra* is about their leadership in work to introduce alcohol restrictions, address family violence and build a better future for residents of Fitzroy Crossing in the Kimberley region of Australia.

This side event had a strong impact on the Session, as did the participation of Ms Oscar and Ms Carter as NGO Delegates who, in a number of ways, significantly raised the awareness of Indigenous issues in Australia. These included interventions at the Asia-Pacific Caucus, participation on a panel addressing violence against women, attendance at the Pacific Region's Reception at the New Zealand Mission and holding various informal meetings with representatives from global women's leadership groups and delegates from the Pacific. The side event was very successful at illustrating to the world that Australia has entered a new phase in government relations with Indigenous people.



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The Commission attended the UN Commission on the Status of Women in New York City and co-hosted a side event at which the film, *Yajilarra*, was screened.

At the domestic level, *Yajilarra* has also raised awareness of the high incidence of Foetal Alcohol Spectrum Disorder in the Kimberley. The film has led to increased press coverage about the nature and extent of Foetal Alcohol Spectrum Disorder in Indigenous communities, in both Fitzroy Crossing and Halls Creek, and has raised awareness of the issue among health professionals.

In order to provide support and facilitate discussion about solutions to alcohol issues, the Commissioner travelled back to the Kimberley region of Western Australia in May 2009 to meet with community leaders from Halls Creek who are endeavouring to address alcohol abuse in their community.

10.2.4 NHRIs and CSW reform agenda

The Commission worked closely with the Asia-Pacific Forum of National Human Rights Institutions regarding efforts to achieve independent participation rights for National Human Rights Institutions in CSW. As a result, the Agreed Conclusions of the 53rd Session contain a number of paragraphs that incorporate new language on the role of NHRIs in CSW. The participation of the Commission, as well as the Aboriginal women from Australia who attended, made a direct contribution to this outcome.

10.2.5 Women of Influence Program

The Women of Influence Program is a pilot leadership program intended to strengthen women's leadership and advance reconciliation between Aboriginal and Torres Strait Islander women and non-Indigenous women. The program is a joint project with the Indigenous Leadership Group in the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

The Commissioner and Ms Kerrie Tim from FaHCSIA jointly facilitated a workshop on women's leadership. The workshop brought together 14 Indigenous community leaders and non-Indigenous corporate leaders. The objective of this workshop was to bring Indigenous and non-Indigenous female leaders together and to share their knowledge, skills and experience. It also aimed to demonstrate the strength and positive outcomes achievable through greater interaction and collaboration between Indigenous and non-Indigenous women.

10.2.6 What's in it for women? – Women and human rights protection in Australia

The Australian Government undertook a National Human Rights Consultation in 2009. This presented an historic opportunity for members of the Australian community to express their views on how human rights are and should best be understood and protected in Australia.

In order to support women's participation in this significant consultation, the Commission partnered with the Queensland Working Women's Service to hold a forum in Brisbane entitled, *What's in it for women? – women and human rights protection in Australia*. The forum brought together over 80 women from a broad range of women's organisations, including those that deal with homelessness, domestic violence, sexual assault, health, employment and community services, advocacy, human rights, Indigenous and environmental organisations, as well as feminist researchers and policy-makers.

The forum provided women with information that would assist them to participate fully in the Australian Government's consultation. It included the opportunity to meet directly with a representative from the Consultation Committee in a special roundtable on the human rights issues facing women.



Co-hosted by the Commission and the Queensland Working Women's Service, the *What's in it for women* forum was held in Brisbane on 26 March 2009. Pictured (from right to left) are presenter, Dr Betty McLellan, Commissioner Broderick, her co-host, Ms Kerriann Dear and presenter, Dr Sue Harris-Rimmer.

10.2.7 A national paid leave scheme for parents

A key priority for the last year has been the establishment of a national scheme of paid leave for parents. The Commission made two extensive written submissions to the Productivity Commission's Inquiry into Paid Maternity Leave, Paternity Leave and Parental Leave. The submission drew on the Commission's previous advocacy work for a national paid maternity leave scheme. The Sex Discrimination Commissioner was also involved in a number of collaborative events with business, unions and women's organisations, that promoted the need for a national scheme.

In its submission to the Productivity Commission, the Commission proposed a two-staged approach that would achieve a world class scheme of paid leave for parents.

Stage one would provide 14 weeks of federally-funded paid maternity leave, as well as 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 intention of the review would be to extend entitlements to include paid parental leave, of which four weeks would be reserved for the supporting parent, to provide a total of one year's paid leave for new parents. The Commission's submission recognised paid maternity leave as a basic human right for working mothers. It also recognised the entitlement of fathers and other supporting parents to have paid leave in order to share in the care of babies in the crucial first year of their lives.

As part of ongoing advocacy work in the lead-up to the May 2009 Federal Budget, the Commissioner delivered a speech at the National Press Club entitled, *Women on the verge of recession: Confronting gender issues in turbulent times*. In order to highlight the importance of this policy reform, the Commissioner continued to liaise with a range of stakeholders, including the media, and to undertake speaking engagements. This work culminated in the Federal Budget announcement of funding for a Paid Parental Leave Scheme scheduled to commence in 2011.

10.2.8 Australian Research Council (ARC) Linkage Grants

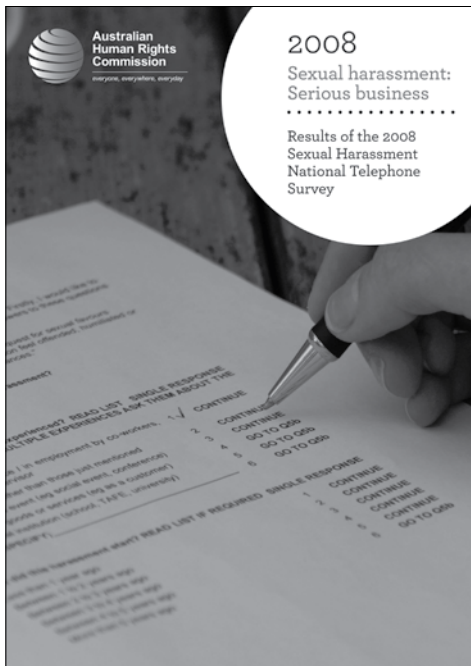
Trends in Time – Work, Family and Social Policy in Australia 1992-2006: The Commission is an industry partner in this three-year project which is investigating trends in work and family time. The Project will draw on the *2006 ABS Time Use Survey*. The Commission is providing in-kind assistance for this project.

Parental Leave in Australia – Access, utilisation and efficacy: This three-year project, in which the Commission was an industry partner, was recently completed. A final forum, *Parental leave: Addressing impacts and refining policy*, was held, featuring presentations which drew on this research. International speakers also offered comparative perspectives.

10.2.9 National sexual harassment telephone survey 2008

On 3 November 2008, Commissioner Broderick released *Sexual harassment: Serious business*, the results of the 2008 national telephone survey on sexual harassment. 2005 Telephone interviews were conducted with people aged 18 to 64. The sample of survey respondents was representative of the Australian population by age, gender and area of residence. The survey was based on a similar national telephone survey conducted by the Commission in 2003.

The survey found that sexual harassment continues to be a significant problem in Australian workplaces, despite a slight improvement since 2003. Further, the survey found that there is a lack of understanding as to what sexual harassment is, and that the large majority of sexual harassment is unreported. The report made recommendations in the areas of prevention and reporting of sexual harassment, better legal protection from sexual harassment, monitoring of sexual harassment, better support for victims of sexual harassment and further research on sexual harassment.



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Sexual harassment: Serious business, the results of the 2008 national telephone survey on sexual harassment, was released on 3 November 2008.

10.2.10 Sexual harassment employer education

In November 2008, in collaboration with the Australian Chamber of Commerce and Industry, the Commission held a successful education forum for employers in Melbourne. The forum included a briefing on the results of the *2008 Sexual harassment national telephone survey*, a session on creating positive workplace cultures and a session on the legal obligations of employers in relation to sexual harassment. The forum was attended by 90 employers.

10.2.11 Sexual Harassment Code of Practice and Quick Guide

The Commission launched the updated resource, *Effectively preventing and managing sexual harassment in the workplace: A Code of Practice for employers*, together with a new Quick Guide, designed particularly for small employers. The products were launched as part of an employer forum held in partnership with the Australian Chamber of Commerce and Industry in November 2008.

10.2.12 The gender gap in retirement savings

As part of the Australian Government's review of Australia's tax system, the Commission lodged a submission in response to the *Retirement Income System* discussion paper. During development of the submission and its recommendations, the Commission liaised with key researchers and key stakeholders, including women's organisations.

Drawing upon the Commission's previous policy work, the submission made a number of recommendations to redress women's disadvantage in the current retirement income system and increase women's financial security in retirement. The Commissioner continues to advocate for reform, particularly through ongoing speeches and media opportunities.

The Commission began work on an issues paper which will set out the data on the gender gap in retirement savings and retirement income, the implications of the gender gap, the contributing factors to the gender gap and potential policy solutions. The issues paper will be published online and disseminated widely as a sector resource for ongoing advocacy in the area.

10.2.13 House of Representatives Inquiry into Pay Equity

The Commission lodged a submission and attended the oral hearing for the House of Representatives Inquiry into Pay Equity and other issues associated with women's workforce participation.

The Commission made a number of recommendations, including expanding protection from discrimination on the grounds of family responsibilities, improving data collection and monitoring of the gender pay gap and enhancing legal provisions to address pay inequity.

The Commission welcomed the incorporation of its recommendations about the legislative framework to address pay inequity in the *Fair Work Act 2009* (Cth). The Inquiry is due to report in late 2009.

10.2.14 Senate Legal and Constitutional Affairs Committee Inquiry into the Effectiveness of the *Sex Discrimination Act 1984* in Eliminating Discrimination and Promoting Gender Equality

The Commissioner welcomed this Inquiry, which provided a historic opportunity to modernise the *Sex Discrimination Act 1984* (Cth) and develop a strong legal framework for promoting substantive gender equality in Australia. The Inquiry also has the potential to impact on future reform of other federal anti-discrimination laws, harmonisation of federal and state and territory jurisdictions, and the Australian Government's National Human Rights Consultation.

The Commission made a comprehensive submission to this Inquiry, recommending several priority areas for reform, including:

- extending protection for family responsibilities
- ensuring equal coverage for men
- removing discriminatory provisions for same-sex couples
- broadening standards for legal action under the *Sex Discrimination Act* to public interest organisations
- removing the exemption for state instrumentalities.

The Commission has now welcomed the release of the Senate Committee report into the above Inquiry. Broadly, the Committee has adopted the vast majority of the wide-ranging recommendations in the Commission's submission.

10.2.15 Independent monitoring of gender equality in Australia

The Commissioner continues to liaise with the Minister for the Status of Women, the Federal Office for Women and key external stakeholders about the Commission's role in regularly monitoring key gender equality indicators at a national level.

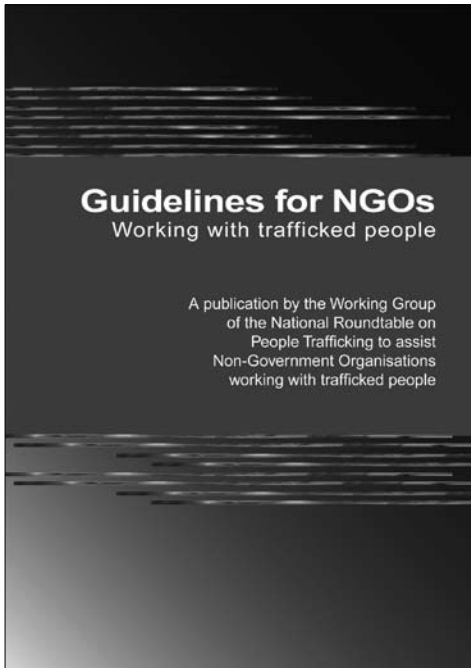
A recommendation for the establishment of comprehensive gender equality benchmarks and regular independent monitoring and reporting on gender equality was included in the Commission's submission to the Senate Inquiry into the Effectiveness of the *Sex Discrimination Act 1984* in Eliminating Discrimination and Promoting Gender Equality. The recommendation was supported in the Inquiry Report.

