

Human Rights Australia



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**ANNUAL REPORT
1986-87**

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Human Rights Australia

President

10 May 1988

The Hon. Lionel Bowen MP
Deputy Prime Minister
& Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney-General

I have pleasure in presenting the Annual Report of the Human Rights and Equal Opportunity Commission for 1986-87, pursuant to sub-section 45(1) of the Human Rights and Equal Opportunity Commission Act 1986.

The report also contains a report on the activities of the former Human Rights Commission for the period 1 July 1986 to 9 December 1986, pursuant to section 45(2) of the Act.

Yours sincerely^o



he Hon. Justice
Marcus Einfeld
President
for and on behalf
of
the Human

Rights & Equal
Opportunity Commission

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PREFACE

This is the Annual Report of the Human Rights and Equal Opportunity Commission for 1986-87.

The Human Rights and Equal Opportunity Commission was established on 10 December 1986 by the *Human Rights and Equal Opportunity Commission Act* 1986. Section 45 (2) of the Act provides that the first annual report of the Human Rights and Equal Opportunity Commission shall include a report of the operations of the former Human Rights Commission, which ceased to exist on 9 December 1986 pursuant to a sunset clause in its enabling legislation, for the period between the commencement of the 1986-87 financial year and the cessation of that Commission's operations.

This Report is therefore in two parts. Part 1 contains a report of the operations of the Human Rights and Equal Opportunity Commission for the period 10 December 1986 to 30 June 1987. Part 2 contains a report of the operations of the Human Rights Commission for the period 1 July 1986 to 9 December 1986.

CONTENTS

Part 1 — Report of the Human Rights and Equal Opportunity Commission

Establishment of the Commission	1
Functions of the Commission	2
Powers of the Commission	3
The Minister	4
Members of the Commission	5
Programs of the Commission	7
Research and Legislative Review	7
Research	7
Legislative Review	8
Intervention	8
Public Inquiries	10
Complaint Handling	12
Conciliation	12
Commission Hearings	14
Co-operative Arrangements	15
Promotion of Human Rights and Equal Opportunity	16
Community Education	16
Media Liaison	16
Co-ordination	17
Corporate Services (Management)	18
Commissioners	18
Staff	18
Budget	18
Program Budgeting	19
Computer Systems	19
Accommodation	19
Regional Offices	20
Equal Employment Opportunity	22
Industrial Democracy	22
Occupational Health and Safety	23
Staff Training	23
Freedom of Information	23
Appendices	
1.1 to 1.3 Statistics relating to complaints lodged under the Acts administered by the Commission	27-29
14 Expenditure Statement 1986-87	30
15 Expenditure by Program Element 1986-87	31

Part 2— Report of the Human Rights Commission	
Preface	35
Functions of the Commission	39
The Minister	39
The Commission's Programs	40-41
Commission Policy Determination	42
Commission Meetings	43
Research and Legislative Review	44
Research Programs	45
Legislative Review	48
Promotion of Human Rights	49
Community Awareness/Education Activities	50
Schools Program	51
Publishing	51
Complaint Handling	52
Inquiry and Conciliation	53
Administration	55
Co-operation with the States	56
Commission Offices	56
Personnel Management	56
Financial Management	57
Information Management	57
Facilities and Services	58
Appendices	
2.1 Complaint Statistics	60
2.2 Expenditure Statement 1986-87	61
2.3 Organisation Structure and Staff of the Human Rights Commission	62

PART 1

**REPORT OF THE OPERATIONS
OF THE
HUMAN RIGHTS AND EQUAL
OPPORTUNITY COMMISSION**

**10 DECEMBER 1986
30 JUNE 1987**

ESTABLISHMENT OF THE COMMISSION

The Human Rights and Equal Opportunity Commission was established by the Commonwealth Parliament under the *Human Rights and Equal Opportunity Commission Act 1986* and commenced operations on 10 December 1986. It succeeds the former Human Rights Commission set up under the *Human Rights Commission Act 1981*. The transitional and savings provisions in the *Human Rights and Equal Opportunity Commission (Transitional Provisions and Consequential Amendments) Act 1986* ensured that complaints made to, and examinations and inquiries by, the former Commission could be dealt with by the Human Rights and Equal Opportunity Commission. This Act also provided for substantial and significant amendment to the *Racial Discrimination Act 1975*.

The Human Rights and Equal Opportunity Commission is a permanent body with a broader mandate than its predecessor. In addition to administering legislation endorsing the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child, the Declaration on the Rights of Mentally Retarded Persons, the Declaration on the Rights of Disabled Persons, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Elimination of all Forms of Discrimination Against Women, it is also responsible for ensuring adherence to Convention 111 of the International Labour Organisation Concerning Discrimination in Respect of Employment and Occupation.

The structure of the Human Rights and Equal Opportunity Commission also differs from that of the former Human Rights Commission. The Human Rights and Equal Opportunity Commission Act provides that the Commission consist of a President, a Human Rights Commissioner, a Race Discrimination Commissioner and a Sex Discrimination Commissioner. All appointments to membership of the Commission are made by the Governor-General. Members are appointed on the recommendation of the Government in their own right, not as representatives of organisations or bodies. Each Commissioner is responsible for handling complaints on behalf of the Human Rights and Equal Opportunity Commission within her or his respective sphere. The Human Rights Commissioner is the executive head of the organisation and has responsibility for the day to day administration of the Commission as well as for the handling of complaints under the Human Rights and Equal Opportunity Commission Act.

FUNCTIONS OF THE COMMISSION

1(The functions of the Commission are detailed in sections 11 and 31 of the Human Rights and Equal Opportunity Commission Act. In the context of the human rights set out in five international instruments annexed to that Act broadly these functions are:

- to review Commonwealth legislation for any inconsistency with human rights or for any discriminatory provision which nullifies or impairs equality of opportunity or treatment in employment or occupation;
- to inquire into any act or practice (as defined) that may be inconsistent with or contrary to any human right or which may constitute discrimination under the Act;
- to investigate, conciliate and settle complaints about infringements of human rights and discrimination;
- to propose laws that should be made or action which should be taken by the Commonwealth on matters relating to human rights and discrimination;
- to promote an understanding, acceptance and public discussion of human rights, and of equality of opportunity and treatment in employment and occupation;
- to undertake and co-ordinate research and educational programs for the purpose of promoting human rights and the equality of opportunity and treatment in employment and occupation, and to co-ordinate any such programs undertaken on behalf of the Commonwealth.
- to examine any new or existing international instruments relevant to human rights and advise the Government whether they are consistent with the instruments which Australia has already ratified or incorporated in Federal law.

The Commission also has responsibility for implementing the *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984*, although the Race Discrimination Commissioner and the Sex Discrimination Commissioner respectively exercise certain statutory powers of inquiry and conciliation conferred by these Acts. The additional functions of the Commission in relation to the Racial Discrimination Act are set out in section 20 of that Act and the additional functions of the Race Discrimination Commissioner are set out in section 21 of the Act. The additional functions of the Commission in relation to the Sex Discrimination Act are set out in section 48 of that Act and the additional functions of the Sex Discrimination Commissioner are set out in section 49 of the Act. /

POWERS OF THE COMMISSION

The Commission is given certain powers by the Human Rights and Equal Opportunity Commission Act, Racial Discrimination Act and Sex Discrimination Act to enable it to carry out its functions effectively.

Under the Human Rights and Equal Opportunity Commission Act, the Commission has power to:

- report to the Minister on any matter which arises in the course of performing its functions;
- conduct an inquiry as a result of a complaint in writing, when the Commission is requested to do so by the Minister, or when the Commission considers it desirable;
- decide not to hold an inquiry as a result of a complaint for various reasons;
- require certain persons to furnish information, produce documents or appear before the Commission to give evidence;
- give directions prohibiting the disclosure of the identity of a person in certain circumstances where that person is involved in the process of providing information, a document, evidence or a submission to the Commission or an authorised person acting on behalf of the Commission;
- require evidence to be given on oath or affirmation;
- delegate all or any of the Commission's powers (except the power of delegation);
- work with and consult appropriate persons, government organisations and non-government organisations;
- with the approval of the Minister, establish advisory committees to advise the Commission in relation to the performance of the Commission's functions;
- intervene, with leave of the court, in legal proceedings involving human rights matters;
- formulate guidelines to prevent government acts or practices that infringe human rights; and
- perform inquiry, conciliation, reporting, educational and other functions in relation to the Discrimination (Employment and Occupation) Convention, 1958 (International Labour Organisation Convention 111) — functions previously performed by the National and State Committees on Discrimination in Employment and Occupation.

Under the Racial Discrimination Act the powers of the Human Rights and Equal Opportunity Commission include the power to:

- inquire into an alleged unlawful act of racial discrimination following the receipt of a complaint in writing or when it appears to the Commission that a person has committed an unlawful act under the Act, and to endeavour to effect a settlement of the matter by conciliation (this power is exercised through the Race Discrimination Commissioner);
- decide not to inquire into a complaint about an unlawful act for various reasons;
- make an interim determination pending completion of the matter which is the subject of complaint;
- inquire into and make a determination in respect of a matter referred to it by the Race Discrimination Commissioner;
- institute proceedings in the Federal Court for an order to enforce a determination; and
- delegate its powers under the Act to certain persons. ⁴

Under the Sex Discrimination Act the powers of the Human Rights and Equal Opportunity Commission include the power to:

- inquire into an alleged unlawful act of discrimination on the basis of sex, marital status or pregnancy following receipt of a complaint in writing or when it appears to the Commission that a person has committed an unlawful act, and to endeavour to effect a settlement of the matter by conciliation (this power is exercised through the Sex Discrimination Commissioner);
- decide not to inquire into a complaint about an unlawful act for various reasons;
- make an interim determination pending completion of the matter which is the subject of the complaint;
- inquire into and make a determination in respect of a matter referred to it by the Sex Discrimination Commissioner;
- institute proceedings in the Federal Court for an order to enforce the determination;
- grant an exemption from the operation of specified provisions; and
- delegate its powers under the Act to certain persons.

The Commission, when conducting inquiries into complaints, and the Commissioner, when inquiring and conciliating in relation to a complaint, may exercise powers of compulsion in respect of the giving of evidence, and production of documents and information.

THE MINISTER

The Minister responsible for the Human Rights and Equal Opportunity Commission is the Attorney-General, the Hon Lionel Bowen M.P.

The Minister has the following powers under the Human Rights and Equal Opportunity Commission Act:

- to make, vary or revoke an arrangement with the States for the performance of functions relating to human rights or to discrimination in employment or occupation in various ways;
- to declare, after consultation with the States, an international instrument to be an international instrument relating to human rights and freedoms for the purposes of the Act;
- to request the Commission to report to the Minister on certain matters;
- to establish advisory committees to advise the Commission in relation to the performance of the Commission's functions; to report to the Minister on Australia's compliance with the provisions of the International Labour Organisation Convention 111; and to advise the Minister in respect of certain national policies relating to equality of opportunity and treatment in employment and occupation.

The Attorney-General also has the power to issue to the Commission a certificate certifying that the disclosure of certain information or the disclosure of the contents of certain documents would be contrary to the public interest.

Under the Racial Discrimination Act, the Minister may:

- appoint persons to participate in inquiries and determine the terms and conditions of their appointment including the termination of such an appointment;
- refer any matter to the Commission for inquiry as a complaint;
- authorise provision by the Commonwealth of assistance to persons who are parties to proceedings before the Commission under certain circumstances.

The Minister has the same powers under the Sex Discrimination Act.

MEMBERS OF THE COMMISSION

The Hon Justice Einfeld: President of the Commission



Marcus Einfeld graduated in Law from Sydney University and later took a Doctorate in the United States of America. He practised as a barrister in both England and Australia and was a Queen's Counsel for ten years before he was appointed to the Federal Court. He has had a long involvement in human rights issues and, amongst other things, played a significant role in securing the agreement of the Soviet bloc countries to the human rights package at the Helsinki Conference. He has been a delegate to many international organisations especially in the area of human rights, including the Human Rights Commission of the United Nations.

Brian Burdekin: Human Rights Commissioner



Brian Burdekin graduated in Arts and Law from Melbourne University, before practising as a barrister and solicitor. He also holds a Master's degree in International Law from Georgetown University in the United States. His diplomatic career included three years as the Australian observer at the United Nations Commission on Human Rights in Geneva and a term as First Secretary at the Australian Embassy in Washington. He has represented Australia at a number of international negotiations. Before taking up his present position he was Principal Adviser to the Deputy Prime Minister and Attorney-General, the Hon Lionel Bowen M.P.