The Commissioner continues to advocate for increased funding to enable this monitoring work to be undertaken. For example, this advocacy is done through the Oral Hearing in the House of Representatives Inquiry into Pay Equity, meetings with Ministers and with external advocates.

10.2.16 Violence against women and children

The Commission met with members of the National Council to Reduce Violence against Women and Children and provided information on gender-based violence and human rights to inform their work. The Commission also provided input into the development of the proposed National Plan to Reduce Violence Against Women and Children, based on the findings of the Listening Tour.

The Commission welcomed the Australian Government's commitment to develop a National Plan to Reduce Violence Against Women in response to the Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009–2021.



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The Sex Discrimination Commissioner was part of a Working Group established at the first meeting of the National Roundtable on People Trafficking, which developed the *Guidelines for NGOs working with trafficked people*, released on 3 March 2009.

10.2.17 Trafficking in women

This year, the Commission continued its advocacy in the area of human trafficking. The Commissioner chaired the Working Group of the National Roundtable on People Trafficking, which produced best practice guidelines for NGOs working with trafficked persons.

Following representations from the Roundtable, the Australian Government recently announced a reform of the visa framework to ensure, not only a law enforcement response, but to better support trafficked people through a human rights based framework.

10.3 Age Discrimination

10.3.1 Mature Workers Mean Business public awareness campaign

In July 2008, based on social research undertaken for it, the Commission launched a print media and web-based campaign 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.

10.3.2 Mature age workers consultation strategy

During 2008-09, the Commissioner met with key stakeholders about mature-age discrimination and workforce participation. These meetings included a cross-section of groups such as business groups, community groups and service providers, unions, academics and representatives of relevant government departments.

This process proved invaluable in terms of identifying priority areas for future project and policy development. Based on these consultations the following have emerged as key issues:

- skills and re-training of mature age workers
- the impact of unpaid work and care on workforce participation
- age-based stereotypes in the pre-employment and employment context
- the adequacy of the current regulation of age discrimination in both the federal Age Discrimination Act and the broader regulatory framework
- the nature and extent of age-related discrimination and mature age workers.

As part of this process, the Commission has commenced a comprehensive review of academic and statistical material on these issues. This represents important foundational work, which will assist determination of the Commission's strategic priorities for promotion of a substantive equality agenda on age discrimination and mature age workers.

10.3.3 Attorney-General's Key Agencies Reference Group on Age Discrimination

The Commission participated in the federal Attorney-General's Key Agencies Reference Group on Age Discrimination (KARG). KARG is a high-level, cross-departmental information sharing forum which has been established as part of a 'whole of government' approach to age discrimination.

10.4 International activities

10.4.1 *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*

The Commission advocated for the Australian Government to ratify the Optional Protocol to the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) in order to strengthen the legal protection afforded to women under the Convention. The Optional Protocol allows people to bring a complaint to the CEDAW Committee about an alleged breach of their rights under CEDAW. In November 2008, the Commission welcomed the Australian Government's intention to become party to the Optional Protocol, which entered into force in March 2009.

10.4.2 CEDAW community education

In December 2008, the Commissioner and the Minister for the Status of Women launched a revised CEDAW education kit. The copyright of the publication is jointly owned by the Federal Office for Women and the Commission.

10.5 Exemptions under the Sex and Age Discrimination Acts

10.5.1 Deli Women and Children's Centre

The Deli Women and Children's Centre applied for a temporary exemption pursuant to section 44(1) of the Sex Discrimination Act. Deli Women and Children's Centre is a non-profit incorporated association which services women, children and families in the Sydney metropolitan area. The Centre provides a range of individual and group services, with particular focus on domestic violence, children's services and family support. Services include individual and group counseling and casework services, a playgroup, parenting support and family support.

The Centre applied for an exemption from section 14 (discrimination in employment or in superannuation) in relation to the employment of female staff for the Centre's therapeutic and children's services. It also applied for an exemption from section 22 (goods, services and facilities), in relation to the provision of the Deli's therapeutic services to female clients only.

The application is still under consideration by the Commission.

10.5.2 BoysTown

BoysTown applied for two temporary exemptions pursuant to section 44(1) of the Sex Discrimination Act. BoysTown is a non-profit company that provides a range of counselling and community services around Australia. The exemptions were sought for the organisation's operations in the Tjurabalan region of Western Australia.

The organisation applied for a exemption for five years from section 14 (discrimination in employment or in superannuation), in relation to the employment of a male youth construction worker to work in the Tjurabalan region. It also applied for an exemption for five years from section 14 (discrimination in employment or in superannuation), in relation to the employment of a female Youth and Family Worker in the Tjurabalan region.

In response to a request for further information to support the application, BoysTown informed the Commission that the project was on hold. As no further information was provided from BoysTown, the application has been treated as being discontinued.

10.5.3 Carnival Australia

In April 2009, Carnival Plc (trading as Carnival Australia) made an application for a temporary exemption under the Age Discrimination Act. Carnival Australia is one of Australia's leading cruise companies and is the operator of 12 cruise brands (including P&O Cruises Australia).

The temporary exemption is sought to enable Carnival Australia to restrict the ability of persons aged under 21 years of age from taking part in cruises, without a parent or guardian, during the period of 1 November to 30 January. Carnival Australia describes these months as the traditional 'Schoolies' period. The application does not specify a specific period of time for which the exemption is requested.

In June 2009, the Commission made a request for further information from Carnival Australia. This information was received in July 2009.

The Commission also invited a number of organisations to make a submission in response to the temporary exemption application, including other cruise companies, peak youth advocacy organisations, and anti-discrimination tribunals and Comm-

issions in the States and Territories. The Commission received five submissions, one of which was received in-confidence. The remaining four applications were posted on the Commission's website. Carnival Australia was provided with a copy of all five submissions and given 21 days to respond to matters raised in the submissions. Once that time has elapsed, the Commission will consider Carnival Australia's response, and proceed to make a determination on the application for a temporary exemption.

10.6 Legislative development

The Commission contributes to legislative development by making written and oral submissions to parliamentary and other inquiries. A list of these submissions can be found in Chapter 3: Monitoring Human Rights.

10.7 Speeches

The Sex Discrimination Commissioner and her staff made over 60 speeches during 2008-09. A selection of these can be accessed on the Commission's website at: www.humanrights.gov.au/about/media/speeches/sex_discrim/index.html.

The following is a selection of speeches presented by the Commissioner:

Gender Equality in 2008: What Matters to Australian Women and Men – Launch of the Listening Tour Community Report and Plan of action towards gender equality, Sydney, 22 July 2008.

Trafficking: The Need for a Human Rights-based Approach – Inaugural Anti-trafficking Forum, Sydney, 24 July 2008.



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The Sex Discrimination Commissioner launched her *Plan of action towards gender equality* at Sydney Girls' High School on 22 July 2008. One of the speakers at the event was the school's Public Speaking Captain, Ms Lucy Connell.

Who Cares?: Managing Flexibility in the Workplace – 20th Women, Management and Employment Relations Conference, Sydney, 24 July 2008.

The Case for a National Scheme of Paid Leave for Parents – Law Institute Victoria breakfast series, Melbourne, 10 September 2008.

Slavery in the 21st Century: A Human Rights Challenge – Modern Day Slavery in Australia Seminar, Sydney, 10 October 2008.

Women's Achievements: Untold Stories – National Council of Jewish Women Luncheon, Melbourne, 12 November 2008.

Sexual Harassment: Serious Business – Sexual Harassment Employer Forum, Australian Chamber of Commerce and Industry, Melbourne, 12 November 2008.

The Listening Tour Community Report – Gender Equality: What Matters to Australian Women and Me – Committee for Economic Development Australia Boardroom Luncheon, Adelaide, 13 November 2008.

Women and Leadership – The 2008 Australian Regional Women Leaders Convention, Melbourne, 19 November 2009.

Busting the Myths about Part Time Work – New South Wales Quality Part Time Work Round Table, Sydney, 19 February 2009.

Why Supporting Employees to Balance Paid Work and Caring Responsibilities is Smart Economics, American Chamber of Commerce Business Briefing, Sydney, 24 March 2009.

What's in it for Women? Women and Human Rights Protection in Australia – What's in it for Women Forum, Canberra, 26 March 2009.

Women and Human Rights Protection in Australia – Women and Human Rights: Time to speak up! PIAC and UTS Seminar, Sydney, 8 April 2009.

Women on the Verge of Recession: Confronting Gender Issues in Turbulent Times – National Press Club, Canberra, 29 April 2009.

Is Poverty the Reward for a Life Spent Caring? – Women in Super (NSW) Luncheon, Sydney, 30 April 2009.

Speech to the Australian Institute of Criminology – (Non-sex industry) labour trafficking: A forum to discuss trafficking in persons in contexts other than the commercial sex industry, Sydney, 18 June 2009.

Cultural Diversity in an Ageing Workforce – Ageing and Cultural Diversity Forum, Centre for Cultural Diversity in Ageing, Melbourne, 22 June 2009.

Chapter 11:

International Activities

While its role and functions, as set out in legislation, are primarily directed towards human rights issues within Australia, the Commission undertakes an international education and training role, with a specific focus on agencies in the Asia-Pacific region.

In 2008-09, 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 AusAID. This international technical cooperation work is externally funded (i.e., it is not funded from the Commission's core budget, which is devoted to fulfilling its domestic mandate).

These programs, along with the Commission'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.

The Commission's international role has evolved from the way that it has pursued its domestic responsibilities. It also reflects the Commission's belief that helping to strengthen human rights protection in individual countries has flow-on benefits for all countries, including Australia. The international work also provides development opportunities to members of the Commission's staff and gives them wider international perspectives which can enhance the Commission's domestic work.

In undertaking international activities, the Commission engages with a variety of institutions and professionals whose work is relevant to the protection and promotion of human rights in their country. These include government agencies and civil society groups, 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 the Commission's international training activities involve a staged process of implementation, from initial scoping to design, through to full implementation. This reflects the strong emphasis the Commission places on 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. Considerable effort is also made to ensure that partner agencies feel a sense of ownership of their programs, which is essential for success and long-term sustainability.

Most of the international training activities undertaken by the Commission centre on practical issues that affect the lives of individuals, such as domestic violence, police conduct, prison management, investigation techniques and access to legal aid. Notwithstanding this practical focus, efforts are made to ensure that the activities are firmly grounded in the human rights principles set out in international law.

11.1 China-Australia Human Rights Technical Cooperation Program

The Commission's most substantial international program involvement is with the China-Australia Human Rights Technical Cooperation Program (HRTC). This program is an integral part of Australia's annual inter-governmental Dialogue on Human Rights with China. The Commission 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
- 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 the Commission and particular Chinese organisations.

Some examples of activities implemented in the 2008-09 HRTC Program are given below:

- In July 2008, a delegation from the Ministry of Justice visited South Australia. The focus of their study visit was on the application of restorative justice principles in the dealing with criminal offences.
- In October 2008, a delegation of lawyers from the Beijing Children's Legal Aid and Research Centre visited New South Wales. During their visit, they examined programs and policies for protection of the rights of juveniles in the legal system.
- In November 2008, a consultation was held in China, in cooperation with the Ministry of Public Security. The consultation took place in Beijing, Hubei Province and Guangdong Province. The consultation focused on measures for protection and promotion of the rights of detainees in China's penitentiary detention centres.
- In November 2008, a Model United Nations was held in Xiamen, Fujian 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 2008, a Human Rights and Anti-Poverty Seminar was held in Zhanggijajie, Hunan Province. The seminar was conducted in cooperation with the State Ethnic Affairs Commission and involved discussion of programs for the alleviation of poverty and disadvantage in minority communities.

- In December 2008, a delegation led by the National Judges' College visited New South Wales and the Australian Capital Territory. The delegation also included several representatives from the Supreme People's Court. The visit provided the delegates with information about legislative and judicial measures in Australia for protection and promotion of the rights of citizens.
- In December 2008, a Privacy Rights and Family Planning Consultation was held in Guizhou and Yunnan Provinces, in cooperation with the National Population and Family Planning Commission. The consultation involved discussion about protection of client privacy rights in family planning and reproductive health services.
- In December 2008, a delegation led by the All China Women's Federation visited New South Wales and Tasmania. The focus of the visit was on development and implementation of legislation to combat domestic violence. In addition to officials from the All China Women's Federation, the delegation included members from a range of other agencies relevant to the legislative process.
- In February 2009, a delegation from the Supreme People's Court visited New South Wales and the Australian Capital Territory. The study visit involved an examination of laws, procedures and practices for promotion of accountability and public confidence in the judicial system.
- In April 2009, a Domestic Violence Workshop was held in Changsha, Hunan Province. The workshop was conducted in cooperation with the All China Women's Federation, but also involved participants from the court system. The main focus of the workshop was on strengthening the role of courts in dealing with domestic violence cases.
- In April 2009, a delegation from the Ministry of Justice visited New South Wales and the Australian Capital Territory. During the visit, the delegation examined initiatives that deal with minor criminal offences, with a particular focus on the use of diversionary programs and non-custodial sentencing options.
- In May 2009, a Children's Rights Workshop was held in Beijing, in cooperation with the Beijing Children's Legal Aid and Research Centre. The workshop was attended by a wide variety of lawyers and other legal professionals and focused mainly on protection of children's rights in the juvenile justice system.
- In May 2009, a Family Planning and Human Rights Workshop was held in Guizhou Province, in cooperation with the National Population and Family Planning Commission. The workshop focused on measures for protection of human rights in the delivery of family planning and reproductive health services.
- In May 2009, two seminars on the Development of Social Organisations were held in Beijing. The seminars, which were conducted in cooperation with the Ministry of Civil Affairs, looked at ways government can support the role of non-government organisations that are working in areas relevant to the protection of human rights.

11.2 Vietnam-Australia Human Rights Technical Cooperation Program

The Commission also participates in the Vietnam-Australia Dialogue on International Organisations and Legal Issues including Human Rights.

The Vietnam-Australia HRTC was established as part of the dialogue, and commenced in late 2006. Subject areas addressed by the HRTC Program include access to justice in the courts and other areas of the criminal justice system, human rights training for lawyers, obligations under international human rights treaties, women's rights and gender equality, and methodologies for conducting information, and education programs on legal rights.

Some examples of activities implemented in the 2008-09 HRTC Program are given below:

- In October 2008, in cooperation with the Ministry for Justice a seminar on Dissemination of Legal Information was held:
 - in Sapa, Lao Cai Province, attended by approximately 100 justice officials from Lao Cai and Yen Bai Provinces, responsible for legal dissemination
 - in Quy Nhon, Binh Dinh Province, attended by approximately 100 justice officials responsible for legal dissemination from Binh Dinh and Phu Yen Provinces.
- In November 2008, a delegation from the Supreme People's Court visited New South Wales. The study visit focused on access to justice in the court system, including measures for protection of the rights of parties and witnesses. Particular emphasis was given to support and protection for female victims of crime.
- In November 2009, a Train-the-Trainer Workshop was held in Hanoi, in cooperation with the Vietnam Women's Union. The workshop provided training on women's rights to 40 officials from the Vietnam Women's Union, as well as provincial, district and commune level women's unions.
- In December 2008, a delegation from the Supreme People's Procuracy visited New South Wales. During their visit, they examined measures for protection and promotion of human rights in the criminal justice system.
- In December 2008, in cooperation with the Vietnam Women's Union, a training course on women's legal rights was held:
 - in Namh Dinh Province, attended by 30 staff members from provincial level and district level women's unions in Namh Dinh
 - in Hung Yen Province, attended by 30 staff members from provincial level and district level women's unions in Hung Yen.
- In February 2009, in cooperation with the Vietnam Lawyers' Association, a human rights training course for lawyers was held:
 - in Hanoi, for approximately 50 legal professionals from the northern provinces of Vietnam
 - in Ho Chi Minh City, for approximately 50 legal professionals from the southern provinces of Vietnam
 - in Da Nang, for approximately 50 legal professionals from the central provinces of Vietnam.

- In March 2009, in cooperation with the Supreme People’s Court, a Seminar on Access to Justice, held:
 - in Ho Chi Minh City, explored the application of human rights principles in Vietnam’s judicial processes and was attended by approximately 40 District Court judges and staff from southern provinces,
 - in Hanoi, was similar to the abovementioned seminar in Ho Chi Minh City, but with participants from the northern provinces.
- In March 2009, the Vietnam Women’s Union completed a project involving the establishment of ‘women’s legal clubs’, in six communes in Namh Dinh and Hung Yen provinces. These clubs have the role of disseminating information about women’s rights under international and Vietnamese law, providing legal advice and consultation to women and advocacy for women’s rights in the local community.
- In cooperation with the Ministry of Justice, a Seminar on Dissemination of Legal Information was held:
 - in March 2009, in Dac Lac Province, attended by 108 commune level justice officials from Dac Nong, Binh Phuoc and Dac Lac Provinces
 - in April 2009, in Ca Mau Province, attended by 122 commune level justice officials from Soc Trang, Bac Lieu and Ca Mau Provinces.
- In cooperation with the Vietnam Women’s Union, women’s rights training courses were held:
 - in March and April 2009, in Quang Binh Province, for 70 officials from district and commune level women’s unions in Quang Binh
 - in April 2009, in Bac Ninh Province, for 70 officials from district and commune level women’s unions in Bac Ninh
 - in April 2009, in Vinh Long Province, for 70 officials from district and commune level women’s unions in Vinh Long.
- In April 2009, a Seminar on Human Rights Treaties was held in Da Lat Province, in cooperation with the Ministry of Foreign Affairs. The seminar provided training to approximately 70 district level officials on Vietnam’s obligations under various international human rights treaties.
- In June 2009, a delegation from the Ministry of Justice visited New South Wales and the Australian Capital Territory. The study visit provided the delegates with an introduction to Australian experience in the implementation of programs that educate and inform citizens about the law and human rights.

11.3 Laos-Australia Human Rights Dialogue

In April 2009, The Commission participated in the Laos-Australia Human Rights Dialogue meeting, held in Vientiane.

11.4 Asia-Pacific Forum of National Human Rights Institutions

The Asia-Pacific Forum of National Human Rights Institutions (APF) was established in 1996. Its secretariat was hosted by the Commission 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. The Commission is a founding member of the APF and has hosted two of its annual meetings, in 1996 and 2007.

During the reporting period, the Commission served as the APF's Deputy Chair and attended the APF's Thirteenth Annual Meeting in Kuala Lumpur, Malaysia from 28 to 31 July 2008.

The Commission participated in an expert capacity at the Regional Workshop on the Establishment of National Human Rights Mechanisms in the Pacific. The Workshop was held in Mulifanua, Samoa, from 27 to 29 April 2009. This Workshop was organised by the UN Office of the High Commissioner for Human Rights, in partnership with the APF and the Pacific Islands Forum Secretariat.

The Commission also participated in the APF regional workshop on the role of national human rights institutions in promoting and implementing the Yogyakarta Principles. The Yogyakarta Principles set out existing international human rights law that applies to sexual orientation and gender identity. The workshop was hosted by the National Human Rights Commission of Indonesia and held in Yogyakarta, Indonesia from 5 to 7 May 2009.

The Commission continues to strongly support the APF and has a Memorandum of Understanding with its secretariat which provides for accommodation and corporate services support.

11.5 International Conferences and Meetings

The Commission participated in the following international conferences and meetings during 2008-09:

- New Zealand Diversity Forum, Auckland, August 2008.
- Australasian Law Reform Agencies Conference, Port Vila, Vanuatu, September 2008.
- Expert Mechanism on the Rights of Indigenous Peoples, Geneva, Switzerland, September – October 2008.
- 9th International Conference of National Human Rights Institutions: National Human Rights Institutions and The Administration Of Justice, Nairobi, Kenya, October 2008.
- 1st Session of the UN Conference of States Parties to the Convention on the Rights of Persons with Disabilities, New York, October - November 2008.
- 8th World Conference of the International Association of Refugee Law Judges, Cape Town, South Africa, January 2009.
- 53rd Session of the UN Commission on the Status of Women, New York, March 2009.
- 22nd Session of The International Coordinating Committee of National Institutions for The Promotion And Protection of Human Rights, Geneva, Switzerland, March 2009.
- UN Durban Review Conference, Geneva, Switzerland, April 2009.
- APF and the Office of the High Commissioner for Human Rights, Regional Workshop on the Establishment of National Human Rights Mechanisms in the Pacific, Samoa, April 2009.
- Pacific Disability Forum, Pacific Regional Disability Conference 2009: Advancing disability concerns in the Pacific region, Vanuatu, April 2009.
- UN Permanent Forum on Indigenous Issues, Eighth Session, New York, May 2009.
- APF Regional Workshop: National Human Rights Institutions and the Yogyakarta Principles, Yogyakarta, Indonesia, May 2009.
- Seminar on Building a Harmonious Community, Department of Foreign Affairs and Trade, Phnom Penh, Cambodia, May 2009.
- Training workshop for Commissioners and staff at the Commission on Human Rights, Philippines, June 2009.

Appendix 1:

International Instruments observed under legislation administered by the Commission

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Human Rights and Equal Opportunity Commission Act¹

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 a disability 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

¹ See section 1.5.1.

- due process of law
- review of procedures which may deny them these rights.

The *International Labour Organization 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 2008-09

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General

About Us: Australian Human Rights Commission brochure
(updated 2009)

Australian Human Rights Commission Annual Report 2007-08
(tabled report 2008)

2008 Human Rights Medals and Awards brochure (2008)

Strategic Plan 2008-2011 (2008)

Aboriginal and Torres Strait Islander Social Justice

*Preventing crime and promoting rights for Indigenous young
people with cognitive disabilities and mental health issues*
report (2008)

Social Justice Report 2008 (tabled report in 2009)

Native Title Report 2008 (tabled report in 2009)

Social Justice Report 2008 and Native Title Report 2008
community guide and CD Rom (2009)

Climate change, water and Indigenous knowledge
community guide (2009)

Close the gap community guide (2009)

*Getting it right!: progress towards a new National Indigenous
Representative Body* community guide (2009)

Disability Rights

*The good, the bad and the ugly: design and construction for
access* CD Rom (updated 2009)

Education

Face the facts education module (updated 2008)

Human rights explained fact sheets (updated 2008)

Child rights education resources (2008)

Human Rights

Let's talk about rights A guide for young people (2009)

Let's talk about rights Toolkit publication (2009)

Sex files: the legal recognition of sex in documents and government records

The Sex and gender diversity project concluding paper (2009)

2008 Immigration detention report (2009)

Legal

HREOCA No. 40: Complaints by immigration detainees against the Commonwealth of Australia (2009)

Federal Discrimination Law (2008, updated 2009)

Race Discrimination

Freedom of religion and belief in the 21st century discussion paper (2008)

Face the facts publication (2008)

It's your right! ESL education toolkit (workbooks, CDs and DVDs) (2009)

African Australians: a report on human rights and social inclusion issues discussion paper (2009)

Sex Discrimination

Quick guide to effectively preventing and responding to sexual harassment (2008)

Appendix 3: Register of international visitors to the Commission

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The Commission frequently receives international visitors and participates in meetings with individuals and representatives of organisations concerned with human rights.

During 2008-09, the Commission hosted the following international visitors:

September 2008	Susan Biggs, Manager, Strategic Policy, New Zealand Human Rights Commission.
October 2008	Nicola Dandridge, Equality Challenge Unit, United Kingdom.
December 2008	Lord Bingham of Cornhill, Senior Law Lord of the House of Lords. Sekai Holland, Zimbabwean Minister for National Healing, Reconciliation and Integration, and member of the Movement for Democratic Change.
January 2009	Malaysian Human Rights Commission: Chair, Tan Sri, and Commissioner, Dato Choo. Matilda Bogner, Regional Representative, Office of the High Commissioner for Human Rights.
February 2009	Delegation from the Iraqi Ministry of Human Rights. Murray Hunt, Legal Advisor to the UK Parliamentary Joint Committee on Human Rights. Professor Gerard Quinn, Irish Human Rights Commission. The Rt Hon Baroness Scotland QC, Attorney-General, UK. Marites Africa, Executive Director of the Peacemaker's Circle Foundation, and Loreta Castro, the Director of the Centre for Peace Education at Miriam College, Philippines.