Irene Moss: Race Discrimination Commissioner



Irene Moss graduated in Law from Sydney University and later took a Master's degree in Law at Harvard University in the United States of America. She worked for the Attorney-General's Department in Canberra before taking up a position with the then newly established New South Wales Anti-Discrimination Board. In this position she was involved in a number of landmark discrimination cases. She worked on issues involving race, sex and marital status discrimination, physical and intellectual disability, homosexuality and other human rights issues.

Pamela O'Neil: Sex Discrimination Commissioner



Pamela O'Neil graduated in Science from the University of Queensland and then worked for several years as a biochemist. She was elected to the Northern Territory Legislative Assembly in 1977 and became the Deputy Leader of the Opposition in 1981. She has a long history of involvement in women's affairs, including the establishment of women's health centres and refuges, and in various organisations such as the Family Planning Association. She has also been active in the promotion of the rights of children through her work with UNICEF.

PROGRAMS OF THE COMMISSION

The Human Rights and Equal Opportunity Commission fulfils its functions under the respective Acts of Parliament by dividing its work into the following program areas. There is considerable interrelationship between these program areas.

RESEARCH AND LEGISLATIVE REVIEW

Research

The Commission seeks to play a catalytic role in relation to human rights issues and concerns within the Australian community in ways that will produce realistic and practical outcomes. Fundamental to that approach is the development of an effective research program that will assist the Commission to formulate strategies and recommendations.

The period from 10 December 1986 to 30 June 1987 saw the beginnings of such a research program.

A planning strategy has been implemented to ensure order and direction in each project.

The research function of the Commission is not a discrete field of activity. There is constant interaction between the staff of the Legal, Conciliation and Research sections in the preparation of submissions, covering a wide range of subjects, to other government agencies and committees of inquiry where human rights perspectives are relevant.

One of the initial research tasks was the preparation of a background report on the social and material needs of the Aboriginal community at Toomelah, near the New South Wales — Queensland border. The Commission consulted with local Aboriginal organisations and with government agencies involved with Aboriginal affairs. The research staff continued their involvement as this matter developed into a public inquiry.

Preliminary research was also initiated into the issue of Aborigines and the criminal justice system. Background statistical information is being collected.

Another main task has been research into homeless children — specifically related to their rights to protection from abuse and exploitation and to adequate housing. This research may form the basis for a public inquiry.

The Commission has also initiated several other research projects in areas involving discrimination. An Aboriginal adviser will shortly be engaged to extend the Commission's work in Aboriginal communities.

The Sex Discrimination Act was amended to include s.48(1)(ga) which broadened the functions of the Commission to include the preparation of guidelines for the avoidance of discrimination on the ground of sex, marital status or pregnancy and sexual harassment.

The Commission has commenced research into the drafting of guidelines for the avoidance of discrimination on the ground of pregnancy.

Issues of major concern to the Commission are in the areas of mental illness and intellectual and physical disability. Projects in these areas are in their very early stages and background research is underway to explore the basis for further questions that may be appropriate for the Commission to examine in greater detail. The areas are broad in scope and cover many aspects of policy and legislation at both the Federal and State levels.

One issue that has been defined in relation to physical disability is the provision of suitable accommodation for people with severe forms of disability. A consultant, himself suffering from a severe disability, has been engaged to research this matter. This report, as well as the background material being gathered, will assist the Commission in developing programs to ensure the proper protection of the rights of the severely disabled.

Research is often initiated based on issues raised in complaints to the Commission from members of the public and representative organisations. Matters raised in this context include immigration policy, capital

punishment and the right to universal and equal suffrage.

A national Human Rights Congress is planned, for September 1987. Background research is being done on a wide range of issues to be covered at the congress.

Flexibility in the roles of the Commission's research and other staff is strongly encouraged. This trend will no doubt continue as the Commission endeavours to operate on a wide front with only a small staff.

Legislative Review

Section 11(1)(e) of the Human Rights and Equal Opportunity Commission Act charges the Commission to:

examine enactments and proposed enactments . . . for the purpose of ascertaining whether . . . [they] are inconsistent with or contrary to any human rights.

The Sex Discrimination Act and the Racial Discrimination Act extend this function to examining enactments and proposed enactments to ascertain if they are inconsistent with or contrary to the objects of those two statutes.

Considerable progress was made on removing legislative and award restrictions to women's employment during 1986-87. In October 1986, a national conference was convened which was attended by representatives of the Commonwealth, State and Territories Governments, trade unions and other relevant organisations. It resulted in the commitment by the Federal Government, the Australian Council of Trade Unions and the Confederation of Australian Industry to aim to remove the restrictive provisions of legislation and awards by the end of 1988. At the conference, the Prime Minister announced that the Government would seek to amend the Conciliation and Arbitration Act to require the Australian Conciliation and Arbitration Commission to have regard to the provisions of the Sex Discrimination Act in making its rulings.

Intervention

The Commission has the unique function of being able to seek leave to intervene in court cases involving human rights issues and discrimination in employment issues (ss.11 (1)(o) and 31(j) of the Human Rights and Equal Opportunity Commission Act), and sex and racial discrimination issues (s.20 (1) (e) of the Racial Discrimination Act and s.48 (1) (gb) of the Sex Discrimination Act. This should permit the attention of the courts to be drawn to any relevant and significant issues, arising by reason of Australia's international human rights obligations, which might otherwise not be put before the court, or not put fully or adequately. The aim is to seek the development and expansion of the common law and statutory interpretation so as to incorporate the principles of human rights jurisprudence.

The Commission has intervened in two cases to date: *Tarumi Pty Ltd v Bankstown City Council* (10 April, 1987) in the New South Wales Land and Environment Court, and *Aldridge v Booth* (18 May, 1987) in the Federal Court in Brisbane. The first case involved a challenge by a Moslem group to a decision by a local council to approve a development application for a Moslem School. The Commission was granted leave to intervene, to present submissions and to cross-examine witnesses on a limited basis. The Court found in favour of the applicant and granted consent for the erection of a primary school subject to certain conditions.

The second case was an application in the Federal Court to enforce a determination by the former Commission. As this was the first Federal Court action involving such an application, the Commission sought, and was granted, leave to intervene in the proceedings pursuant to s.48(1)(gb) of the Sex Discrimination Act (18 May, 1987). As the question of the Constitutional validity of the Act was raised, the Commonwealth Attorney-General also intervened in the proceedings pursuant to the Judiciary Act. The case is to be heard in August, 1987, when the Constitutional point, other legal issues and the merits of the case are to be argued. The legal points which may arise are questions of vicarious liability of partners in a business for the acts of one of the partners (s.106), the Commission's power to make a determination (s.81), and the Federal Court's power to make an order enforcing the Commission's determination (s.82).

The Commission plans to discuss with the legal profession and law faculties throughout Australia the

appropriate criteria that might guide such intervention and the attitudes to such intervention that should be adopted by parties to litigation where human rights issues arise.

Both the inquiry power and the intervention function are aimed at effecting change on a broader front. Complaint handling, although vital to individual rights, can be a slow process in changing traditional attitudes.

PUBLIC INQUIRIES

Section 11(1)(f) of the Human Rights and Equal Opportunity Commission Act empowers the Commission to:

inquire into any act or practice that may be inconsistent with or contrary to any human right.

The Commission sees public inquiries as a valuable means of involving the community, in a practical way, with human rights issues. An inquiry brings the Commission into direct contact with the community and provides a channel for Australian citizens to voice their views and opinions about human rights problems and possible solutions.

During the period under review, the Commission allocated a substantial part of its limited staff resources to four issues of public concern. These were:

- the social and material needs of the Aboriginal community at Toomelah near the New South Wales - Queensland border
- the implications of the Sex Discrimination Act for mixed sport in schools for children under twelve years of age.
- the plight of homeless children and young people.
- Aborigines and the criminal justice system.

Background research was carried out into each of these projects and led to the announcement of two public inquiries during the reporting period.

Inquiry into the Social and Material needs of the Residents of New South Wales - Queensland Border Towns

Long-standing racial tensions between the communities of Goondiwindi, Boggabilla and Toomelah culminated in violence when a riot took place at Goondiwindi on 10 January 1987.

During January 1987, the Race Discrimination Commissioner visited the area and found wide disparities between the living standards and the economic and social expectations of Aborigines and non-Aborigines. Commissioner Moss made a preliminary report which indicates that the poverty and neglect which typified the lives of Aborigines at Toomelah, and to a lesser extent Boggabilla, needed to be further investigated.

The Commission decided to hold a public inquiry.

Notices announcing the inquiry and detailing the terms of reference appeared in the media on 6 May 1987. The Terms of Reference are:

- (1) To inquire into and report on the social and material situation of persons in Goondiwindi, Boggabilla and Toomelah and identify the social and material needs of these and nearby communities.
- (2) In particular to inquire into and report upon the extent to which any problems or deficiencies identified have been caused by inadequate educational and/or employment opportunities and/or other facilities and the existence of the Queensland-New South Wales border between the town of Goondiwindi and the other two towns.
- (3) To investigate and report on the state of community relations in Goondiwindi, Boggabilla and Toomelah and the way in which problems identified can be resolved among these and nearby communities.
- (4) To report on the impact of community relations on the social and material needs of these communities.
- (5) To recommend to all relevant persons and/or authorities, steps which might be taken to resolve the identified problems of these communities.

The Inquiry is being conducted by the President of the Commission, Justice Einfeld, assisted by Sir James Killen and Ms Kaye Mundine.

The Inquiry will not be investigating or considering any criminal culpability arising out of the events which occurred at Goondiwindi in January 1987.

Inquiry into Primary School Sport in State Schools

This inquiry was announced and advertised nationally during the week 16-23 May 1987. Its Terms of Reference are:

(1) To inquire into and report on the effect of the Commonwealth Sex Discrimination Act on primary school sport.

(2) To determine whether any interpretation or application of the Act, in the context of primary school sport, leads or might lead to a breach of human rights, including the rights of children and of ethnic and religious minorities.

(3) To recommend to all relevant government authorities steps which might be taken to resolve the human rights problems in the conduct of school sport.

The Commission decided that the conduct of this inquiry should be by way of written submission. This method afforded a cost-effective and practical means of obtaining the necessary information. Many interested parties responded, including parents, school teachers, parents' and citizens' associations, school principals and various sporting organisations. One hundred and eighty submissions have been received and are being analysed.

Homeless Children and Young People

By incorporating the International Declaration of the Rights of the Child in Commonwealth legislation, Australia has committed itself to providing certain safeguards for all Australian children. The ten principles of this Declaration include the right for children to enjoy 'special protection', to have 'adequate housing' and to be protected against 'all forms of neglect, cruelty and exploitation'.

Information that has come to the Commission has raised serious concerns about how well Australia is responding to the problem of homelessness as it affects children and young adolescents. The Commission is concerned that the rights of this vulnerable group of young people are not being adequately met by existing programs and is presently conducting research to establish the extent of the problem and to determine whether the Commission can make a positive contribution. The Commission has decided that, if preliminary research establishes that there are serious violations of the basic rights of these children, it will give consideration to launching a national inquiry under the powers conferred through its legislation.

Aborigines and the Criminal Justice System

The Commission's preliminary research into Aborigines and the criminal justice system has received considerable impetus from the growing alarm over the mounting number of deaths of Aborigines in custody. The Commission received a request from the Minister for Aboriginal Affairs to continue the Inquiry established by the House of Representatives Standing Committee on Aboriginal Affairs into this issue, which was unable to proceed because of the proroguing of Federal Parliament following the announcement of the July Federal election.

The Commission began the task of determining appropriate terms of reference for its Inquiry. Various people who had expressed an interest in the Parliamentary Inquiry were contacted, and a number of written submissions which were prepared for that Inquiry have been received by the Commission.

COMPLAINT HANDLING

The legislation administered by the Commission emphasises the settlement of complaints by conciliation, which provides an informal, confidential and comparatively low-cost dispute-resolution mechanism. Conciliation is carried out in the Commission's central office in Sydney and its three regional offices in Brisbane, Hobart and Darwin. Further details on the operations of the regional offices appear later in this report under 'Corporate Services'.

The Commission has appointed a Chief Conciliator and three Senior Conciliators in its central office, which means it is currently operating with approximately 40% less than the number of conciliation staff employed by the former Commission. At the same time, in this reporting period, the Commission received significantly more written enquiries alleging discrimination or violation of human rights than were received by the former Commission over a comparable period.