Annual Report 2008-09

March 2009	<p>China-Australia Professional Legal Development Program.</p> <p>Delegation of parliamentarians from Uganda.</p> <p>Joris de Bres, New Zealand Race Relations Commissioner, and Sam Sefuiva, Principal Advisor to the New Zealand Human Rights Commission.</p>
April 2009	<p>Delegation led by Professor Xu Xianming, Vice-President, Shandong University, China.</p>
May 2009	<p>Delegation of senior Cambodian government officials and community leaders.</p> <p>Delegation of senior Thai Muslim and Buddhist community leaders.</p> <p>Mufti of Cambodia and staff from the Cambodian Ministry of Women's Affairs.</p> <p>Delegation from Philippine National Police.</p>
June 2009	<p>International Media Visits Department of Foreign Affairs and Trade program for Indian journalists.</p>

Appendix 4:

Freedom of Information

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The *Freedom of Information Act 1982* (Cth) gives the general public legal access to government documents.

Freedom of Information statistics

During 2008-09, the Commission received 13 initial requests for access to documents under the Freedom of Information Act. The Commission was also asked to conduct an internal review of one of those decisions.

Of the 13 initial requests for information, ten were brought by individuals or organisations seeking access to documents relating to themselves.

A total of ten applications and one internal review were processed in this financial year.

Categories of documents

Documents held by the Commission 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
- 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 inquiries about access to Commission documents should be directed to the Freedom of Information Officer by either telephoning (02) 9284 9600 or by writing to:

Freedom of Information Officer
Australian Human Rights Commission
GPO Box 5218
Sydney, NSW 2001

Annual Report 2008-09

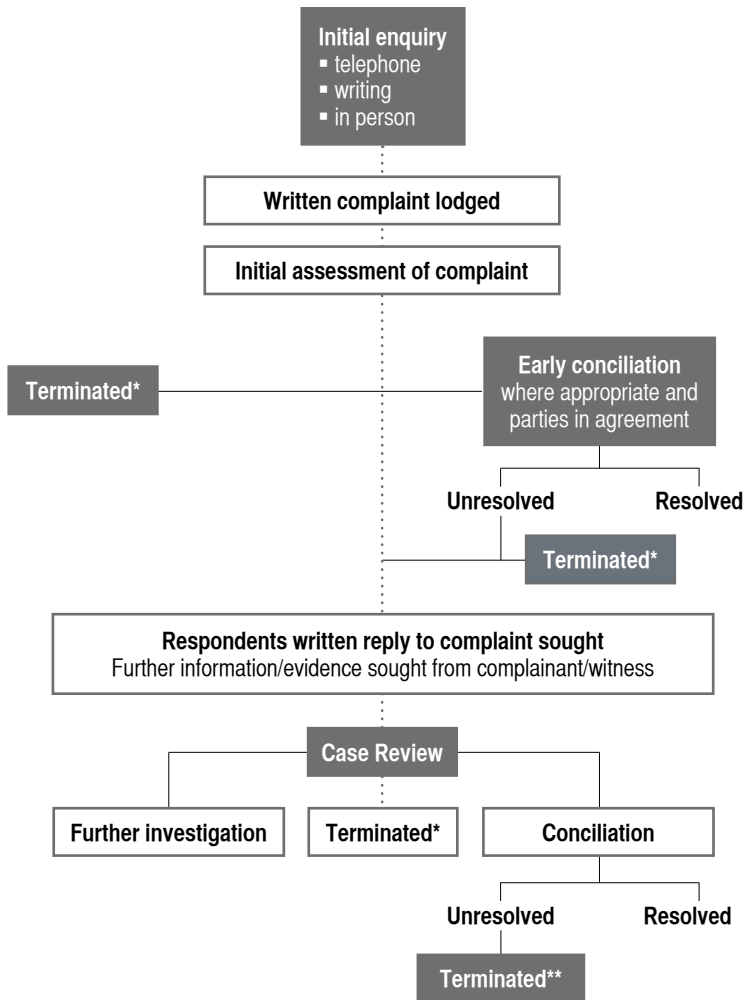
Procedures for dealing with Freedom of Information requests are detailed in section 15 of the Freedom of Information Act. A valid request must:

- be in writing
- be accompanied by a \$30 application fee
- include the name and address of the person requesting the information
- specify the documents to which access is sought.

Appendix 5: Complaint Handling Process

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Figure 8:



* 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 6:

Human Resources and Administrative Services

Performance management and staff development

The Commission reviews staff performance annually through its Performance Management Scheme. The Scheme provides an opportunity to set goals and priorities in line with our Strategic Plan and to 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.

A major learning and development focus for the year was the participation by 16 staff in a social leadership program by the Benevolent Society. This staff development program specifically targeted the first two of the Commission's strategic goals: leadership and empowerment.

The Commission supports additional professional development through its Studies Assistance Program and, across 2008-09, provided assistance to 11 staff in the form of study leave, examination leave and/or financial assistance.

The Commission provided opportunities for work experience and internships through placements in various units with 26 participating in these programs in 2008-09.

Workplace diversity

During 2008-09, the Commission reviewed its Workplace Diversity Plan and supported a range of diversity events, including International Women's Day, NAIDOC Week, Harmony Day and National Families Week. In order to ensure that resources were used economically and opportunities to celebrate and acknowledge various events were undertaken with care, creativity and forward planning, the committee developed a Calendar of Events for 2009.

The Commission has also developed a draft Reasonable Adjustment policy to provide clear and proactive commitment to supporting people with a disability to enter and stay in the workforce.

Reconciliation Action Plan

The Commission launched a new Reconciliation Action Plan (RAP) in December 2008.

The Commission's RAP built on the working draft, which was created in May 2007 to coincide with the 40th Anniversary of the 1967 Referendum. The RAP was developed with Reconciliation Australia.

One of the challenges for the Commission in developing its RAP was separating RAP activities from day-to-day work. Much of the Commission's work, especially the work of the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Social Justice and Native Title Units, is directly focused on reconciliation and protecting the human rights of Aboriginal and Torres Strait Islander people.

The RAP seeks to focus on *how* we do our business, rather than *what* we do. It therefore identifies ways that the Commission can do its core work to better promote reconciliation.

A significant achievement this financial year has been the review of the Commission's Aboriginal and Torres Strait Islander Employment Strategy. The new strategy will provide greater employment opportunities within the Commission and ensure staff retention and professional development. Under the strategy, the Commission has created both a new traineeship and a new cadetship to promote employment opportunities for Aboriginal and Torres Strait Islander peoples.

The RAP has also been the basis for a range of ongoing activities, including the commemoration of, and participation in, significant Indigenous events and Indigenous cultural awareness training for all staff.

The Commission's RAP is available online at: www.humanrights.gov.au/about/rap.html.

Occupational health and safety

The Commission's commitment to staff health and wellbeing, on site and off site, continued with workplace assessments for the resolution of ergonomic issues, access to a software program which encourages staff to take regular breaks throughout the day, and access to preventative and informative health information sessions. The Commission offers support to staff through QUIT smoking programs, flu vaccinations and a Healthy Lifestyle Program.

The Commission 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.

The Occupational Health and Safety Committee reviews any Occupational Health and Safety issues promptly. A scheduled annual workplace inspection ensures that any issues are identified and followed up.

Workplace relations and employment

The Commission's Certified Agreement expired in December 2008. A variation and extension to this Agreement was negotiated with staff and certified by the Australian Industrial Relations Commission on 5 January 2009 for a further three years. The new Agreement offers 18 weeks paid maternity leave, six weeks paid parental leave, and access to extended leave following maternity or parental leave.

To enable staff to maximise their work-life balance, without compromising service delivery, the Commission also introduced a new Workplace Flexibility Policy as

part of these negotiations. The Commission offers a range of flexible work options including part-time employment and flexible working hours.

Salary progression within classification levels is subject to performance assessment. Salary ranges are reflected in Table 42. The Commission has five non-SES staff covered by Australian Workplace Agreements and two on section 24(1) Determinations. There is one SES employee on an Australian Workplace Agreement and one covered by a section 24(1) Determination.

In order to manage its resources more effectively, and achieve the goals set in the Strategic Plan, the Commission reviewed its staffing structure in 2009 to provide a coordinated human rights policy agenda.

Consultancy services

The Commission uses consultants where there is a need to access skills, expertise or independence that is not available within the organisation.

During 2008-09, six new consultancy arrangements were entered into, involving total actual expenditure, including GST, of \$305 008. There were three active part-performed consultancy contracts from prior years. As the prior year contracts were fully expensed and accrued in the year of commitment, payments made in the current reporting period did not give rise to any new expenditure. Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website: www.tenders.gov.au.

Consultant name	Description	Contract price	Selection process*	Justification**
Aust Institute of Aboriginal & Torres Strait Islander Studies	Research and community consultations relating to Indigenous freedom of belief and spirituality.	\$33 000	Select	B & C
Myriad Consultants	Research and community consultations to explore issues and barriers to integration and settlement of African Australians within the Australian community.	\$185 408	Select	C
The University of Queensland	Research and community consultations on issues relating to freedom of artistic and cultural expression.	\$31 600	Select	B & C

Table 41: Consultancy services (continued)				
Consultant name	Description	Contract price	Selection process*	Justification**
Simply Qual	Case study evaluation, for the Adult English as a Second Language project. Involving coordination, analysis and reporting.	\$22 000	Direct source	B & C
Curtin University of Technology	Research project – Impact of the economic downturn on employment of women.	\$11 000	Direct source	B & C
INCA Consulting	Stakeholder study for the Community Partnerships evaluation project. Involving development of interview tools and primary data gathering and analysis.	\$22 000	Direct source	B & C
Total		\$305 008		

* Explanation of selection process terms drawn from the Commonwealth Procurement Guidelines (December 2008):

Select Tender: A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders. This procurement process may only be used under certain defined circumstances.

Direct Sourcing: A form of restricted tendering, available only under certain defined circumstances, with a single potential supplier or suppliers being invited to bid because of their unique expertise and/or their special ability to supply the goods and/or services sought.

** Justification for decision to use consultancy:

- A – skills currently unavailable within the agency
- B – need for specialised or professional skills
- C – need for independent research or assessment.

The Commission’s purchasing procedures adhere to the Procurement Policy Framework incorporating the Commonwealth Procurement Guidelines and Finance circulars issued by the Department of Finance and Deregulation. The procedures address a 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 2008-09.

Ecologically sustainable development and environmental performance

Human rights principles are fundamentally embedded within the principles of ecologically sustainable development. However, the Commission’s activities do not explicitly contribute to ecologically sustainable development, nor impact directly on the environment, other than through the consumption of resources required to maintain its business operations.

The Commission 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.

The Commission has implemented a number of environmentally friendly initiatives to reduce environmental impact. Waste paper, cardboard, printer cartridges and other materials are recycled, subject to the availability of appropriate recycling schemes. The Commission also uses new generation low mercury triphosphor fluorescent tubes.

During 2008-09, the Commission participated in the Earth Hour initiative which was held on 28 March 2009.

Audit committee

Consistent with the Australian Stock Exchange principles of good corporate governance and the requirements of the *Financial Management and Accountability Act 1997* (Cth), the Commission maintains an audit committee. The audit committee advises the President on 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

The Commission has undertaken a Fraud Risk Assessment, developed a Fraud Control Plan and has procedures and processes in place to assist in fraud prevention, detection, investigation and reporting in line with the Commonwealth Fraud Control Guidelines. The Fraud Control Plan is made available electronically to all Commission staff.

Advertising and market research

During the reporting period, Market Focus International was contracted to undertake a national telephone survey of sexual harassment. Total payments of \$62 700 (including GST) were made to the supplier for this purpose.

The Commission paid \$60 279 (including GST) on non campaign advertising (recruitment and rights awareness promotion) during the reporting period.

Staffing

The Commission's average staffing level for the year was 116 staff, with a turnover of 9 percent for ongoing staff. As a result of the Certified Agreement process, the Commission broadbanded classifications APS 1-2 and APS 3-4. An overview of the Commission's staffing profile, as at 30 June 2009, is summarised in the table below. The number of part-time staff excludes casual staff.

Table 42: Commission staffing profile (as at 30 June 2009)

Classification	Male	Female	Full time	Part time	Total ongoing	Total non-ongoing	Total
Statutory Office Holder	2	2	4			4	4
SES Band 2		1		1	1		1
SES Band 1		1	1		1		1
EL 2 (\$91 641 – \$110 114)	10	10	16	4	19	1	20
EL 1 (\$79 457 – \$87 133)	6	22	20	8	20	8	28
APS 6 (\$63 522 – \$71 196)	10	23	27	6	28	5	33
APS 5 (\$57 385 – \$61 980)	2	5	6	1	5	2	7
APS 3/4 (\$46 162 – \$55 863)	4	26	21	9	24	6	30
APS 1/2 (\$35 811 – \$44 944)	1	0	0	1	1	0	1
Total	35	90	95	30	99	26	125

Commonwealth Disability Strategy

The Commission, along with all other Commonwealth agencies, reports annually against the Commonwealth Disability Strategy (CDS) performance framework. The Commission'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 CDS can be found on the Department of Families, Housing, Community Services and Indigenous Affairs website at: www.fahcsia.gov.au/sa/disability/pubs/policy/documents/cds/guide/p1.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 the Commission and evident in the work we do. The CDS identifies four core roles that may be relevant to the agency. The Commission's primary roles are that of policy adviser, service provider and employer. Full details on the policies and services highlighted in the CDS reporting, below, are contained within the relevant chapters of this Annual Report.

The Commission is committed to implementing best practice in relation to the provision and improvement of access to its services for people with disabilities. Examples of best practice include our Complaint Handling processes, online access to our services, website and education material, and consultations with disability groups.

Performance Reporting June 2009

Further details on programs and policies outlined against the performance indicators can be found in the relevant section of the Annual Report.

Policy Adviser Role

The Commission's disability rights programs are planned by reference to the Commission's jurisdiction under the Disability Discrimination Act and the Australian Human Rights 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 2008-09

- Commission public Inquiries and exemption applications specifically seek the views of people with a disability.
- During the development phase of new projects, national peak disability groups and selected regional groups are consulted about their views. In the Disability Rights Unit, compliance is 100 percent.

- All submissions to Inquiries are taken in a range of formats, including verbal/audio (transcribed by the Commission), email and handwritten letters.
- All new initiatives are made publicly available through the Commission's website, and key disability organisations are informed of developments through the Commission's email lists.
- Through the use of the Commission's website and e-based networks, the Commission provides extensive information about new and revised policies and programs, and seeks feedback on their effect at any stage.

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
 - the connection between declining mental health, immigration detention and restrictive visa conditions.
- Each of the five sections of the *African Australians: a report on human rights and social inclusion issues* discussion paper (one of the projects under the Community Partnerships for Human Rights program) included a question that asked: whether a person's experiences were different based on disability; what was the effect; and if examples could be provided.
- The Sex Discrimination Commissioner raised the need for representation of women with disability on the National Council to Reduce Violence against Women and Children with the Minister for the Status of Women.
- The Sex Discrimination Commissioner highlighted the high incidence of violence against women with disability and the need for appropriate service responses.
- The Disability Discrimination Unit and the Social Justice Unit undertook a joint research project that will assess the impacts of hearing impairment and deafness in Indigenous communities. The research contract has been advertised and a tender has been selected. It is anticipated that the research project will be completed during 2009-10.
- In August 2008, the Social Justice Commissioner released a report entitled: *Preventing crime and promoting rights for Indigenous young people with cognitive disabilities and mental health issues*. This report provides an investigation of early intervention and diversionary practices, aimed at preventing offending behaviour in Indigenous young people with a cognitive disabilities and/or mental health problems. It examines services that are available for these young people, identifies systemic service delivery gaps and points to promising interventions that have the capacity to prevent offending behaviour.

Goals and actions for 2009-10

- Promote implementation of the Disability Convention, including promotion of: effective review of laws, policies and programs; awareness of the Convention; and development of NGO strategies to use the Convention.
- Promote adoption and implementation of Disability Discrimination Act Disability Standards.

- Follow up issues for, and the experiences of, people with disabilities that are raised in the national consultation for the *African Australians: a report on human rights and social inclusion issues*, and incorporate them into the final report. The aim of the final report is to suggest solutions to issues that have been raised and inform future policy, program and service design, as well as public debate and education.
- In relevant policy documents and reports, the Sex Discrimination Commissioner will continue to raise the specific issues for women with disability.
- Revise the Commission's Disability Action Plan to include strategies that ensure Commission activities involve assessment of impact on people with a disability.
- In relevant policy documents and reports, the Social Justice Commissioner will continue to raise the specific issues for Aboriginal and Torres Strait Islander people with disability.

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 2008-09

- 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 in writing, through the Commission's website, e-based networks or by phone
 - public forums, conferences and public meetings.
- New initiatives are made publicly available through the Commission's webpage and disability organisations, and individuals are informed of developments through the Commission's listserve.
- Wherever possible, public consultation events occur in accessible venues, with hearing augmentation and sign language interpreters available.

Performance examples

- As part of the materials supporting the National Human Rights Consultation, the Commission prepared specific materials about human rights issues of concern to people with disability. The Commission ensured that all of the workshops held, to encourage participation in the National Human Rights Consultation, were accessible to people with disability. The Commission ensured that Auslan interpreters were available as necessary.

- As part of the national consultations for *African Australians: a report on human rights and social inclusion issues*, a specific consultation session was held with Action on Disabilities in Ethnic Communities, a community-based organisation in Melbourne. (Interested stakeholders were given the opportunity to request a consultation session with the project consultant). Issues and experiences of people with disabilities were raised in several sessions by services providers, advocates, carers and friends of people with disabilities.
- The Sex Discrimination Commissioner held a workshop, on protecting human rights in Australia, for the women's sector in Canberra, in order to support their involvement in the National Human Rights Consultation. The workshop was accessible for women with disabilities, who were specifically invited to attend.
- The Sex Discrimination Commissioner co-hosted an employer forum about preventing and managing sexual harassment in the workplace. The forum was accessible for participants with a disability.
- The Sex Discrimination Commissioner met with the Victorian Women with Disabilities Network to seek their input into the Commission's work on gender based violence.
- Since December 2008, the Social Justice Commissioner has headed a Steering Committee that is undertaking consultations on the formation of a new national Aboriginal and Torres Strait Islander representative body. All consultation materials were produced in accessible formats for people with disabilities, and provision was made for people with disabilities to access national workshops and focus group forums. The discussions that ensued identified the need for a national representative body to reflect the diversity within Aboriginal and Torres Strait Islander communities, including Indigenous people with disabilities and the issues they face.

Goals and actions for 2009-10

- The Sex Discrimination Commissioner will endeavour to ensure that women with disability do not experience barriers to participating in any consultation or policy development processes held by the Commission.

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 2008-09

- All information about new Commission initiatives is available on a W3C/WAI compliant website, simultaneously with public release.
- 100 percent of announcements and information material is available in accessible electronic format.
- 100 percent of material produced is also available in standard print, large print, audio and Braille on request.
- Time taken to produce in other than electronic format varies according to the size of the document, but generally within seven days.

Performance examples

- Development of a Human Rights E-Network in accessible format to WCAG 1 Level A compliance. The aim of the E-Network is to establish an electronic forum and clearing house to communicate across sectors: the community; government; service provision; non-government/advocacy; academic; and other relevant sectors with an interest in racism, cultural and religious diversity and the promotion of human rights.
- The E-Network is undergoing accessibility user testing with people with different disabilities (such as vision impairment, hearing impairment and cognitive disability).
- The Commission ensured that all materials produced to support the National Human Rights Consultation were accessible to people with a disability.
- The Commission funded the production of specific materials for people with an intellectual disability.
- The Commission resourced the development of a plain English publication about the Human Rights consultation, aimed at people with an intellectual disability

Goals and actions 2009-10

- Accessibility issues will be continually addressed throughout the maintenance and implementation of the E-Network site.

Performance examples

- Development of an adult English as a second language curriculum resource with DVD components, captioned for hearing impaired learners, and audio scripts in accessible word documents.
- The *African Australians: a report on human rights and social inclusion issues* discussion paper, and all translated summaries of it, were accessible online from the Commission website, as Word documents and as PDF documents.

Provider Role

Further details about the Commission's complaint handling function, with a full description of its services and relevant statistics can be found in Chapter 4.

Performance indicator 1

Complaints information service provides information about complaint handling service to people with disabilities

Performance measure

- Complaints information service accessible to people with disabilities.
- Number of calls/emails/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, included disability advocacy and disability legal services.

Current level of performance 2008-09

- The Commission's complaints information is available in electronic and alternative formats. Email facility and accessible online complaint form for the lodgement of complaints is available. Telephone and TTY facilities are available, with a national 1300 number at local call cost.
- All complaint handling brochures and publications are available on the Commission'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 the Commission's website. The website is updated regularly.
- Six percent of phone/email/written enquiries to the CHS are related to disability issues.
- 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 2009-10

- Targeted community education and liaison with disability groups and advocacy organisations in all states, in particular regional areas.
- Liaise with Indigenous and disability networks in each state to ensure the CHS is responsive to their needs.
- Liaise with networks working with young and mature/older people with disabilities in order 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 Disability Discrimination Act.
- Number of complaints lodged by people with disabilities under all legislation administered by the Commission.
- Number of complainants who identify the need for specific assistance on intake form.
- Complaints received about accessibility of service.

Current level of performance 2008-09

- 980 complaints were received under the Disability Discrimination Act during 2008-09.
- Complaints were received under all Acts administered by the Commission from people identifying themselves as having a disability. 71 percent of responses to a survey question on demographics indicated the complainant had a disability.
- 226 requests for assistance were recorded including, requests for 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 accessibility of the Commission's complaint handling service or premises. Performance measure = 100 percent.
- The Commission's premises are accessible. Premises used for remote and regional conciliation conferences are accessible. Performance measure = 100 percent.
- The CHS Access Committee reviews access to the CHS service by the community, including a specific focus on people with disabilities.

Goals and actions 2009-10

- Maintain 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.

Annual Report 2008-09

Current level of performance 2008-09

- CHS investigation and conciliation training courses include specific training on accommodating people with disabilities in the complaint handling investigation and conciliation processes. Performance measure = 100 percent.
- Ad hoc CHS training sessions specifically address relevance to people with disabilities who use complaint handling services. Performance measure = 100 percent.
- CHS Complaint Handling Manual advises staff to consider reasonable accommodation for people with disabilities is provided during the investigation and conciliation process, such as provision of Auslan interpreters, use of TTY, use of alternative formats for information. Performance measure = 100 percent.

Goals and actions 2009-10

- 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 Charter of Service which is provided to all parties to a complaint and available on the Commission website. Provided in alternative format on request.

Current level of performance 2008-09

- Charter of Service addresses roles and responsibilities of the Commission and parties.
- One complaint about the accessibility of the CHS was received under the Charter.

Financial Statements

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 AUSTRALIAN HUMAN RIGHTS COMMISSION

FINANCIAL STATEMENTS
for the period ended 30 June 2009

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INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Scope

I have audited the accompanying financial statements of the Australian Human Rights Commission (the Commission) for the year ended 30 June 2009. The financial statements comprise: a Statement by the Chief Executive and Chief Finance Officer; Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies; and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

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*, including Australian Accounting Standards, which include Australian Accounting Interpretations. This includes establishing and maintaining internal controls relevant to the preparation and fair presentation of 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 my audit. I have conducted my audit in accordance with Australian National Audit Office Auditing Standards, which incorporate Australian Auditing Standards. These auditing standards require that I 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 obtaining audit evidence about the amounts and disclosures in the financial statements. The audit 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 these risk assessments, the auditor considers internal controls relevant to the Commission's preparation and fair presentation of the financial statements to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal controls. 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.