A primary objective of the Conciliation team in central office has been to establish streamlined procedures for the complaint handling process. This involved working towards:

- regular reporting and new recording procedures
- computerisation of complaints data
- studies relating to the time frames involved in complaint handling
- development of uniform guidelines
- effective co-ordination between the Registry and the Conciliation section

The aim of these measures is to create efficiency and effectiveness in the resolution of complaints. Of necessity, these procedures have taken time to initiate and implement. In subsequent reports the Commission hopes to provide more detail on complaints and a comparative basis will be established so that consistent statistical analysis can be made.

Conciliation

Complaints under the Human Rights and Equal Opportunity Commission Act

Section 11(1)(t) of the Act empowers the Commission to:

inquire into any act or practice that may be inconsistent with or contrary to any human right.

'Human Rights' are defined to include 'the rights and freedoms recognised in the Covenant (or) declared by the Declarations'. The Covenant and Declarations referred to are those annexed to the Human Rights and Equal Opportunity Commission Act and are as follows:

- The International Covenant on Civil and Political Rights (ICCPR) which lays down basic standards relating to immigration, prisoner's rights, privacy, religious freedom, the family, health, equality before the courts.
- The Declaration of the Rights of the Child.
- The Declaration on the Rights of Disabled Persons.
- The Declaration on the Rights of Mentally Retarded Persons.
- The Convention Concerning Discrimination in respect of Employment and Occupation (ILO 111).

These international instruments incorporate basic international standards which have been approved and, where relevant, ratified by Australia.

The Human Rights Commissioner has the power to delegate authority to investigate and conciliate complaints lodged under the Human Rights and Equal Opportunity Commission Act. During the period 10 December 1986 to 30 June 1987, the Human Rights Commissioner did not delegate this authority to the Commission's State agents or regional offices. As a result all complaints relevant to this Act during this period were dealt with by the Commission's Sydney office.

There were 103 such complaints received by the Commission during the period (see Appendix 1.1).

A significant number of complaints about alleged breaches of the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Declaration on the Rights of Disabled Persons related to immigration matters. While conciliators worked on a case by case basis, it was necessary to address the broader policy implications of several issues raised with senior officers of the Department of Immigration and Ethnic Affairs.

The ILO Convention Concerning Discrimination in respect of Employment and Occupation sets out seven specific grounds for complaint: race, national extraction, sex, colour, social origin, religion and political opinion. Twenty-two complaints were received which related to this Convention.

The Commission received a number of written enquiries requesting assistance from the Human Rights Commissioner on the grounds of age, criminal record, nationality, marital status, medical record, physical disability, sexual preference, trade union activities and personal attribute, which were previously covered by the National and State Committees on Discrimination in Employment and Occupation.

The Human Rights and Equal Opportunity Commission Act does not empower the Commissioner to investigate complaints lodged under these additional grounds. However, the Commissioner is consulting with relevant organisations and governments to consider what action might be taken in the future.

The Human Rights and Equal Opportunity Commission Act encompasses a broad range of issues but many written enquiries received were beyond its jurisdiction.

Complaints under the Racial Discrimination Act

The Human Rights and Equal Opportunity Commission (Transitional Provisions and Consequential Amendments) Act provided for substantial amendments to the Racial Discrimination Act.

The Race Discrimination Commissioner replaces the Commissioner for Community Relations and now carries a substantial increase in statutory powers of inquiry, conciliation and settlement of race discrimination complaints on behalf of the Commission. The Commissioner has greater powers to gather evidence relevant to a complaint, e.g. the Commissioner can require production of documents; and may, like the former Commissioner for Community Relations, direct persons to attend a compulsory conference. If the conference fails to produce a settlement, unlike the former procedure where a certificate was prepared by the Commissioner for Community Relations entitling the complainant to institute civil proceedings, the Race Discrimination Commissioner may now prepare a report on the matter and refer it to the Human Rights and Equal Opportunity Commission which may then conduct its own inquiry and either dismiss the complaint, or find the complaint substantiated and make certain determinations.

Of the thirty-three certificates issued under the former procedure between 1975 and July 1986, none to date have led to an effective determination by the courts. The new procedure is less cumbersome and ultimately provides a swifter and more effective remedy.

There were 224 complaints lodged throughout Australia, under the Racial Discrimination Act during the period 10 December 1986 to 30 June 1987 (see Appendix 1.2).

Statistical analysis indicates that during the period a typical complainant was likely to have been a male (48.6%) and either from a non-English speaking background (48.7%) or an Aborigine (31.9%). Not surprisingly these proportions vary from State to State and it is worth noting that, in those States where State anti-discrimination legislation exists, a large number of race discrimination complaints would have been investigated under the relevant State legislation. Accordingly these statistics do not illustrate the full picture of race discrimination complaints in Australia during the reporting period.

Race discrimination complaints have mostly been related to allegations of discrimination in employment (46.9%) and in the provision of goods and services (24.1%).

A profile of a typical race discrimination complaint by a complainant from a non-English speaking background is likely to be in the area of employment while an Aboriginal complainant is more likely to complain about discrimination in obtaining goods and services — service in shops, hotels, restaurants and housing.

This illustrates that Aborigines are still coming to grips with obtaining the basic rights of life — service without discrimination, access to housing, water to bathe etc.

Complaints under the Sex Discrimination Act

The Human Rights and Equal Opportunity Commission (Transitional Provisions and Consequential Amendments) Act did not affect the substantive provisions relating to unlawful behaviour in the Sex Discrimination Act. It did, however, appoint the Sex Discrimination Commissioner as a member of the Human Rights and Equal Opportunity Commission (s.38) and established the power to appoint a panel of persons, not being members of the Commission, to participate in Commission inquiries under the Sex Discrimination Act (s.57A).

Employment issues continue to dominate the third year of the operation of the Sex Discrimination Act. Of the 407 formal complaints registered during the reporting period, 77.9% were employment related (see Appendix 1.3).

Nearly half (48.6%) of all complaints received under this Act were lodged on the ground of sex. Typically, a woman would complain that she was unsuccessful in a job application or in obtaining a promotion because she was a woman.

Complaints alleging sexual harassment formed 23.1% of all sex discrimination complaints. Typically a sexual harassment complainant is a young female who is employed in a small business. Coupled with the statistic that 80% of such complaints were lodged by women, the statistics may indicate a growing awareness in the community of unlawful behaviour and a growing willingness on the part of those subjected to such unlawful behaviour to complain.

Complaints alleging discrimination on the grounds of marital status and pregnancy formed 17.7% of total complaints lodged under the Sex Discrimination Act. There are indications that more work needs to be undertaken to inform Australian women that pregnancy should not result in loss of employment, sporting and recreational opportunities, or access to financial and other services. The practice of unreasonably dismissing pregnant women is still regrettably common. This is particularly offensive where it is based on the view that a pregnant woman is somewhat unsightly and therefore discourages trade.

Commission Hearings

Although every effort is made by the Commission to conciliate complaints, this is not always possible. Therefore some matters are referred to the Commission for hearing.

The usual procedure is for the matter to be listed for a directions hearing before the Commission where directions are made about the provision of particulars and the matter listed for a formal hearing.

Many complaints are settled at the hearing, or during the preliminary stages beforehand. Some are settled during the hearing itself, before the Commission's determination is made.

The following are some examples of the complaints which have proceeded to Commission hearings. In *Waite v Adams* (8 April 1987) (a sexual harassment complaint) an application to dismiss the matter on the grounds that it was lacking in substance was refused on the basis that the parties' affidavits disclosed a real contest of evidence. The complainant withdrew her complaint before the matter was heard on its merits. *Cousens v ACT Schools Authority* (16 February, 1987) (a sexual harassment complaint) was settled after the hearing on the interlocutory question of dismissal, but before the Commission made its determination. *Maynard v Neilson and Cerny* (1 and 2 June, 1987) was a racial discrimination complaint of refusal of service in a hotel. The Commission's decision has been reserved.

There is provision in the Racial Discrimination Act and Sex Discrimination Act for a successful complainant to institute proceedings in the Federal Court to enforce a determination of the Commission. In *Aldridge v Booth* (a sexual harassment complaint) the former Commission had made a determination in favour of the complainant (on 4 November, 1986), declaring that the respondents pay her damages of \$7,000 by way of compensation. The respondents were four partners running a cake shop business. They failed to pay the damages and the complainant instituted proceedings in the Federal Court pursuant to s.82 of the Sex Discrimination Act. This was the first Federal Court action involving the enforcement of a Commission determination. The matter is to be heard in August, 1987.

CO-OPERATIVE ARRANGEMENTS

In early 1987 the Attorney-General signed interim co-operative arrangements with New South Wales, Victoria, Western Australia and South Australia for the handling of human rights and discrimination complaints in those States. Under these arrangements, which were negotiated by the Commission, the State anti-discrimination and equal opportunity bodies can, with some exceptions, receive and investigate complaints arising under relevant Commonwealth legislation on behalf of the Commission. The interim arrangements replace co-operative arrangements previously made under the Human Rights Commission Act.

The aim of the co-operative arrangements is to eliminate duplication of services and provide 'one-stop shopping' for complainants.

The Commission works in co-operation and consultation with the administrative bodies established under State anti-discrimination and equal opportunity legislation. They are:

- The Anti-Discrimination Board in New South Wales
- The Commissioner for Equal Opportunity in Victoria
- The Equal Opportunity Commission in Western Australia
- The Commissioner for Equal Opportunity in South Australia

Meetings of all State and Federal Commissioners and Presidents were held twice in the reporting period. One of these meetings coincided with a national conference of conciliators in Adelaide in June 1987.

During the period 10 December 1986 to 30 June 1987, the New South Wales Anti-Discrimination Board received 96 complaints lodged under the Racial Discrimination Act and 141 complaints lodged under the Sex Discrimination Act.

In Victoria, 18 complaints were lodged under the Racial Discrimination Act and 67 complaints were lodged under the Sex Discrimination Act.

In Western Australia 15 complaints were lodged under the Racial Discrimination Act and 11 complaints were lodged under the Sex Discrimination Act.

In South Australia 16 complaints were lodged under the Racial Discrimination Act and 58 complaints were lodged under the Sex Discrimination Act.

In 1986-87 the total outlay by the Commonwealth under the co-operative arrangements was \$1.385 million. That amount came directly from the Commission's notional annual budget of \$5.36 million.

PROMOTION OF HUMAN RIGHTS AND EQUAL OPPORTUNITY

Community Education

During the course of the Human Rights and Equal Opportunity Commission's short life since December 1986, the Commission has initiated numerous programs aimed at promoting human rights in Australia.

In order to inform itself and inform others of its work the Commission has initiated an ongoing program of consultation with a large number of organisations catering for specific needs and interests in the Australian community. These include government and non-government organisations and specific interest groups including those representing the physically and intellectually impaired; the mentally ill; the religions; women; children; Aborigines and diverse ethnic communities. The Commission considers that such consultation in addition to that with the States will lead to a more co-ordinated and consistent Australian effort in the human rights field.

The Commission commenced work on a schools program which will involve education in multicultural and Aboriginal issues amongst other human rights issues. The emphasis will be on teacher training. On 1 May 1987 an education consultant for the schools program was appointed. This appointment will assist the Commission to work closely with State Education Departments which will have a vital partnership role in the schools program.

Preliminary work was commenced on a community education campaign on racism in the workplace and will be piloted in various States around Australia. This program is still in its initial stages, but it is envisaged that a multi-faceted approach of consultation, training and production of written information will be employed to inform and educate employers and employees.

Towards the end of the reporting period, planning and initial arrangements were underway for a National Human Rights Congress in September 1987. Consultations had been held with, and invitations extended to, representatives of virtually every relevant private and government organisation operating in the field as well as many interested and distinguished individuals.

The Commission is presently developing strategies and planning for a Human Rights Week scheduled for December 1987 to mark International Human Rights Day and the anniversary of the Universal Declaration of Human Rights which falls on 10 December each year. 1987 will be the 39th anniversary of the signing of the Universal Declaration of Human Rights.

The Commissioners and the Commission staff have, despite limited resources, made themselves available to address all types of audiences and have thus far addressed groups of lawyers, women, tertiary education students, employee associations, employers, parliamentarians, school children, charity, volunteer and special interest workers operating in the human rights field, civil liberty groups, religious groups and other organisations operating for the benefit of disadvantaged or deprived members of our society.

In the Commission's infancy it has been without specialist community education staff and community education has been carried out by the Commissioners and available staff. With the appointment of a Director for Community Education the Commission hopes to be more active in this area.

Media Liaison

When the Commission was established in December 1986, responsibility for media and press liaison was handled by the Chief Executive Officer until the appointment of a media advisor. The Commission was also assisted from time to time by staff of the State anti-discrimination and equal opportunity bodies.

A core media strategy has now been developed and put into operation. It is designed to meet press queries and needs until a fully fledged program can be implemented.

Distribution of promotional literature has mainly been upon request. The demands of establishing the new Commission as a functional entity initially limited the scope of active work on media relations. A firm foundation has now been established for the future.

CO-ORDINATION

Section 11(1)(h) of the Human Rights and Equal Opportunity Commission Act requires the Commission to:

undertake research and educational programs . . . on behalf of the Commonwealth. . and to co-ordinate any such programs undertaken by any persons or authorities on behalf of the Commonwealth

The Commission has given effect to this statutory requirement by establishing consultative arrangements with a number of government and non-government bodies with an interest in human rights and will undertake a number of joint projects in the forthcoming year.

The Commission sees this function under its charter as an opportunity to promote co-ordination and cost-effectiveness in research and community education.

CORPORATE SERVICES (MANAGEMENT)

The Commission commenced operations on 10 December 1986 from its head office in Sydney which was temporarily located in Westfield Towers in William Street. The previous Commission's Head Office had been located in Canberra. In June 1987, the Commission moved to permanent premises at 388 George Street, Sydney.

From the outset the Commission was faced with the task of recruiting almost a complete new staff, the majority of staff of the former Commission having decided to seek alternative employment in Canberra.

In the early days of its establishment, the Commission received valuable assistance from staff of the former Commission and staff of the Attorney-General's Department. The Commission takes this opportunity to record its sincere gratitude to all of those who provided valuable assistance under very trying circumstances.

The Attorney-General's Department continues to provide support to the Commission, mainly in the area of management services, and the Commission records here its appreciation for the valuable service the Department provides.

Apart from a large number of unfinished matters it inherited from the former Commission, pursuant to the Human Rights and Equal Opportunity Commission (Transitional Provisions and Consequential Amendments) Act, the Commission's major management preoccupations during the first six months of its life have been the recruitment and selection of staff, the design and fit-out of its permanent Sydney headquarters, the development of management and operational systems and procedures, and the tailoring of its programs to meet the challenge of a substantially reduced budget and workforce without a corresponding reduction in non-discretionary workload.

The Commission had to make difficult decisions about which programs of the former Commission to wind down or abolish and it eventually took the decision, after careful consideration, to abolish the Community Education Grants scheme and to considerably reduce the Publications Program.

Commissioners

The Commission consists of a part-time President and three full-time Commissioners (the Human Rights Commissioner, the Race Discrimination Commissioner and the Sex Discrimination Commissioner). This represents a significant reduction in the previous number of Commissioners (three full-time Commissioners and six part-time Commissioners).

The President, who is also a Judge of the Federal Court of Australia, receives no additional salary on account of his Presidency of the Commission.

Staff

The Commission was given responsibility for Convention 111 of the International Labour Organisation which had previously been the responsibility of the Equality in Employment Branch of the Attorney-General's Department.

The former Commission and the Equality in Employment Branch had between them a staff of 85. The Human Rights and Equal Opportunity Commission was allocated an average staff level of 50. That represents a reduction of some 40% in staffing resources. As at 30 June 1987 the Commission's staffing profile was still under review. Forty-three staff had commenced duty at that time.

Budget

The Commission's annual budget was fixed at \$5.36 million, some \$2 million (or 27%) less than the notional annual budgets of the Human Rights Commission and the Equality in Employment Branch whose functions the Commission took over. An Expenditure Statement for the Human Rights and Equal Opportunity Commission appears at Appendix 1.4.

Program Budgeting

For the purposes of portfolio budgeting, the Human Rights and Equal Opportunity Commission appears in the Attorney-General's portfolio as a sub-program of the program entitled 'Law Related Services'.

Within the Commission itself there are seven program areas. They are as follows:

- Research and Legislative Review
- Public Inquiry and Related Functions
- Complaint Handling
- Co-operative Arrangements with the States
- Promotion of Human Rights and Equal Opportunity
- Co-ordination of Commonwealth Human Rights Programs
- Corporate Services

A breakdown of expenditure in 1986-87 by program element is at Appendix 1.5. These figures relate to the Human Rights and Equal Opportunity Commission only.

The Commission's program budgeting strategy will undergo further refinement in future, including the development of performance indicators to monitor and evaluate the efficiency and effectiveness of the various programs.

It was clear, from the considerable reductions in both human and financial resources previously allocated to human rights activities, that the Human Rights and Equal Opportunity Commission would need to develop cost-effective programs and make maximum use of available technology. At the end of the period under review, the Commission had made considerable progress in the development of streamlined work practices, the inclusion of multi-skilling in its staffing policy and the implementation of a sophisticated word processing and data processing system.

Computer Systems

To facilitate early introduction of automation into its operations, the Commission adopted some aspects of the Automated Data Processing (ADP) strategy developed by the former Commission. In the period under review the Commission finalised the purchase of a Hewlett Packard distributed processing system.

In addition, to enable more accurate management of matters brought before the Commission and closer study of human rights issues of concern to the community, the system will aid the Commission in fulfilling its role as a central resource for information on human rights law and practice, not only for its regional offices and State agencies, but also for interested members of the public.

Some of the applications planned for the computer system are:

- a file and document management system which incorporates complaint statistics and monitoring capabilities;
- a library information system accessible by the Commission's regional offices and State agencies;
- on line access to legal and bibliographic research databases;
- a specially designed government accounting package incorporating the program budgeting approach to funds management;
- word processing, electronic mail and desk management facilities throughout the office; and
- a project management system, to assist in the monitoring of and efficient allocation of resources to the Commission's projects.

Accommodation

In December 1986, the Commonwealth Property Directorate of the Department of Local Government and Administrative Services (DOLGAS) accommodated the newly established Commission's Central Office in temporary premises situated at Level 9, Westfield Towers, 100 William Street, Sydney. In June 1987

the Property Directorate relocated the Commission to its permanent premises at Level 24, American Express Building, 388 George Street, Sydney. The new office premises are centrally located and close to transport routes, which make them accessible to the public. They also provide for ease of access for handicapped persons. The Department of Housing and Construction (DHC) called tenders for the fitout contract and the Purchasing Division of DOLGAS administered the furniture contracts.

Through careful monitoring of expenditure on leasing, fitout and furniture, the Commission achieved significant savings as a result of costs being kept at the lower end of the range for comparable rentals, fitouts and furnishings. The Commission gratefully acknowledges the effective co-operation of DHC and the Property Directorate and Purchasing Division of DOLGAS in achieving the office fitout in a cost-effective and timely manner.

Regional Offices

The Commission took the view early in its life that the regional offices in Brisbane, Hobart and Darwin, which it inherited from the former Commission, were somewhat under-resourced. It therefore moved to increase the staffing and other resources available to those offices (within the limits of its reduced resources) and to raise the levels of the positions of Regional Director.

The work of the regional offices is essential because there is no anti-discrimination legislation in Queensland, Tasmania or the Northern Territory. These offices therefore provide the only venue in those States and the Territory where complaints about discrimination or human rights violations can be lodged. A brief outline of the operations of the Commission's regional offices follows.

Queensland

With the establishment of the Commission on 10 December 1986, all positions in the previous Commission were abolished. Conciliation and administrative staff in the Queensland office have however continued to perform their functions in a temporary capacity.

A new Regional Director was appointed on 13 April 1987. The former Regional Director, Ms Joan Ross, transferred to the Women's Bureau in Canberra and was replaced by Ms Quentin Bryce.

As a small office servicing the entire State of Queensland, considerable emphasis is placed on co-operation and effective teamwork. There are three Conciliation Officers who deal with matters arising under the legislation administered by the Commission and an Aboriginal Liaison Officer who liaises exclusively with Aboriginal communities.

Legal advice is provided by the legal staff in the Sydney office. Consideration is being given to restructuring the office to increase efficiency without increasing the staff numbers.

Field trips are the most important way in which regions outside the Brisbane metropolitan area are serviced. Conciliators had casework which took them to Goondiwindi, Townsville, Cairns, the Gold Coast and Murgon.

The Aboriginal Liaison Officer undertook special liaison trips to Bundaberg, Maryborough, Gayndah, Murgon, Charleville, Barcaldine, Winton, Longreach, Mitchell, Chinchilla, Dalby and Toowoomba. He also attended both the National Aboriginal Legal Service Conference and the Catholic Aboriginal Council. Liaison with Queensland's Aboriginal and Islander communities involves investigation of complaints, attendance at community meetings, feedback on issues, dissemination of information and referral advice.

In June 1987 the Regional Director and the Sex Discrimination Commissioner travelled to Cairns and Townsville to consult with North Queensland women on the Sex Discrimination Act and related issues.

There was a constant demand for speakers from the Queensland regional office. Speaking engagements covered State high schools, universities, Equal Employment Opportunity Offices within the Australian Public Service, the Migrant Resource Centre, the Tenants' Union, TAFEs, Colleges of Advanced Education and groups concerned with the rights of the disabled.

Ongoing education programs were initiated with Lorraine Martin Commercial College, the Trade Union Training Authority, the Administrative and Clerical Officers Association, and the Brisbane College of Advanced Education.

Tasmania

Since the establishment of the Tasmanian regional office, major efforts have been made to increase public awareness of the Commission and its activities.

The office began direct advertising in the local media, producing a short television advertisement and carrying out weekly advertising in the three regional newspapers. As a result, matters such as the rights of the child have received greater understanding in the community and the nature of enquiries has become better informed.

The Acting Regional Director, Ms Vicki Buchanan, has been asked to speak at a wide range of public forums and seminars, and to comment on a range of human rights issues of concern to the community. Two important requests for speakers were from the Eastern Seaboard Conference of Australian Shell Distributors and the Women Lawyers' Association Conference.

Many enquiries have been received which have not become formal complaints. These have frequently been resolved by access to additional information regarding human rights.

There is a growing relationship between the Tasmanian regional office and some State Government Departments as well as non-government organisations. The office is often asked to comment on questionnaires and procedures to be used, in order to ascertain if any breaches of human rights legislation will occur. Local government authorities are making similar requests.

Northern Territory

There are approximately 620 separately recognised Aboriginal communities in the Northern Territory, divided into five regions: Darwin region, Alice Springs region, Barkly region, Katherine region and East Arnhem region.

During the first six months of the life of the Commission the Regional Director, Ms Dawn Lawrie, visited all regions except the East Arnhem region.

A feature in recent years has been the 'outstation' movement, with Aboriginal people moving away from large centres and back to their traditional lands. Communicating with all these groups has the particular problems of distance, access and often extreme climatic conditions. Except for the main sealed roads and charter aircraft, travel in the 'top end' is almost impossible in the 'wet' season.

Twenty-three percent of the total population of the Northern Territory were born overseas and twenty-two percent are Aborigines or Torres Strait Islanders. These statistics provide an indication of the multicultural nature of the Northern Territory.

Complaints of racial discrimination in the workplace have been received from Asian and Aboriginal people. However, race discrimination complaints alleging refusal of goods and services are received almost entirely from Aborigines.

Community education receives a high priority mainly through radio. The ABC VHF radio band reaches isolated areas of the Northern Territory and Western Australia. Other community education programs are assisted by various ethnic communities.

A lecture on the operation and functions of the Commission and the application of the Racial Discrimination Act is included in the training program for police recruits and the Regional Director regularly addresses youth groups and migrant education groups.

Liaison with other Commonwealth and Territory Government Departments is given high priority and the assistance and support given to the Northern Territory regional office by the Departments of Aboriginal Affairs and Immigration and Ethnic Affairs, in particular, has been greatly appreciated.

Equal Employment Opportunity

The Equal Employment Opportunity (EEO) Program of the former Human Rights Commission was highly accredited by the Public Service Board, with the next review of the Program scheduled for five years hence. This Commission proposes to model its EEO Program on that of the former Commission with appropriate adjustments to meet its specific needs.

The Commission is pleased with its progress to date in the practice of equal employment opportunity within the Commission as evidenced in the following statistics:

EEO Statistics

	% of total permanent staff
1. Non-English speaking background	16%
2. Aboriginal	6%
3. Women	62%

Staff Profile

1. Non-English speaking background: covers the whole range from secretarial to statutory office holders.
2. Aboriginal: covers the range to Clerical Administrative Class 9.
3. Women: same as 1.

Further breakdown of statistics in this category appears hereunder:

	% of staff in category
Statutory office holders	67%
Senior Executive Service	33%
Administration	50%
Legal/Conciliation/Research	62%
Secretarial	80%

4. Disabled Persons: the Commission currently has a severely physically disabled person as a consultant advising on accommodation services for severely physically disabled persons.