PO Box A456 Sydney South NSW 1235
130 Elizabeth Street
SYDNEY NSW
Phone (02) 9367 7100 Fax (02) 9367 7102

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting the audit, I 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 Australian Human Rights Commission:

- (a) have been prepared in accordance with Financial Minister's Orders made under the *Financial Management and Accountability Act 1997*, including Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Human Rights Commission's financial position as at 30 June 2009 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



P Hinchey
Senior Director
Delegate of the Auditor-General

Sydney
27 August 2009

AUSTRALIAN HUMAN RIGHTS COMMISSION

FINANCIAL STATEMENTS

for the period ended 30 June 2009

STATEMENT BY THE CHIEF EXECUTIVE AND CHIEF FINANCE OFFICER

In our opinion, the attached financial statements for the period ended 30 June 2009 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. Catherine Branson QC
President & Chief Executive

25 August 2009



David Richards
Chief Finance Officer

25 August 2009

AUSTRALIAN HUMAN RIGHTS COMMISSION

INCOME STATEMENT*for the period ended 30 June 2009*

	Notes	2009 \$'000	2008 \$'000
INCOME			
Revenue			
Revenue from Government	3A	13,550	14,981
Sale of goods and rendering of services	3B	5,164	4,510
Other revenue	3C	49	49
Total revenue		18,763	19,540
Gains			
Other gains	3D	45	45
Total gains		45	45
TOTAL INCOME		18,808	19,585
EXPENSES			
Employee benefits	4A	11,036	10,750
Suppliers	4B	8,218	8,622
Depreciation and amortisation	4C	266	380
Finance costs	4D	25	23
Write-down and impairment of assets	4E	18	13
TOTAL EXPENSES		19,563	19,788
DEFICIT		(755)	(203)

The above statement should be read in conjunction with the accompanying notes.

BALANCE SHEET

as at 30 June 2009

	Notes	2009 \$'000	2008 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	1,150	511
Trade and other receivables	5B	6,658	7,440
Total financial assets		7,808	7,951
Non-Financial Assets			
Infrastructure, plant and equipment	6A,D	1,413	1,626
Intangibles	6B,E	36	20
Other non-financial assets	6C	191	250
Total non-financial assets		1,640	1,896
TOTAL ASSETS		9,448	9,847
LIABILITIES			
Payables			
Suppliers	7A	510	311
Other payables	7B	466	1,069
Total payables		976	1,380
Non-Interest Bearing Liabilities			
Lease incentives	8A	97	146
Total non-interest bearing liabilities		97	146
Provisions			
Employee provisions	9A	2,558	2,376
Other provisions	9B	2,945	2,190
Total provisions		5,503	4,566
TOTAL LIABILITIES		6,576	6,092
NET ASSETS		2,872	3,755
EQUITY			
Contributed equity		1,342	1,342
Reserves		823	1,094
Retained surplus		707	1,319
TOTAL EQUITY		2,872	3,755
Current Assets		7,892	8,040
Non-Current Assets		1,556	1,807
Current Liabilities		3,067	4,518
Non-Current Liabilities		3,509	1,574

The above statement should be read in conjunction with the accompanying notes.

STATEMENT OF CHANGES IN EQUITY
for the period ended 30 June 2009

	Retained Earnings		Asset Revaluation Reserves		Contributed Equity/Capital		Total Equity	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Opening balance								
Balance carried forward from previous period	1,319	1,426	1,094	1,763	1,342	1,231	3,755	4,420
Adjustment for prior year accounting error	(3)	96	-	-	-	-	(3)	96
Adjustment for changes in prior year provisions	146	-	-	-	-	-	146	-
Adjusted opening balance	1,462	1,522	1,094	1,763	1,342	1,231	3,898	4,516
Income and expenses								
Revaluations recognised directly in equity:								
Computer plant and equipment	-	-	29	103	-	-	29	103
Leasehold improvements	-	-	(300)	(772)	-	-	(300)	(772)
Sub-total income and expenses recognised directly in equity	-	-	(271)	(669)	-	-	(271)	(669)
Deficit for the period	(755)	(203)	-	-	-	-	(755)	(203)
Total income and expenses	(755)	(203)	(271)	(669)	-	-	(1,297)	(872)
Contributions by Owners								
Appropriation (equity injection)	-	-	-	-	-	111	-	111
Sub-total transactions with owners	-	-	-	-	-	111	-	111
Closing balance at 30 June attributable to the Australian Government	707	1,319	823	1,094	1,342	1,342	2,872	3,755

The above statement should be read in conjunction with the accompanying notes.

CASH FLOW STATEMENT*for the period ended 30 June 2009*

	2009 \$'000	2008 \$'000
Notes		
OPERATING ACTIVITIES		
Cash received		
Goods and services	6,465	4,648
Appropriations	13,550	14,981
Net GST received	59	297
Cash from the Official Public Account	1,500	-
Total cash received	<u>21,574</u>	<u>19,926</u>
Cash used		
Employees	(10,855)	(10,252)
Suppliers	(9,321)	(8,771)
Total cash used	<u>(20,176)</u>	<u>(19,023)</u>
Net cash from operating activities	10 <u>1,398</u>	<u>903</u>
INVESTING ACTIVITIES		
Cash used		
Purchase of property, plant and equipment	(267)	(268)
Purchase of intangibles	(30)	(17)
Total cash used	<u>(297)</u>	<u>(285)</u>
Net cash used by investing activities	<u>(297)</u>	<u>(285)</u>
FINANCING ACTIVITIES		
Cash received		
Contributed equity	-	111
Total cash received	-	111
Cash used		
Other cash used	(462)	(1,500)
Total cash used	<u>(462)</u>	<u>(1,500)</u>
Net cash used by financing activities	<u>(462)</u>	<u>(1,389)</u>
Net increase/(decrease) in cash held	<u>639</u>	<u>(771)</u>
Cash and cash equivalents at the beginning of the reporting period	511	1,282
Cash and cash equivalents at the end of the reporting period	5A <u>1,150</u>	<u>511</u>

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN HUMAN RIGHTS COMMISSION

SCHEDULE OF COMMITMENTS

as at 30 June 2009

BY TYPE	2009 \$'000	2008 \$'000
Commitments Receivable		
Sublease rental income	(1,416)	(2,176)
Other commitments receivable	(1,531)	(4,012)
Total Commitments Receivable	(2,947)	(6,188)
Capital Commitments		
Infrastructure, plant and equipment ¹	3	179
Total capital commitments	3	179
Other commitments		
Operating leases ²	5,252	7,971
Other commitments payable	949	126
Total other commitments	6,201	8,097
Net commitments by type	3,257	2,088
BY MATURITY		
Commitments receivable		
Operating lease income		
One year or less	(704)	(777)
From one to five years	(712)	(1,399)
Total operating lease income	(1,416)	(2,176)
Other commitments receivable		
One year or less	(1,299)	(1,137)
From one to five years	(232)	(2,875)
Total other commitments receivable	(1,531)	(4,012)
Commitments payable		
Capital commitments		
One year or less	3	179
Total capital commitments	3	179
Operating lease commitments		
One year or less	2,702	2,660
From one to five years	2,550	5,311
Total operating lease commitments	5,252	7,971
Other Commitments		
One year or less	912	93
From one to five years	37	33
Total other commitments	949	126
Net Commitments by Maturity	3,257	2,088

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.

SCHEDULE OF CONTINGENCIES*as at 30 June 2009*

	2008	2007
	\$'000	\$'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.

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

Note 1: Summary of Significant Accounting Policies

1.1 Objectives of the Australian Human Rights Commission

The Australian Human Rights Commission (the Commission) is an Australian Government agency. 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 human rights are respected, protected and promoted through independent investigation and resolution of complaints, education and research to promote and eliminate discrimination, and monitoring, and reporting on human rights."

Commission activities contributing toward these outcomes are classified as departmental. Departmental activities involve the use of assets, liabilities, income 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) for reporting periods ending on or after 1 July 2008; 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 FMO, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity 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 unrecognised are reported in the schedule of commitments and the schedule of contingencies.

Unless alternative treatment is specifically required by an accounting standard, income 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.

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

1.4 Changes in Australian Accounting Standards

Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date as stated in the standard. No new accounting standards, amendments to standards issued by the Australian Accounting Standards Board that are applicable in the current period have had a material affect on the Commission.

Future Australian Accounting Standard Requirements

New standards, amendments to standards, and interpretations that are applicable to future periods have been issued by the Australian Accounting Standards Board. It is estimated that adopting these pronouncements, when effective, will have no material impact on future reporting periods.

1.5 Revenue

Revenue from Government

Amounts appropriated for departmental output 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 entity.

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 associated with the transaction will flow to the entity.

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 impairment allowance account. Collectability of debts is reviewed at balance date. Allowances are made when collectability of the debt is no longer probable.

1.6 Gains

Other Resources Received Free of Charge

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

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.

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

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 *Employee Benefits*) 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 at the estimated salary rates that applied at the time the leave is taken, 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 2009. 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.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

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.

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

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 in bank accounts 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 cost.

Impairment of Financial Assets

Financial assets are assessed for impairment at each balance date.

- *financial assets held at cost* - if there is objective evidence that an impairment loss has been incurred for loans and receivables held at cost, the amount of the loss is measured as the difference between the asset's carrying amount and the original value of the asset. 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.

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.13 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.

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 value
Leasehold improvements	Depreciated replacement cost

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent 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 operating result. Revaluation decrements for a class of assets are recognised directly through 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.

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Australian Human Rights Commission Notes to and forming part of the financial statements for the period ended 30 June 2009

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>2009</u>	<u>2008</u>
Leasehold improvements	Lease term	Lease term
Computer, plant and equipment	4 to 10 years	4 to 10 years

Impairment

All assets are assessed for impairment at 30 June. 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 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 (2007-08: 2 to 5 years).

All software assets have been assessed for indications of impairment as at 30 June 2009.

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.

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

Note 3: Income

	2009 \$'000	2008 \$'000
Note 3A: Revenue from Government		
Appropriations:		
Departmental outputs	13,550	14,981
Total revenue from Government	13,550	14,981
Note 3B: Sale of Goods and Rendering of Services		
Provision of goods - related entities	-	1
Provision of goods - external parties	5	16
Rendering of services - related entities	4,744	4,217
Rendering of services - external parties	415	276
Total sale of goods and rendering of services	5,164	4,510
Note 3C: Other Revenue		
Deferred revenue	49	49
Total other revenue	49	49
Note 3D: Other Gains		
Resources received free of charge	45	45
Total other gains	45	45

Note 4: Expenses

	2009 \$'000	2008 \$'000
Note 4A: Employee Benefits		
Wages and salaries	8,633	8,328
Superannuation:		
Defined contribution plans	590	144
Defined benefit plans	768	1,100
Leave and other entitlements	806	1,000
Separation and redundancies	169	101
Other employee expenses	70	77
Total employee benefits	11,036	10,750
Note 4B: Suppliers		
Provision of goods – related entities	4	10
Provision of goods – external parties	756	850
Rendering of services – related entities	881	912
Rendering of services – external parties	4,483	4,903
Operating lease rentals - external parties:		
Minimum lease payments	2,055	1,913
Workers compensation premiums	39	34
Total supplier expenses	8,218	8,622

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Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

Note 4: Expenses (continued)

	2009 \$'000	2008 \$'000
Note 4C: Depreciation and Amortisation		
Depreciation		
Infrastructure, plant and equipment:		
Computer, plant and equipment	175	215
Total depreciation	175	215
Amortisation		
Infrastructure, plant and equipment:		
Leasehold improvements	22	109
Deferred costs - make good	55	50
Intangibles		
Computer Software	14	6
Total amortisation	91	165
Total depreciation and amortisation	266	380
Note 4D: Finance Costs		
Unwinding of discount	25	23
Total finance costs	25	23
Note 4E: Write-Down and Impairment of Assets		
Financial assets		
Bad debts expense	2	1
Non-financial assets		
Infrastructure, plant and equipment - written off	16	12
Total write-down and impairment of assets	18	13

Note 5: Financial Assets

	2009 \$'000	2008 \$'000
Note 5A: Cash and Cash Equivalents		
Cash on hand or on deposit	1,150	511
Total cash and cash equivalents	1,150	511

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

Note 5: Financial Assets (continued)

	2009	2008
	\$'000	\$'000
Note 5B: Trade and Other Receivables		
Goods and services - related entities	360	44
Goods and services - external parties	86	117
Total receivables for goods and services	446	161
Appropriations receivable:		
for existing outputs	6,212	7,250
Total appropriations receivable	6,212	7,250
GST receivable from the Australian Taxation Office	-	29
Total trade and other receivables (gross)	6,658	7,440

All trade and other receivable assets are current.