Industrial Democracy

The Commission's participative work practices in the first six months of operation included:

- regular Branch and Commission meetings
- participation in the Attorney-General's Department's Regional Council on Industrial Democracy
- staff involvement in special issues affecting the Commission

The Commission proposes to adapt the former Human Rights Commission's Industrial Democracy Plan, which was highly accredited by the Joint Council Sub-Committee on Industrial Democracy, and submit it to staff and unions for consultation.

Issues which have been discussed at industrial democracy meetings of the Commission are those common to other agencies — such as occupational health and safety, technological change, and EEO. However the Commission, being a small agency, has linked with the network organised by the Central Office of the Public Service Board on industrial democracy in small agencies and participated in workshops examining more effective procedures in implementing industrial democracy in small agencies.

Occupational Health and Safety

The Commission has given high priority to occupational health and safety (OHS) in its purchase of office furniture and the design and selection of office accommodation.

Staff, through industrial democracy mechanisms, and experts — such as builders, engineers, architects and fire officers in the Department of Housing and Construction, as well as physiotherapists from other government agencies, were consulted to achieve maximum environmental efficiency. Preventive measures being implemented to avoid such injuries as RSI and eyestrain include training of staff with new equipment and associated procedures and maintaining required standards in equipment and premises.

The Commission has complied with smoking restrictions implemented on 1 March 1987 within the Australian Public Service and is working towards a total smoke-free working environment by 1 March 1988.

Staff Training

During its establishment phase the Commission's training program concentrated on the immediate issue of providing staff with on-the-job training, with the emphasis being on multi-skilling.

To complement this kind of training, staff attended seminars/workshops conducted by other organisations both within and outside the Australian Public Service (APS). Courses made available within the APS covered broad areas such as management and supervision and specialist subjects such as classification skills and library procedures. External institutions, such as university law faculties which provide mandatory continuing legal education seminars, were also canvassed for relevant courses. Senior Executive Service officers took advantage of courses made available through the SES Staffing Unit within the Public Service Board's office in Canberra.

In the six months under review the Commission sought feedback from officers on training and developmental needs for themselves and their staff to assist the Commission in providing appropriate courses.

In view of the multi-disciplined nature of the Commission's staff, the training courses required are varied. Courses include negotiation skills, conflict resolution, legal processes affecting the Commission including administrative law, communication skills, management, supervision and computer training.

Special training requirements as a consequence of the proposed APS office structures review must also be anticipated but cannot be fully developed until the review process has been completed.

Freedom of Information

The supplement to the Attorney-Generals' Department's Annual Report 1986-87 contains the Commission's statement pursuant to section 8 of the Freedom of Information Act which requires agencies to publish statements about their organisation, functions, decision-making powers, consultative arrangements, categories of documents maintained and facilities and procedures to enable members of the public to obtain access to documents under the Act.

FOI statistics as at 30 June 1987 (6 months):

Requests received	4
Access granted in part	3
Total charges notified	\$159.90
No. of applications for review	2 (AAT)
Non-staff costs directly attributable to FOI	\$460.00
Staff years spent on FOI	0.26

Files of the former Human Rights Commission became the responsibility of the Human Rights and Equal Opportunity Commission. The above figures relate to matters which originated with the former Human Rights Commission. No FOI requests relating to the activities of the present Commission were received during the period under review.

Categories of Documents

The Commission maintains the following categories of documents:

- administration: matters including personnel and recruitment, accounts, general administration files, documents and registers, registry and library records and indices;
- conciliation: matters including the investigation, clarification, conciliation and resolution of complaints;
- legal: matters including legal documents, opinions, advice and representations;
- research: matters including research papers in relation to complaints, existing or proposed legislative practices, public education, enquiries and other relevant issues;
- operational: 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;
- policy: including minutes of meetings of the Commission, administrative and operational guidelines.

The Commission plans to produce audio-visual material and printed material for public dissemination.

FOI Procedures and Initial Contact Point

Initial enquiries concerning access to documents of the Human Rights and Equal Opportunity Commission should be directed to the Freedom of Information Officer by telephoning (02)229 7600 or by writing to:

Secretary
Human Rights and Equal
Opportunity Commission
GPO Box 5218
Sydney NSW 2001

Facilities for Access

Facilities for examining documents and obtaining copies are available at the Commission's offices:

Level 24
American Express Building
388 George Street
Sydney NSW 2000
Tel: (02) 229 7600

15th Floor
MLC Centre
Cnr George and Adelaide Streets

Brisbane Qld 4000
Tel: (07) 221 8399

Government Law Courts
39-41 Davey Street
Hobart Tas 7000
Tel: (002) 20 1700

8th Floor
National Mutual Centre
9-11 Cavenagh Street
Darwin NT 5794
Tel: (089) 81 1668

The business hours of the Commission are 9.00 am to 5.00 pm, Monday to Friday inclusive. The telephone switchboard is staffed at all times during business hours.

APPENDICES PART 1

Appendix 1.1

Complaints lodged under the Human Rights and Equal Opportunity Commission Act 1986

10 December 1986 — 30 June 1987

AREA OF COMPLAINT

International Covenant on Civil and Political Rights	64
Declaration of the Rights of the Child	3
Declaration on the Rights of Physically Disabled Persons	14
Declaration on the Rights of Mentally Retarded Persons	
International Labour Organisation Convention III	22
Total	103

The Human Rights Commissioner has the power to delegate authority to investigate and conciliate complaints lodged under the Human Rights and Equal Opportunity Commission Act 1986. During the Period 10 December 1986 to 30 June 1987 the Human Rights Commissioner did not delegate this authority to the Commissions State agents or regional offices. As a result all complaints lodged under this Act during this period were dealt with by the Commission's central office.

Category of Complainant

Males	89
Females	41
Group/Organisation	11
Total	141*

* The total number of complainants is greater than the total number of complaints because, in a number of cases, there were several complainants involved in a single complaint.

Appendix 1.2

Complaints lodged under the Racial Discrimination Act 1975 10 December 1986 — 30 June 1987

	<i>HREOC Central Office</i>	<i>NSW</i>	<i>VIC</i>	<i>QLD</i>	<i>WA</i>	<i>SA</i>	<i>NT & TAS</i>	<i>TOTAL</i>	<i>%</i>
AREA OF COMPLAINT									
Access to places & facilities	3	5	2	4	-		2	16	7.1
Land/housing/accommodation	2	9		5	1	2	1	20	8.9
Provision of goods & services	6	20	1	11	1	5	10	54	24.1
Employment	13	54	15	4	3	9	7	105	46.9
Advertising/Media	9	1						10	4.5
Incitement to unlawful acts	10	1						11	4.9
Education	2	6	-					8	3.6
Total	45	96	18	24	5	16	20	224	100
COMPLAINANT'S ETHNICITY									
Aborigines	13	21	2	17	2	7	12	74	33.0
People of Non-English Speaking Backgrounds	24	51	11	3	2	6	8	105	46.9
English Speaking Background Association	-	7	5	2	1			15	6.7
Other	1			2		2	-	5	2.2
	7	17	-		-	1	-	25	11.2
Total	45	96	18	24	5	16	20	224	100
CATEGORY OF COMPLAINANT									
Female	9	38	4	7				65	29.0]
Male	20	51	11	14	5	8	6	115	51.3
Group/Organisation	16	7	3	3	-	1	14	44	19.7
Total	45	96	18	24	5	16	20	224	100

Appendix 1.3

Complaints lodged under the Sex Discrimination Act 1984 10 December 1986 — 30 June 1987

GROUND OF COMPLAINT	HREOC	NSW	VIC	QLD	WA	SA	NT	TAS	TOTAL	%
	Central Office									
Sex	23	75	24	18	11	32	4	11	198	48.6
Sexual Harassment	6	13	20	32		14	2	7	94	23.1
Sex & Sexual Harassment		16	-	-		-	-		16	3.9
Marital Status	6	11	2	3		5	1	1	29	7.1
Sex & Marital Status		11	2	-		4			17	4.2
Pregnancy	1	15	19	10		3	2	1	43	10.8
Other	2	-	-			-	-		2	0.5
Total	38	141	67	63	11	58	9	20	407	100
AREA OF COMPLAINT										
Employment	22	111	54	60	9	37	9	15	317	77.9
Accommodation	-	2	-	1			-		3	0.7
Goods/Services/Facilities	6	10	8	2		8	-	3	37	9.1
Clubs	2	13	3	-		7	-		25	6.2
Commonwealth Law Programs	2	-	2	-		-	-		4	1.0
Education	2	3	-	-		6	-		12	2.9
Application Forms	-		-	-		-	-			
Land		1	-	-					1	0.2
Advertising	2		-	-	2	-		1	5	1.2
Other	2	1	-	-		-			3	0.7
Total	38	141	67	63	11	58	9	20	407	100
CATEGORY OF COMPLAINANT										
Male	10	24	1	10	9	1	2	-	57	14.0
Female	27	114	65	53	1	53	7	8	328	80.6
Group/Association	1	3	1		1	4		12	22	5.4
Total	38	141	67	63	11	58	9	20	407	100
CATEGORY OF RESPONDENT										
Commonwealth Authority	9	15	5	4	1	5			39	9.6
Other	29	126	62	59	10	53	9	20	368	90.4
Total	38	141	67	63	11	58	9	20	407	100

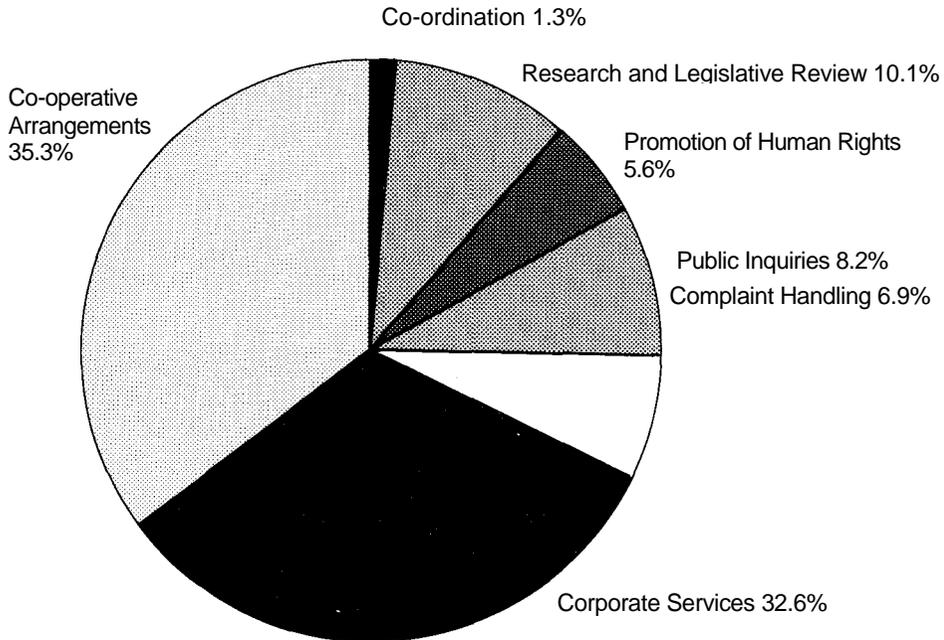
Appendix 1.4

Human Rights and Equal Opportunity Commission Expenditure — 1986-87

	<i>Allocation</i> \$m	<i>Expenditure</i> \$m
Special Appropriations		
Holders of Public Office	0.162	0.160
Salaries	0.667	0.608
Administration	0.884	0.579
Co-operative Arrangements	0.750	0.750
Capital Equipment	0.029	0.028
<u>Total</u>	<u>2.492</u>	<u>2.125</u>

Appendix 1.5

Human Rights and Equal Opportunity Commission Expenditure by Program Element — 1986-87



PART 2

**REPORT OF THE OPERATIONS
OF THE
HUMAN RIGHTS COMMISSION**

1 JULY 1986-9 DECEMBER 1986

PREFACE

This is a report of the operations of the Human Rights Commission under the *Human Rights Commission Act* 1981 for the period 1 July, 1986 - 9 December, 1986. It is made pursuant to section 45(2) of the *Human Rights and Equal Opportunity Commission Act* 1986.

A 'sunset clause' in the Human Rights Commission Act ended the life of the Human Rights Commission on 9 December, 1986. A new Commission, the Human Rights and Equal Opportunity Commission (HREOC), took its place with a different composition and a wider jurisdiction.