Receivables are aged as follows:

Not overdue	6,636	7,431
Overdue by:		
Less than 30 days	22	1
30 to 60 days	-	-
61 to 90 days	-	-
More than 90 days	-	8
Total receivables (gross)	6,658	7,440

Note 6: Non-Financial Assets

	2009	2008
	\$'000	\$'000
Note 6A: Infrastructure, Plant and Equipment		
Computer, plant and equipment		
Gross carrying value (at fair value)	722	635
Accumulated depreciation	-	-
Total computer, plant and equipment	722	635
Leasehold improvements		
Gross carrying value (at fair value)	691	991
Accumulated depreciation	-	-
Total leasehold improvements	691	991
Total infrastructure, plant and equipment (non-current)	1,413	1,626

All revaluations were conducted in accordance with the revaluation policy stated at Note 1. In 2008-09, an independent valuer (AON Valuation Services) conducted the revaluations.

A revaluation decrement of \$299,990 for leasehold improvements (2008: decrement of \$771,960) was credited to the revaluation reserve and a revaluation increment of \$28,698 for computer, plant and equipment was debited to the asset revaluation reserve by asset class and included in the equity section of the balance sheet; no increments or decrements were expensed (2008: nil expensed).

No indicators of impairment were found for infrastructure, plant and equipment.

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Australian Human Rights Commission
notes to and forming part of the financial statements
for the period ended 30 June 2009

Note 6: Non-Financial Assets (continued)

	2009 \$'000	2008 \$'000
Note 6B: Intangibles		
Computer software (at cost)		
Internally developed – in use	440	410
Internally customised – in use	28	28
Total Computer Software	468	438
Accumulated amortisation	(432)	(418)
Total intangibles (non-current)	36	20

No indicators of impairment were found for intangible assets.

Note 6C: Other Non-Financial Assets

Prepayments	84	89
Deferred costs - make good	388	388
Accumulated amortisation - make good	(281)	(227)
Total other non-financial assets	191	250

No indicators of impairment were found for other non-financial assets.

All other non-financial assets are represented by:

Current	84	89
Non-current	107	161
Total other non-financial assets	191	250

Note 6D: Analysis of Infrastructure, Plant and Equipment

TABLE A – Reconciliation of the opening and closing balances of infrastructure, plant and equipment (2008-09)

Item	Infrastructure, plant and equipment		
	Computer, plant & equipment \$'000	Leasehold improvements \$'000	Total \$'000
As at 1 July 2008			
Gross book value	635	991	1,626
Accumulated depreciation/amortisation and impairment	-	-	-
Net book value 1 July 2008	635	991	1,626
Additions:			
By purchase	245	22	267
By transfer	4	-	4
Revaluations and impairments through equity	29	(300)	(271)
Depreciation/amortisation expense	(175)	(22)	(197)
Disposals:			
Other disposals	(16)	-	(16)
Net book value 30 June 2009	722	691	1,413
Net book value as of 30 June 2009 represented by:			
Gross book value	722	691	1,413
Accumulated depreciation/amortisation and impairment	-	-	-
	722	691	1,413

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

Note 6: Non-Financial Assets (continued)

Note 6D: Analysis of Infrastructure, Plant and Equipment (continued)

TABLE A – Reconciliation of the opening and closing balances of infrastructure, plant and equipment (2007-08)

Item	Infrastructure, plant and equipment		
	Computer, plant & equipment	Leasehold improvements	Total
	\$'000	\$'000	\$'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)
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

Note 6E: Analysis of Intangibles

Table B: Reconciliation of the opening and closing balances of intangibles (2008-09)

Item	Intangibles	
	Computer software	Total
	\$'000	\$'000
As at 1 July 2008		
Gross book value	438	438
Accumulated depreciation/amortisation and impairment	(418)	(418)
Net book value 1 July 2008	20	20
Additions:		
By purchase or internally developed	30	30
Amortisation	(14)	(14)
Net book value 30 June 2009	36	36
Net book value as of 30 June 2009 represented by:		
Gross book value	468	468
Accumulated amortisation and impairment	(432)	(432)
	36	36

Table B: Reconciliation of the opening and closing balances of intangibles (2007-08)

Item	Intangibles	
	Computer software	Total
	\$'000	\$'000
As at 1 July 2007		
Gross book value	421	421
Accumulated amortisation and impairment	(412)	(412)
Net book value 1 July 2007	9	9
Additions:		
By purchase or internally developed	17	17
Amortisation	(6)	(6)
Net book value 30 June 2008	11	11
Net book value as of 30 June 2008 represented by:		
Gross book value	438	438
Accumulated amortisation and impairment	(418)	(418)
	20	20

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Australian Human Rights Commission
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Note 7: Payables

	2009 \$'000	2008 \$'000
Note 7A: Suppliers		
Trade creditors	510	311
Total supplier payables	510	311
Supplier payables - related entities are represented by:		
Current	62	93
Supplier payables - external parties are represented by:		
Current	448	218
Total supplier payables	510	311

Settlement is generally made in accordance with the terms of the supplier invoice.

Note 7B: Other Payables

Accrued expenses	447	1,069
GST payable to the ATO	19	-
Total Other Payables	466	1,069
Other payables - related entities are represented by:		
Current	143	110
Other payables - external parties are represented by:		
Current	289	380
Non-current	34	579
Total other payables	466	1,069

Note 8: Non-interest Bearing Liabilities

	2009 \$'000	2008 \$'000
Note 8A: Other Non-interest Bearing Liabilities		
Lease incentives ¹	97	146
Total other non-interest bearing liabilities	97	146
Other non-interest bearing liabilities are expected to be settled in:		
Less than 12 months	49	49
More than 12 months	48	97
	97	146

Details of non-interest bearing liabilities:

- i. Lease incentive included in property operating lease

Note 9: Provisions

	2009 \$'000	2008 \$'000
Note 9A: Employee Provisions		
Salaries and wages	136	101
Leave	2,384	2,241
Superannuation	25	15
Other	13	19
Total employee provisions	2,558	2,376
Employee provisions are represented by:		
Current	2,076	1,963
Non-current	482	413
Total employee provisions	2,558	2,376

The classification of current employee provisions includes amounts for which there is not an unconditional right to defer settlement by one year, hence in the case of employee provisions the above classification does not represent the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in twelve months from the reporting date were \$983,255 (2008: \$1,135,293), and in excess of one year \$1,578,362 (2008: \$1,241,818).

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Note 9: Provisions (continued)

	2009	2008
	\$'000	\$'000
Note 9B: Other Provisions		
Revenue received in advance	2,416	1,442
Provision for contract obligations	19	263
Provision for restoration obligations	510	485
Total other provisions	2,945	2,190
Other provisions are represented by:		
Current	2,435	1,705
Non-current	510	485
Total other provisions	2,945	2,190

	Revenue received in advance \$'000	Provision for contract obligations \$'000	Provision for restoration obligations \$'000	Total \$'000
Carrying amount 1 July 2008	1,442	263	485	2,190
Additional provisions made	4,111	16	-	4,127
Amounts used	(3,137)	(260)	-	(3,397)
Amounts reversed	-	-	-	-
Unwinding of discount	-	-	25	25
Closing balance 2009	2,416	19	510	2,945

The Commission currently has an agreement for the leasing of premises which have provisions requiring the Commission to restore the premises to their original condition at the conclusion of the lease. The Commission has made a provision to reflect the present value of this obligation.

Note 10: Cash Flow Reconciliation

Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement

	2009	2008
	\$'000	\$'000
Report cash and cash equivalents as per:		
Cash flow statement	1,150	511
Balance sheet	1,150	511
Difference	-	-

Reconciliation of operating result to net cash from operating activities:

Operating result	(755)	(203)
Depreciation /amortisation	266	380
Finance costs and restoration obligations	25	23
Net write down of financial assets	(2)	(1)
Net write down of non-financial assets	16	12
Adjustment for prior year accounting error	(3)	96
Adjustment for changes in prior year provisions	146	-
Cash transferred from the Official Public Account	1,500	-
(Increase) / decrease in net receivables	(256)	(99)
(Increase) / decrease in prepayments	5	64
Increase / (decrease) in employee provisions	182	498
Increase / (decrease) in supplier payables	199	69
Increase / (decrease) in accrued expenses	(622)	645
Increase / (decrease) in other provisions	730	(532)
Increase / (decrease) in other payables	19	-
Increase / (decrease) non-interest bearing liabilities	(49)	(49)
Net cash from operating activities	1,398	903

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Australian Human Rights Commission Notes to and forming part of the financial statements for the period ended 30 June 2009

Note 11: Contingent Liabilities and Assets

Unquantifiable Contingencies

At 30 June 2009, the Commission was named as a respondent in one application before the Federal Court and one matter before the Administrative Appeals Tribunal.

The Commission is also appearing in one matter as an intervener before the Family Court of Australia.

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 in these matters.

Note 12: Senior Executive Remuneration

	<u>2009</u>	<u>2008</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	6	9
\$145 000 to \$159 999	2	1
\$160 000 to \$174 999	1	-
\$190 000 to \$204 999	2	2
\$205 000 to \$219 999	-	1
\$235 000 to \$249 999	-	1
\$250 000 to \$264 999	2	1
\$265 000 to \$279 999	1	-
Total	<u>14</u>	<u>15</u>
The aggregate amount of total remuneration of senior executives shown above.	<u>\$2,479,004</u>	<u>\$2,480,957</u>
The aggregate amount of separation and redundancy/termination benefit payments during the year to executives shown above.	<u>Nil</u>	<u>Nil</u>

Note 13: Remuneration of Auditors

	<u>2009</u>	<u>2008</u>
	<u>\$'000</u>	<u>\$'000</u>
Financial statement audit services were 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>45</u>	<u>45</u>

No other services were provided by the Auditor-General.

Australian Human Rights Commission
Notes to and forming part of the financial statements
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Note 14: Financial Instruments

	2009	2008
	\$'000	\$'000
Note 14A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables:		
Cash and cash equivalents	1,150	511
Trade receivables	446	190
Appropriation receivable	6,212	7,250
Carrying amount of financial assets	7,808	7,951
Financial Liabilities		
Other liabilities:		
Trade creditors	510	311
Accrued expenses	466	1,069
Lease incentives	97	146
Revenue received in advance	2,416	1,442
Carrying amount of financial liabilities	3,489	2,968

14B: Fair value of financial instruments

	Carrying amount	Fair value	Carrying amount	Fair value
	2009	2009	2008	2008
	\$'000	\$'000	\$'000	\$'000
Financial Assets				
Cash and cash equivalents	1,150	1,150	511	511
Trade receivables	446	446	190	190
Appropriation receivable	6,212	6,212	7,250	7,250
Total	7,808	7,808	7,951	7,951
Financial Liabilities				
Trade creditors	510	510	311	311
Accrued expenses	466	466	1,069	1,069
Lease incentives	97	97	146	146
Revenue received in advance	2,416	2,416	1,442	1,442
Total	3,489	3,489	2,968	2,968

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.