HUMAN RIGHTS COMMISSION

Chairman

Dame Roma Mitchell, DBE

Deputy Chairman

Mr P H Bailey, OBE

Commissioners

Associate Professor M J Aroney, OBE

Dr M R Einfeld, QC

Mrs N C Ford

Mrs E Geia

Ms E Hastings

Commissioner for Community Relations

Mr J P M Long

Sex Discrimination Commissioner

Ms P F O'Neil

Secretary

Mr Fergus Thomson

ACTS ADMINISTERED BY THE COMMISSION

Human Rights Commission Act 1981

Racial Discrimination Act 1975

Sex Discrimination Act 1984

FUNCTIONS OF THE COMMISSION

The Human Rights Commission was an independent statutory authority established under the *Human Rights Commission Act* 1981 to promote and protect human rights in Australia. In the Commonwealth sphere the Commission was able to review legislation, investigate complaints, and undertake research and educational programs relating to human rights. It also had responsibility for implementing the *Racial Discrimination Act* 1975 and the *Sex Discrimination Act* 1984.

The Human Rights Commission came within the Ministerial responsibility of the Attorney-General, the Hon. Lionel Bowen M.P.

THE MINISTER

The Minister had the following powers under the Human Rights Commission Act:

(a) to make (or vary or revoke) an arrangement with a State of the Northern Territory for the performance of functions relating to the promotion of the observance of human rights (s.11);

(b) to declare, after consultation with the States and the Northern Territory, an international instrument to be an international instrument relating to human rights and freedoms for the purposes of the Act (s.31); and

(c) to issue to the Commission a certificate certifying that the disclosure of certain information or the disclosure of the contents of certain documents would be contrary to the public interest (s.15).

The Minister was able also, under s.9 of the Human Rights Commission Act, to request the Commission to perform certain functions such as the examination of proposed enactments to ascertain whether they were inconsistent with or contrary to any human right. He had similar powers under s.48 of the Sex Discrimination Act.

The Commission's programs

Program	Sub-program	Component
Commission policy determination	<i>Commission meetings</i>	Preparation of Commission papers
		Consideration of issues
		Policy decisions
Research and legislative review	<i>Research programs</i>	In-house research projects External research projects
	<i>Legislative review</i>	Reports to the Attorney-General Provision of legal advice
Promotion of human rights	<i>Community awareness/ education activities</i>	Special events
		Human Rights Media Awards
		HRC Shopfront
		Community Education Grants
		Equal Opportunity
		Educators Network
		Liaison with NGOs
		Field trips
		Public addresses
		<i>Schools program</i>
<i>Publishing</i>	Informational material Reports, Occasional Papers and Discussion Papers Monographs	

Program	Sub-program	Component
Complaint handling	<i>Inquiry and conciliation under</i>	Inquiry Conciliation Field Work
	<i>—the Human Rights Commission Act</i>	Reports to the Attorney-General (H.R.C. Act)
	<i>—the Racial Discrimination Act</i>	Certificates (R.D. Act) Referral to Commission (S.D. Act)
	<i>—the Sex Discrimination Act</i>	Formal inquiries by Commission (S.D. Act)
		Delegations
Administration	<i>Co-operation with the States</i>	Commission offices State agencies
	<i>Personnel management</i>	Industrial democracy and equal employment opportunity Personnel and establishment activities Staff development
	<i>Financial management</i>	Budgets and estimates Purchasing and accounting Program budgeting
	<i>Information management</i>	Information dissemination Library Registry Statistics system FOI
	<i>Facilities and services</i>	

Commission policy determination

Program	Sub-program	Component
Commission policy determination	<i>Commission</i>	Preparation of Commission papers
	<i>meetings</i>	Consideration of issues
		Policy decisions

COMMISSION POLICY DETERMINATION

Commission Meetings

The Commission met as a collegial body: in Brisbane once during the year (14-15 July); and in Canberra on 3 occasions (28-29 August, 23-24 October and 8 December).

Details of procedures and purposes of the Commission's meetings are set out in its Annual Report 1985-86.

The Commission took notice of a decision announced by the Government to allow the 'sunset clause' in its legislation to operate on 9 December, 1986 and a request by the Attorney-General that it contain its operations with a view to ensuring that as as many funds as possible remained for use by the incoming Human Rights and Equal Opportunity Commission. It accordingly decided not to commence any new research or educational projects during the period under report and that only projects commenced previously, to which substantial amounts of resources had been committed, would be allowed to proceed to completion. The Commission had a statutory duty to deal with complaints made under its legislation and proceeded accordingly. It decided, however, to close its shopfront office in Canberra, which had been opened on Human Rights Day, 10 December, 1985. The Community Education Grants Program was discontinued with a view to saving funds as requested.

Research and Legislative Review

Program	Sub-program	Component
Research and legislative review	<i>Research programs</i>	In-house research projects External research projects
	<i>Legislative review</i>	Reports to the Attorney-General Provision of legal advice

RESEARCH AND LEGISLATIVE REVIEW

This program included projects on human rights issues, review of Commonwealth and Territory laws for consistency with human rights and provision of legal advice.

Research Programs

Some projects were undertaken internally by members of the Legal and Projects Branch. Others were contracted out to external consultants according to the expertise and resources required by a particular project.

The results of projects were published in the form of Discussion Papers, Occasional Papers or Monographs, or formed the basis of a report to the Attorney-General recommending changes in Commonwealth or Territory law or practice, or provided necessary background for the conciliation of a complaint or the determination of policy by the Commission.

In-house research projects

The human rights of Australian-born children whose parents are deported (Report No. 18).

The Commission had drawn attention in Reports Nos. 10 and 15 to the human rights of Australia-born citizens who are the children of prohibited non-citizens, temporary entrants or visitors. The Government responded by enacting legislation which has the effect of removing the right of automatic citizenship for such children.

The Report recommends that the Minister:

- (a) reconsider its policy in relation to the deportation of the relatively small and diminishing group of prohibited non-citizens, having in mind the contents of this and earlier Reports from the Commission; and
- (b) determine that families who have Australian-born children who are Australian citizens, i.e. were born before the new legislation came into operation, be allowed to remain in Australia.

Superannuation and Insurance and the Sex Discrimination Act 1984, Part] — *Superannuation* (Report No. 19)

This report was prepared in response to a request by the then Attorney-General who requested the Commission to report to him as to:

- (a) whether the Sex Discrimination Act should be amended in relation to the exemption granted in sub-section 41(1) of that Act regarding the terms or conditions appertaining to a superannuation or provident fund or scheme, and if so, the form the amendment should take; and
- (b) whether the Sex Discrimination Act should be amended in relation to the exemption granted in sub-section 41(4) of that Act regarding the terms on which an annuity, a life assurance policy, a policy of insurance against accident or any other policy of insurance may be offered or obtained, and, if so, the form the amendment should take.

The report discusses the main aspects of superannuation schemes which are discriminatory on the grounds of sex or marital status. An outline is given of the essential features of non-discriminatory schemes. The Commission recommended simple repeal of sub-section (1) of s.41. The existing exemption power in s.44 would allow the Commission to give exemptions in relation to matters involving the industry generally or where particular schemes were unable to comply, for the time being, with the Act. The exemption power has been used where the anti-discrimination provisions would have produced anomalies or unreasonable results. The position for employers and superannuation funds who provide superannuation would be no different under the Act than for other employers or service providers if the general exemption in S.41 were to be repealed.

Civil Disobedience and the Use of Arrest as Punishment: Some Human Rights Issues (Report No. 21).

This report is concerned with the human rights implications of Guidelines issued by the Commonwealth Director of Public Prosecutions for 'Civil Disobedience' prosecutions.

These Guidelines relate to prosecutions under s.23 of the Public Order (Protection of Persons and Property) Act 1971 (Cwth) which requires that proceedings for summary prosecutions and for the commitment of persons for trial on indictment for certain offences under that Act shall be instituted only with the consent in writing of the Director.

In the Guidelines the Director states, in paragraph 8, that:

In some cases the decision to effect an arrest will provide an immediate solution for the problem at hand. It takes the offender away from the scene of confrontation, for at least as long as it takes for bail to be granted and satisfied. During that period there is a deprivation of liberty, and on occasions that may be a sufficient penalty for the conduct in question.

Two issues of concern arise in relation to paragraph 8: the possibility of arbitrary detention and the inference that anyone other than a Court may determine what is a sufficient penalty.

The Commission concluded that paragraph 8 was inconsistent with Articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) and had the potential to lead to infringements of Articles 19 and 21 of the ICCPR. Accordingly, the Commission recommended that the Guidelines be revised to achieve consistency with the ICCPR and to eliminate the notion that arrest can, in any circumstances, be treated as punishment.

Human Rights, Family Migration, and Disabled Family Members (Report No. 22)

This report focuses on two issues arising out of the Government's family reunion policy which were the subject of recommendation in the Commission's Report No. 13 — Human rights and the Migration Act 1958, and which were the subject of further complaints since the preparation of that report, namely:

- (a) a confusion between disability and health; and
- (b) -an automatic exclusion from migration to Australia of families with disabled members, or of family members with disabilities seeking to join their families in Australia.

In its Report No. 13, the Commission drew attention to problems of human rights arising from the administration of the Family Reunion Program (included in the Family Migration, and Independent and Concessional categories), which formed a key part of Australia's immigration policy.

The Commission had before it a number of unresolved complaints involving persons who appeared unable to obtain approval to immigrate because of disability. It seemed to the Commission important to bring to the notice of the Parliament the problems that had arisen as a result of not following up actively the recommendations in the Commission's Report No. 13.

The Report summarises some relevant complaints and makes recommendations for legislative and other action with respect to the application of the family migration program to families with members who are disabled, in a way that is consistent with Australia's human rights obligations.

The Right of Peaceful Protest Seminar Canberra, 3-4 July, 1986 Papers (Occasional Paper No. 14)

1986 was the International Year of Peace. In accordance with this theme, the Commission selected as one focus for its activities the right of peaceful protest. With the support of the International Year of Peace Secretariat of the Department of Foreign Affairs, in July the Commission arranged a public seminar at which papers were given on a number of issues relating to the right of peaceful protest. These included: media reporting of protest activity, protest as a political strategy, Government responses to protest, policing protest, peaceful protest in international law, notification or authorisation requirements for public assemblies, protection of diplomatic personnel and premises, and picketing. Proceedings of the seminar are reproduced in this Occasional Paper.

Affirmative Action for People with disabilities (Discussion Paper No. 11)

A basic theme of the paper is that, at least in the area of employment, anti-discrimination legislation is of itself unlikely to provide a satisfactory remedy for people with disabilities whose human rights are being infringed. Active and positive programs are needed to ensure that people with disabilities attain decent living standards, that their special needs are taken into account in planning, and that they are encouraged to be as self-reliant as possible. People with disabilities need to have a major role in shaping policy and determining practice in the areas of social provision which affect them.

External research projects

Prisoners' Rights: A Study of Human Rights and Commonwealth Prisoners (Occasional Paper No. 12)

Professor Gordon Hawkins examines the anomalous situation existing for prisoners who are detained under federal laws and who are nevertheless confined and subjected to the rules of State institutions. His report analyses, by reference to the relevant international instruments, the rights to which prisoners are entitled. Reference is made to current discussion of prisoners' rights both in Australia and overseas.

Getting a Fair Go: Studies of Occupational Socialisation and Perceptions of Discrimination (Occasional Paper No. 13)

Dr B.M. Bullivant of Monash University studied the occupational socialisation of students of non-English speaking backgrounds in seven Melbourne high schools. The study investigates whether students' employment aspirations are determined along the lines of ethnicity, socio-economic status and/or gender by such factors as curricula, career guidance, and experience of prejudice and discrimination within schooling. It also includes an extensive review of current theory in relation to schooling, discrimination and ethnic relations.

Conciliation Under the Racial Discrimination Act 1975: A Study in Theory and Practice (Occasional Paper No. 15)

This study gives an account of conciliation processes developed under the Racial Discrimination Act 1975 (Cwlth) and presents it in the context of general theories of conflict resolution, with some comparisons with methods used by other bodies working in related fields in Australia and New Zealand.

Refugees experiences of anti-Asian sentiment in the Brisbane area (Discussion Paper No. 9)

The Commission had been concerned at increasing anti-Asian racism in Australian society, particularly in the capital cities. It funded research to enable Asian community organisations to investigate the experience of prejudice, racism and the associated infringement of human rights. Discussion Paper No. 9 presents the findings of the survey carried out among members of the Vietnamese, Cambodian and Laotian communities.

Enduring a lot: The effects of the school system on students with non-English-speaking backgrounds (Discussion Paper No. 10)

The paper records an action research strategy devised and supervised by staff of the Deakin Institute for Studies in Education, Deakin University. Non-English speaking background (NESB) students at secondary schools in the Geelong area explored and analysed what it means to be an NESB student in an Australian school. Much of the report consists of the views of the students themselves, their perceptions of what it means to be 'different' in school, what the educational and social implications are and what is to be done to ensure that NESB students will have somewhat less to endure in the future.

The rights of hearing-impaired people in the workplace (Discussion Paper No. 12)

A series of community awareness seminars were held on the problems faced by hearing-impaired people in the workplace, in the course of which many useful strategies were developed for safeguarding the rights of hearing-impaired people in common workday and employment situations. The paper, written by Ms Merrill Cook, describes these strategies in detail and provides valuable background information concerning hearing impairment.

Aborigines, local government and incorporated associations in Western Australia (Discussion Paper No. 13)

This study examines the Western Australian experience with Aboriginal participation in local administration through incorporated Aboriginal associations and local government authorities. A particular emphasis is on Aboriginal participation in the local government elections in May 1985 under amendments to the Local Government Act 1960 (W.A.) made shortly before the elections.

Combatting prejudice in schools (Discussion Paper No. 14)

The paper, written by Ms Kathy Skelton, derives from the Combatting Prejudice in Schools Project, a joint initiative of the Ecumenical Migration Centre and the Richmond Community Education Centre. Its

aim is to work with schools or groups of teachers who have identified prejudice as an area of concern, helping them to understand the social forces at work and to consider ways of involving parents and students in the search for solutions. The paper considers the general issues and strategies which have emerged in the course of this work.

Alternative accommodation for the intellectually disadvantaged (Discussion Paper No. 15)

Moves to provide non-institutional accommodation in the community for intellectually disabled people frequently encounter public prejudice and bureaucratic obstruction which result in infringements of the rights of mentally retarded persons and disabled persons. Alternative Accommodation for the Intellectually Disadvantaged (Inc.), of South Australia, describe their efforts to establish group houses for such people in Adelaide and the problems encountered.

Performance differences between boys and girls under 12 in swimming and athletics (Discussion Paper No. 16)

Mr Les Rauert of the Australian Schools Sport Council prepared this report with the assistance of the Centre for Sports Studies of the Canberra College of Advanced Education. It examines the performance differences between boys and girls under 12 years of age from the intra-school to the national level of competition in government and non-government, rural and urban schools. It also provides an analysis of the findings.

Legislative Review

The Commission had the function, among others, of reviewing federal and territory (other than Northern Territory) legislation for inconsistency with human rights. As part of an on-going process of review the Commission reported to the Attorney-General the need for changes to an ordinance of the Australian Capital Territory.

Review of the ACT. adoption of Children Ordinance 1965 (Report No. 23)

This review of the A.C.T. Adoption of Children Ordinance 1965 and the A.C.T. Adoption of Children Regulations was undertaken following receipt of a number of complaints about adoption legislation and practice.

As a first step the Commission, in July 1984, published Discussion Paper No. 5 on the Rights of relinquishing mothers to access to information concerning their adopted children. The paper examined rights to information and to privacy associated with access to original birth records, focusing specifically on the (generally overlooked) rights of mothers who had relinquished children for adoption to have access to information about these children.

As well as reviewing the Ordinance, the Report covers:

- the rights of the child relevant to the review
- application of Sex Discrimination Act principles
- Aboriginal rights and interests in adoption

The Report contains a number of recommendations designed to bring the Ordinance into line with applicable human rights.

Promotion of human rights

Program	Sub-program	Component
Promotion of human rights	<i>Community awareness!</i>	Special events
	<i>education</i>	Human Rights Media Awards
	<i>activities</i>	HRC Shopfront
		Community Education Grants
		Equal Opportunity
		Educators Network
		Liaison with NGOs
		Field trips
		Public addresses
		<i>Schools program</i>
	<i>Publishing</i>	Informational material
		Reports, Occasional Papers and Discussion Papers
		Monographs

PROMOTION OF HUMAN RIGHTS

Community Awareness/Education Activities

The Commission had the functions of promoting an understanding and acceptance and the public discussion of human rights in Australia; and of undertaking educational programs to promote human rights.

Special Events

Human Rights Day in the Park, an annual event co-ordinated by the Commission, took place on Sunday 7 June 1986 in Commonwealth Park in the A.C.T. Volunteers from the Commission's Canberra office staffed the Commission's display and thus assisted in containing cost.

Human Rights Media Awards

The third Human Rights Media Awards co-sponsored by the Commission, the Australian Journalists' Association and the National Press Club, were presented by the Hon. E.G. Whitlam on 9 December, 1986. The awards were established in 1983 to recognise the contribution of the media 'to the understanding and public discussion of human rights in Australia'.

Final selections were:

Print Media

Winner: Rosemary West for 'The Baby Trade', The Age

Highly Commended: Carolyn Garland for 'Aboriginal Medical Pioneers' and 'An Aboriginal Flag Flies High at Wickham', The Newcastle Herald

Radio

Winner: Marilyn Challday for 'The Sweatbox Kids', ABC/2CN Canberra

Highly Commended: Ross Quinn for 'Towards an Independent Lifestyle', ABC/2BA/CP Bega

Television

Winner: Kerry O'Brien for 'Uniform Trifecta', 4 Corners ABC TV

Highly Commended: Anthony Barsao for 'Prison Special Report', Channel 10, Sydney

A.C.T. Human Rights Shopfront

Shopfront premises, opened on 10 December, 1985 to provide direct street level access to Commission services in the A.C.T. region, closed on 31 October, 1986. The decision to close was made in light of Budget funding cuts to the Commission and a request made by the Government to the Commission to contain its operations to save funds for use by the incoming Commission.

Community Education Grants

The grants program was established in 1983 to support and encourage non-government organisations and groups in carrying out human rights community education projects. Over 240 applications for grants were received by the Commission for 1986-87. However, consistently with the Government's request that the Commission contain its operations to save funds, the program was discontinued for the year.

Equal Opportunity Educators Network

The network of educators working in the equal opportunity field was established in 1984 by the Commission and heads of State Equal Opportunity agencies to co-ordinate human rights education activities on a national basis. Meetings of the network lapsed, in part due to the Commission's containment of activity during the period under report.

Liaison with Non-Government Organisations

Largely due to the Commission's decision to limit activity during the period, no significant liaison events took place.

Field Trips

Field trips by Commissioners and Commission staff, especially in the Northern Territory and Northern Queensland, provide an opportunity for conciliation and community education. They allow public contact and liaison with government and non-government bodies such as employer groups, commercial

associations, trade unions, police and local media. Details of field trips during the period under report are set out in the section covering the program: Complaint Handling.

Public Addresses

During the period covered by this report Commissioners, Commission officers and representatives of State Equal Opportunity agencies spoke on numerous occasions at conferences and seminars to community and other groups.

Schools Program

Following a series of requests from teachers for help in teaching human rights the Commission developed materials and a curriculum development project. A program of introducing and testing the curriculum in schools across Australia was commenced in 1984. Details of the program were contained in the Commission's Annual Report 1985-86. It was adopted by the United Nations Centre on Human Rights as the basis for a global program. The Commission's national schools program was discontinued during the period of this report for budgetary reasons.

Related to the schools program was the development of an Education Series, designed to provide resources for human rights educators. Three manuals were published: .

- No. 1 — Anti-racism: A Handbook for Adult Educators
- No. 2 — Teaching for Human Rights: Pre-school and Grades 1-4
- No. 3 — Teaching for Human Rights: Grades 5-10

Publishing

In pursuance of its function of promoting understanding and acceptance, and public discussion of human rights the Commission established a program of publishing information and other materials on human rights. As well, the Commission published the results of research and related activity undertaken by it. Its published papers are primarily available through Australian Government Bookshops across Australia.

During the period of this report, the Commission produced:

- Two issues of its newsletter — Human Rights
- The Sex Discrimination Act and You (comic)

Reports, Occasional Papers and Discussion Papers

In the course of the period covered by this Report, the Commission published:

- Five reports to the Attorney-General
- Four Occasional Papers
- Eight Discussion Papers

Details are given in the section: Research and legislative review.

A number of research projects commenced by the Commission did not proceed to a published paper, principally for budgetary reasons but in some cases because they were not ready. These relate to the following topics:

- The Status of Women in the Professions — Architecture as a case study
- The Rights of Residents in Institutions
- Anti-Asian Prejudice — Sydney
- Women's Return to Work after Having taken Maternity Leave
- Islamic Children in Australian Schools.

Complaint handling

Program	Sub-program	Component
Complaint handling	<i>Inquiry and conciliation under</i>	Inquiry
		Conciliation
		Field Work
	<i>— the Human Rights Commission Act</i>	Reports to the Attorney-General (H.R.C. Act)
	<i>— the Racial Discrimination Act</i>	Certificates (R.D. Act)
		Referral to Commission (S.D. Act)
	<i>— the Sex Discrimination Act</i>	Formal inquiries by Commission (S.D. Act)
	Delegations	

COMPLAINT HANDLING

Inquiry and Conciliation

The Commission had the function of inquiring into and attempting to settle by conciliation complaints received by it. In the case of human rights complaints, this was done by the Commission itself; the Sex Discrimination Commissioner and the Commissioner for Community Relations acted for the Commission in complaints of sex and racial discrimination respectively. Officers of the Commission and State anti-discrimination agencies, under authorisation from the Commission or the two Commissioners, performed much of the complaint handling function. Complaint statistics are set out in Appendix 2.1. Details of the inquiry process adopted by the Commission are set out in its Annual Report 1985-86.

Field Work

Field work, involving visits by Commissioners or officers to various parts of Australia, was undertaken in appropriate cases. This provided an opportunity for human rights education through direct contact with members of the community concerned and with local groups and organisations.

A field trip commencing in Tennant Creek on Sunday 29 June and ending at Yulara (Ayers Rock) on Saturday 12 July was undertaken for the purpose of inquiry into sex and racial discrimination complaints and community education work in the southern region of the Northern Territory.

Officers dealt with sixteen matters under the Racial Discrimination and the Sex Discrimination Acts, six being received in Canberra and ten received during the field trip.

Work was carried out in five centres: Tennant Creek, Alice Springs, Yulara, Mutitjulu Aboriginal Community (Ayers Rock) and Imampa Aboriginal Community (Mt Ebenezer).

Some notable features of the field trip were:

- Canberra-based conciliators were accompanied for the first time by the Commission's Northern Territory representative;
- First compulsory conferences under the Racial Discrimination Act were held in Tennant Creek and Yulara;
- Emphasis given to community education work under the Sex Discrimination Act in southern region centres;
- First visit by Commission officers to the Imampa Community at Mt Ebenezer;
- First Human Rights Commission stall and display at the Alice Springs Show; and
- Newspaper and radio coverage in the larger centres of Tennant Creek and Alice Springs.

Between 13 and 24 July 1986, two conciliators travelled to the Northern Territory on a field trip to deal with complaints and also to participate in community education work. The Commissioner for Community Relations, Mr J.P.M. Long, worked with the team in Darwin. The conciliators visited Darwin, Katherine and Groote Eylandt. Ms Dawn Lawrie, the Commission's Northern Territory representative, accompanied the team to Katherine and assisted with a number of matters in Darwin.

During the field trip, ten complaints under the Racial Discrimination Act and one under the Sex Discrimination Act were dealt with. Three of the racial discrimination complaints were received during the course of the trip. Other matters were raised with the team in the various centres visited.

Reports to the Attorney-General under the Human Rights Commission Act.

Where a settlement of a complaint of an infringement of a human right cannot be achieved through the conciliation process, the Commission is required to report to the Minister who in turn must table the report in Parliament.

In the year under review the Commission made two reports to the Attorney-General concerning complaints under the Human Rights Commission Act.

The first, Human Rights, Family Migration and Disabled Family Members (No. 22) covers a number of unresolved complaints involving persons who appeared unable to immigrate because of disability. Details are set out in the section: Research and legislative review. The second was entitled Complaints Relating to the Protest at Pine Gap, November 1983 (No. 20).

Pine Gap

Between 11 and 25 November 1983, a Women for Survival Peace Camp was held near the Joint Defence Space Research Facility at Pine Gap, a few kilometres from Alice Springs. Associated with a move by some of the women over the relatively low perimeter fence into the protected area surrounding the communications installations, some one hundred and eleven arrests took place.

The Commission received thirty-nine complaints from women of infringements of human rights. Report No. 20 outlines the Commission's inquiries into the complaints and its endeavours to effect a settlement, and makes recommendations about aspects of the handling by police of largely peaceful protests.