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Australian Human Rights Commission
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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
	2009	2008	2009	2008
	\$'000	\$'000	\$'000	\$'000
Loans and receivables				
Cash and cash equivalents	1,150	511	-	-
Trade receivables	886	181	22	9
Appropriation receivable	5,750	7,250	-	-
Total	7,786	7,942	22	9

Ageing of financial assets that are past due but not impaired for 2009:

	0 to 30 days	31 to 60 days	61 to 90 days	90+ days	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Loans and receivables					
Trade receivables	22	-	-	-	22
Total	22	-	-	-	22

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+ days	Total
	\$'000	\$'000	\$'000	\$'000	\$'000
Loans and receivables					
Trade receivables	1	-	-	8	9
Total	1	-	-	8	9

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
	2009	2009	2009	2009	2009
	\$'000	\$'000	\$'000	\$'000	\$'000
Other liabilities					
Trade creditors	-	510	-	-	510
Accrued expenses	-	-	-	-	-
Lease incentives	-	49	56	-	105
Revenue received in advance	-	2,056	-	-	2,056
Total	-	2,615	56	-	2,671

	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

Australian Human Rights Commission
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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	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance brought forward from previous period	7,758	7,012	7,758	7,012
Appropriation Act:				
Appropriation Act (No.1) 2008-09	13,550	15,500	13,550	15,500
Appropriation Act (No.3) 2008-09	-	(519)	-	(519)
Appropriation Act (No.5) 2008-09	-	-	-	-
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)	59	297	59	297
Annotations to 'net appropriations' (FMA section 31)	6,465	4,648	6,465	4,648
Adjustment of appropriations on change of entity function (FMA section 32)	-	-	-	-
Total appropriation available for payments	27,832	26,938	27,832	26,938
Cash payments made during the year (GST inclusive)	20,473	19,180	20,473	19,180
Appropriations credited to Special Accounts (excluding GST)	-	-	-	-
Balance of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations	7,359	7,758	7,359	7,758
Represented by:				
Cash at bank and on hand	1,147	508	1,147	508
Departmental appropriations receivable	6,212	7,250	6,212	7,250
Undrawn, unexpired administered appropriations	-	-	-	-
Total	7,359	7,758	7,359	7,758

Departmental and non-operating appropriations do not lapse at financial year end.

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Australian Human Rights Commission
Notes to and forming part of the financial statements
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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	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance brought forward from previous period	3	20	3	20
Appropriation Act:				
Appropriation Act (No.2) 2008-09	-	111	-	111
Appropriation Act (No.4) 2008-09	-	-	-	-
Appropriation Act (No.6) 2008-09	-	-	-	-
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	-	131
Cash payments made during the year (GST inclusive)	-	128	-	128
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	3	3	3
Represented by:				
Cash at bank and on hand	3	3	3	3
Appropriation receivable	-	-	-	-
Undrawn, unlapsd administered appropriations	-	-	-	-
Total	3	3	3	3

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 2008-09 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.

Australian Human Rights Commission
Notes to and forming part of the financial statements
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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	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Expenses				
Departmental	19,563	19,788	19,563	19,788
Total expenses	19,563	19,788	19,563	19,788
Costs recovered from provision of goods and services to the non government sector				
Departmental	420	292	420	292
Total costs recovered	420	292	420	292
Other external revenues				
Departmental	4,793	4,218	4,793	4,218
Total other external revenues	4,793	4,218	4,793	4,218
Net cost/(contribution) of outcome	14,350	15,278	14,350	15,278

Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to the Outcome Resourcing Table on page 11 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	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Departmental expenses				
Employee benefits	11,036	10,750	11,036	10,750
Suppliers	8,218	8,622	8,218	8,622
Depreciation and amortisation	266	380	266	380
Finance costs	25	23	25	23
Other expenses	18	13	18	13
Total departmental expenses	19,563	19,788	19,563	19,788
Funded by:				
Revenues from Government	13,550	14,981	13,550	14,981
Sales of goods and services	5,164	4,510	5,164	4,510
Other revenues	49	49	49	49
Total departmental revenues	18,763	19,540	18,763	19,540

Australian Human Rights Commission
Notes to and forming part of the financial statements
for the period ended 30 June 2009

Note 17: Reporting of Outcomes

Note 17C:
Major Classes of Departmental Assets and Liabilities by Output Group and Output

Outcome 1	Output 1		Outcome 1 Total	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Departmental assets				
Cash and cash equivalents	1,150	511	1,150	511
Trade and other receivables	6,658	7,440	6,658	7,440
Infrastructure, plant and equipment	1,413	1,626	1,413	1,626
Intangibles	36	20	36	20
Other non-financial assets	191	250	191	250
Total departmental assets	9,448	9,847	9,448	9,847
Departmental liabilities				
Suppliers	510	311	510	311
Employee provisions	2,558	2,376	2,558	2,376
Lease incentives	97	146	97	146
Other provisions and payables	3,411	3,259	3,411	3,259
Total departmental liabilities	6,576	6,092	6,576	6,092

Glossary

A

ADEC	Action on Disabilities in Ethnic Communities
AGIMO	Australian Government Information Management Office
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
ALP	Australian Labor Party
APF	Asia-Pacific Forum of National Human Rights Institutions – a member-based organisation that supports the establishment and strengthening of independent human rights institutions in the Asia-Pacific region.
APS	Australian Public Service
ARA	Australasian Railways Association
ASTRA	Australian Subscription Television Association
ATSIC	Aboriginal and Torres Strait Islander Commission
AusAID	Australian Agency for International Development
Auslan	Australian Sign Language, the language of the deaf community in Australia.
Action Plan	A voluntary mechanism for organisations to structure their own compliance efforts.
Amicus curiae	‘Friend of the court’ – The role of an <i>amicus curiae</i> is to provide special assistance to the court in resolving issues raised by a case, and to draw attention to aspects of the case that might otherwise have been overlooked.

C

CDS	Commonwealth Disability Strategy
CEDAW	<i>Convention on the Elimination of All Forms of Discrimination Against Women</i>
CHS	Complaint Handling Section
CLE	Community Legal Education
COAG	Council of Australian Governments
CSIRO	Commonwealth Scientific and Industrial Research Organisation
CSW	United Nations Commission on the Status of Women
Commission, the	The Australian Human Rights Commission
Consultancy contract	A contract that typically defines the nature, purpose and duration of the task to be performed, but not (in any detail) the manner in which the task is to be performed by a consultant. The consultant is usually paid on completion of milestones or in a lump sum.

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Consultancy service	A particular type of service delivered under a contract for services, distinguished from other contracts by the nature of the work performed. Consultancy services involve the application of expert professional skills to: investigate or diagnose a defined issue or problem, carry out defined research, reviews or evaluations; or provide independent advice, information or creative solutions to assist the agency in management decision making.
Consultant	An entity (whether an individual, a partnership or a corporation) engaged to provide professional independent and expert advice or services. Consultants are not employees of the department and are not paid wages or other employee entitlements.
Corporate Social Responsibility	The concept of Corporate Social Responsibility is generally understood to mean that corporations have a degree of responsibility not only for the economic consequences of their activities, but also for the social and environmental implications. This is sometimes referred to as a 'triple bottom line' approach that considers the economic, social and environmental aspects of corporate activity.

D

DDPA	Durban Declaration and Programme of Action
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship
DIMIA	Department of Immigration and Multicultural and Indigenous Affairs
DPO	Disabled people's organisations
Disability Convention	<i>United Nations Convention on the Rights of Persons with Disabilities</i>

E

EEO	Equal Employment Opportunity
EL	Executive Level
Expert Mechanism	Expert Mechanism on the Rights of Indigenous Peoples. Composed of five experts (from Congo, Malaysia, Norway, Costa Rica and the Philippines), the Expert Mechanism provides thematic expertise on the rights of indigenous peoples to the Human Rights Council, the main human rights body of the United Nations.

F

FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
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G

GST	Goods and Services Tax
General Assembly	The United Nations General Assembly – one of the five principal organs of the United Nations and the only one in which all member nations have equal representation. Its powers are to oversee the budget of the United Nations, appoint the non-permanent members to the Security Council, receive reports from other parts of the United Nations and make recommendations in the form of General Assembly Resolutions.

H

HREOCA	<i>Human Rights and Equal Opportunity Commission Act 1986</i>
HRTC	Human Rights Technical Cooperation Program

I

IDLO	International Development Labour Organization – dedicated to bringing decent work and livelihoods, job-related security and better living standards to the people of both poor and rich countries.
IPO	Indigenous Peoples Organisations Network of Australia – an association of Aboriginal and Torres Strait Islander organisations that promotes and protects the human rights of the Aboriginal and Torres Strait Islander people in Australia.

K

KARG	Key Agencies Reference Group on Age Discrimination
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N

NGO	Non Government Organisation
NHRI	National Human Rights Institution
NPM	National Preventative Mechanism
National Action Plan	National Action Plan to Build on Social Cohesion, Harmony and Security
Native title	A pre-existing property interest, held communally or individually by Aboriginal peoples and Torres Strait Islanders, which is capable of being recognised by Australia's common law. Native title can exist over land and waters where Aboriginal people or Torres Strait Islanders maintain traditional laws and customs that give them a connection to the specified area. Native title rights are not granted by governments or courts. Native title is not an underlying title, but rather a bundle of rights that can be extinguished by inconsistent acts of government.

O

OPCAT	<i>Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</i> – an international agreement which establishes a two-tiered system of inspections of places of detention, with the aim of preventing torture and cruel, inhuman or degrading treatment or punishment.
Operations	Functions, services and processes performed in pursuing the objectives or discharging the functions of an agency.
Outcomes	The results, impacts or consequence of actions by an agency on the Australian community.
Outputs	The goods or services produced by agencies on behalf of government for external organisations or individuals. Outputs include goods and services produced for other areas of government external to an agency.

P

Pacific Disability Forum	The peak non-government organisation in the Pacific which represents Pacific Islanders with disabilities, their rights and entitlements. Its purpose is to promote and facilitate Pacific regional cooperation on disability-related concerns for the benefit of people with disabilities.
Permanent Forum	United Nations Permanent Forum on Indigenous Issues – An advisory body to the United Nations Economic and Social Council with a mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights.

R

RAP	Reconciliation Action Plan – A self-generated plan that helps organisations build positive relationships between Indigenous and non-Indigenous people, through engagement within their sphere of influence, in the national effort to close the gap in life expectancy between Indigenous and other Australians.
REX	Regional Express Airways
RMIT	Royal Melbourne Institute of Technology University
RSS	Really Simple Syndication – a means of distributing changing web content to different users and other websites e.g., distributing news headlines.

S

SES	Senior Executive Service
SMS	Short message service – text messaging on a mobile telephone.
Sex files	Sex files: the legal recognition of sex in documents and government records (the Sex and gender diversity project).
Service charter	Public statements about the service that a department or agency will provide.

T

TTY	Text Telephone – a special device that lets people who are deaf, hearing impaired, or speech-impaired use the telephone to communicate, by allowing them to type messages back and forth to one another, instead of talking and listening.
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U

UN	The United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNPFII	United Nations Permanent Forum on Indigenous Issues
Unique visits	The presence in a website of a user with a specific IP address who has not visited the site recently (typically, anytime within the past 30 minutes). The number of these user sessions (unique visits) per day is one measure of how much traffic a website has. A user who visits a site at noon and then again at 3:30 pm would count as two user visits.

Universal Declaration of Human Rights	Adopted unanimously by the members of the United Nations on 10 December 1948, the Universal Declaration is the foundation on which much international law has been based. It sets out the fundamental rights of all people, including the right to life; freedom from slavery, torture and arbitrary arrest; freedom of thought, opinion and religion; the right to a fair trial and equality before the law; the right to work and education; and the right to participate in the social, political and cultural life of one's country.
UTS	University of Technology Sydney
W	
W3C	World Wide Web Consortium
WAI	Web Accessibility Initiative
WCAG	Web Content Accessibility Guidelines
Workplace diversity	The central principle of workplace diversity is the creation of workplaces free from discrimination, harassment and bullying.
Y	
Yogyakarta Principles	Adopted in March 2007, these Principles provide guidance on the application of international human rights law in relation to sexual orientation and gender identity. The Principles affirm binding international legal standards with which all states must comply.

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