Complaints under the Racial Discrimination Act

Under the Racial Discrimination Act a complainant may institute civil court proceedings if the Commissioner for Community Relations has issued a certificate that a conciliation conference has been held and the parties to the complaint have not been able to reach a settlement. No certificates were issued by the Commissioner for Community Relations during the year.

Referral to Commission under the Sex Discrimination Act

Under the Sex Discrimination Act, the Sex Discrimination Commissioner refers to the Commission for inquiry complaints which cannot be settled or which she believes she should not attempt to settle. In such a case, the Commissioner prepares a report for the Commission on the result of her inquiries into the complaint, without referring to anything said or done in the course of the attempted conciliation.

Formal inquiries under the Sex Discrimination Act by the Human Rights Commission

Five inquiries were completed by the Commission pursuant to Part III Division 3 of the Act during the period under report.

Grant of Exemption under s.44(1) of the Sex Discrimination Act 1984

In the case of the Sex Discrimination Act, an interested party may seek from the Commission a temporary exemption from the provisions of the Act. During the period no exemptions were granted.

Delegations under the Racial Discrimination Act and Sex Discrimination Act

During the period of this report delegations under s.40(2) of the Racial Discrimination Act 1975 were issued by the Commissioner for Community Relations to various officers of the Commission and State equal opportunity agencies with which the Commission has co-operative arrangements, and to the Executive Officers of the Tasmanian and Northern Territory Committees on Discrimination in Employment and Occupation. Delegations under s.104(2) of the Sex Discrimination Act 1984 were made by the Sex Discrimination Commissioner.

Administration

Program	Sub-program	Component
Administration	<i>Co-operation with the States</i>	Commission offices
		State agencies
	<i>Personnel management</i>	Industrial democracy and equal employment opportunity
		Personnel and establishment activities
		Staff development
	<i>Financial management</i>	Budgets and estimates
Purchasing and accounting		
Program budgeting		
<i>Information management</i>	Information dissemination	
	Library	
	Registry	
	Statistics system	
	FOI	
	<i>Facilities & services</i>	

ADMINISTRATION

The administrative operations of the Commission were carried out primarily by staff of the Promotion and Information Branch assisted in final processing by officers of the Attorney-General's Department in the areas of personnel operations and the payment of accounts.

The Commission's expenditure for the period under report totalled \$2.701 million of which \$.82 million represented staff salaries and \$1.727 million represented administrative expenses, including payments to the States (see Appendix 2.2). (The Commission operated only until 10 December, 1986).

Co-operation with the States

The Commission had offices in those States which do not have anti-discrimination legislation and co-operative arrangements with the four bodies implementing State anti-discrimination legislation.

The co-operating agencies are located in New South Wales, Victoria, South Australia and Western Australia. The Commission had an office in Queensland, and the Executive Officers to the Tasmanian and Northern Territory Committees on Discrimination in Employment and Occupation acted as the Commission's representative in those areas. An amount of \$.635 million was appropriated for payments to the States during the period.

Commission Offices

The Commission operated from Canberra and, in addition to its national responsibilities, its officers undertook all activities associated with its functions in the A.C.T. at national and territory level.

The Commission had a regional office in Brisbane to deal with all three Acts for which the Commission was responsible, undertake significant work in human rights education, and liaise extensively with community groups.

The Commission's representatives in Tasmania and the Northern Territory were given delegations by the Commissioner for Community Relations and the Sex Discrimination Commissioner to investigate and conciliate complaints under the Commonwealth legislation administered by the Commission.

State agencies

In New South Wales, Victoria, South Australia and Western Australia, the Commission was represented by agencies of the respective State Governments. Officers of these agencies undertook all activities on behalf of the Commission in the respective State and funds were provided to the State Governments for this purpose.

Personnel Management

During the period under report, 70% of the Commission's staff were women. One woman was a member of the Senior Executive Service staff. Four Aboriginal staff were employed and nine staff were identified as coming from non-English speaking backgrounds. The amount expended for salaries for the period was \$.82 million. A separate appropriation covered salaries and other costs, except the cost of travel, of Commissioners (see Appendix 2.3)

Industrial democracy and equal employment opportunity

Implementation commenced of the Commission's equal opportunity and industrial democracy plans, developed in 1984-85. No additional resources were provided to the Commission for this purpose. The Joint Consultative Committee, established under the industrial democracy plan, met from time to time to discuss issues including development of an induction handbook; review of RSI prevention procedures; and staff amenities.

Personnel and establishment activities

As previously, the Commission undertook its own recruitment and establishment activities, assisted in processing operations by the Attorney-General's Department. A planned rationalisation of the organisation structure and resources did not proceed (see Appendix III for the Commission's organisation structure over the period).

Staff development

Staff had access during the period to appropriate seminars and training courses, especially those conducted by or under the auspices of the Public Service Board.

Financial Management

The appropriation for the Commission for the financial year 1986-87 covered only the period 1 July 1986 — 10 December 1986 (separate appropriations were to be made for the incoming Commission). Details are given in Appendix II.

Budgets and estimates

The approximate percentage of funds allocated to a particular area of the Commission's main functions was:

• complaint handling	14.4
• research	6.6
• policy	10.4
• promotion	22.1
• administration	26.7
• reimbursements to the States	19.8

Purchasing and accounting

The Commission performed all its purchasing and accounts preparation work, with processing undertaken by the Attorney-General's Department. The Commission appreciated this assistance.

Program budgeting

The Commission was scheduled to commence program budgeting in 1987-88. The format of this and its last Annual Report was a step towards implementation of that process.

Information Management

The Commission operated a library and a registry system and had developed a statistics collection system which was being integrated with similar systems operating in the State offices.

With the acquisition of computing facilities, the Commission was planning fully to automate and integrate all its information systems.

Information dissemination

The Commission's information and educational material was disseminated through State offices and agencies, mailing lists, and in the case of publications, purchase from the Commonwealth Government bookshops. Audio-visual material was also available.

Library

The library's collection of 10,000 volumes comprised monographs and periodicals in the social sciences/human rights area, and national and international primary legal materials.

A personal computer was used for cataloguing new books and backlog material, for indexing selected newsclippings, and for accessing the external databases SCALE, CLIRS, AUSINET and Australian Bibliographic Network.

Registry

The Commission operated a registry system that was to be computerised as a priority once the new computer was in full operation.

Statistics system

For management information it was necessary to collect, collate and analyse information on the number, type and origin of complaints and inquiries. This information was in part collected by the State offices but the systems used were in varying stages of automation. It was planned that a fully operational, automated and integrated system would be in place before the end of 1986-87.

Freedom of Information (FOI) — internal procedures

A manual of procedures for the guidance of staff in handling **FOI** requests was available to the public for perusal.

The Commission promoted a policy of maximum openness subject only to s.34 of the Human Rights Commission Act and the equivalent provision in the Sex Discrimination Act, which in effect provide for non-disclosure of information acquired by the Commission about the affairs of individuals.

The Commission had authorised six officers to grant access and two officers to refuse access to documents requested under **FOI**.

Facilities and services

Word processing services were inadequate to meet requirements. Following an evaluation by a consultant of existing and projected computing word processing needs, the Commission decided to purchase new equipment. The equipment chosen had been recommended to all agencies in the Attorney-General's portfolio after an exhaustive examination of available equipment by computer specialists.

Further stages in the setting up of the computer were to be undertaken in 1986-87 and 1987-88.

Acquisition of these new word processing and computer facilities would have assisted in rationalising the workload in the administrative operations area and considerably improved management capacity.

In conjunction with the accommodation and computing facilities reviews, it was proposed to assess the efficiency of the delivery of other services.

APPENDICES PART 2

Appendix 2.1

Complaints lodged with Human Rights Commission and its State Agencies 1 July 1986 — 9 December 1986

	<i>HRC</i>	<i>NSW</i>	<i>VIC</i>	<i>WA</i>	<i>SA</i>	<i>Total</i>
Sex Discrimination Act	126	133	38	3	27	327
Racial Discrimination Act	92	101	6	5	9	213
Human Rights Commission Act	86	14	6	2		108
Total	304	248	50	10	36	648

Appendix 2.2

Human Rights Commission Expenditure Statement — 1986-87

	Allocation	Expenditure
	\$m	\$m
Special Appropriations		
Holders of Public Office	0.160	0.154
Salaries	1.000	0.820
Administration	0.940	0.828
Co-operative Arrangements	0.635	0.635
Capital Equipment	0.270	0.264
Total	3.005	2.701

Appendix 2.3

Organisation structure and staff of the Human Rights Commission

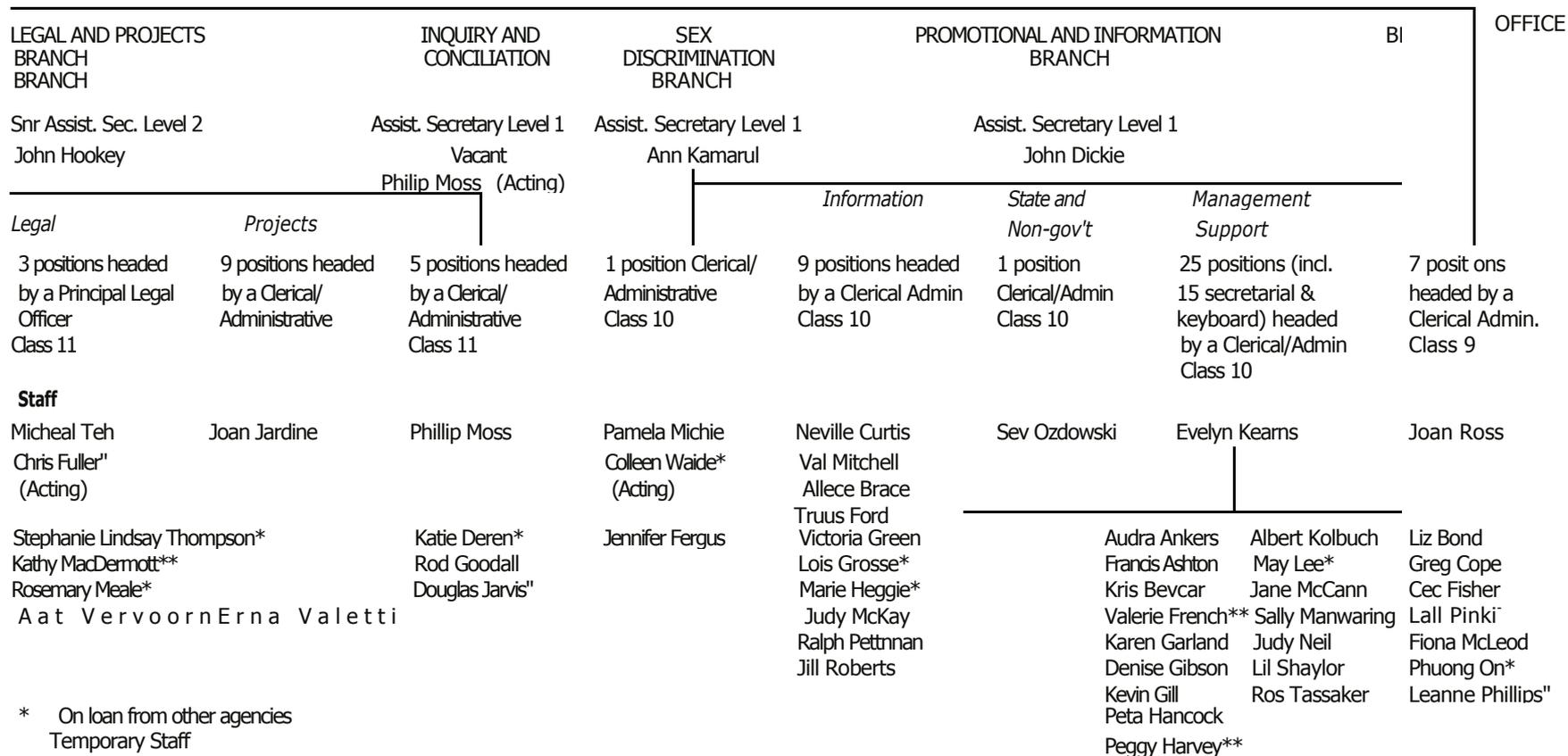
COMMISSIONER FOR COMMUNITY RELATIONS

SEX DISCRIMINATION COMMISSIONER

MINISTER

CHAIRMAN
DEPUTY CHAIRMAN
MEMBERS

SECRETARY (SES LEVEL 3)
Fergus Thomson



* On loan from other agencies
Temporary Staff