

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

ANNUAL REPORT

1991-92

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Human Rights Australia

President

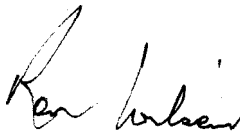
16 December 1992

The Hon Michael Duffy MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney

I have pleasure in presenting the Annual Report of the Human Rights and Equal Opportunity Commission for 1991-92, pursuant to s.45 of the *Human Rights and Equal Opportunity Commission Act 1986*. The report has been prepared in accordance with the requirements of sub sections 25(6) and (7) of the *Public Service Act 1922*. A schedule detailing the location in the report of material relating to those requirements appears in the Appendices.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ron Wilson', written in a cursive style.

Ronald Wilson
President

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OVERVIEW

During the reporting year 1991-92, the Human Rights and Equal Opportunity Commission (HREOC) completed its fifth full year of operation in anticipation of receiving a number of new functions as a result of several Government initiatives.

These initiatives include the proposed appointment of two additional Commissioners - with responsibility for Disability Discrimination and Aboriginal Social Justice. This will involve the expansion of the Commission's services to two particularly disadvantaged groups in our society.

At the State/Territory level, the Commonwealth entered into cooperative arrangements with the Queensland and ACT Governments which provide for the administration of the State/Territory anti-discrimination legislation by HREOC on behalf of the State/Territory Governments.

These changes will increase the Commission's ability to protect people's rights and promote the acceptance and observance of human rights in Australia. The Commission will continue in its efforts to make its services available to the Australian public across linguistic, cultural and geographic barriers, and to provide accessible information about the range of legislative protection available and its effective use. It will continue to listen to the Australian public and act in cases where violations of human rights are occurring.

Public Inquiries

During 1991-92, the Commission was involved in four public Inquiries: the National Inquiry concerning the Human Rights of People with Mental Illness; the Inquiry into the Provision of Health and Medical Services to the Aboriginal Communities of Cooktown, Hopevale and Wujal Wujal; the Inquiry into Race Discrimination, Human Rights and Distribution of Alcohol in the Northern Territory; and the Inquiry into Sex Discrimination in Overaward Payments.

The Mental Illness Inquiry, which has conducted extensive public hearings in all States and the ACT will complete its report by early 1993.

The Report of the Cooktown Inquiry (*Provision of Health and Medical Services for Aboriginal Communities of Cooktown, Hopevale and Wujal Wujal*), was tabled in Parliament in August 1991. It made a number of findings about the inadequacy and cultural inappropriateness of existing services, and recommended a number of strategies to overcome these weaknesses. The Inquiry into Race Discrimination, Human Rights and Distribution of Alcohol in the Northern Territory conducted formal meetings and informal discussions in Central Australia and Darwin during the year. The report of the Inquiry will be released in the latter half of 1992.

The Inquiry by the Sex Discrimination Commissioner into Sex Discrimination in Overaward Payments was triggered by the long-standing pay differentials between men and women, particularly disparity in payments over and above the basic rates set out in minimum rates awards. The Report of the Inquiry is currently being finalised.

Further details of these Inquiries are included in the sections on Human Rights, Race Discrimination and Sex Discrimination.

Research and Policy

One of the Commission's functions is to monitor existing and proposed legislation for infringements of human rights. The Commission provided advice to the Attorney-General on a range of relevant issues during the year.

The Disability Discrimination legislation generated a considerable amount of work for the human rights policy unit. Among other things, the Commission worked to ensure that the legislation adequately addressed discrimination based on actual or imputed HIV/AIDS status. Migration and refugee issues were other important issues which occupied the unit.

In the race discrimination area, research is underway into the status of the descendants of the South Sea Islanders brought to work in Queensland's sugar fields last century. Other research projects were undertaken, some jointly with other agencies, to explore issues such as Aboriginal-police relations on Mornington Island, non-racist reporting in the media, and the rights of retrenched workers of non-English speaking background.

Research in the sex discrimination area was largely directed towards issues relating to the inequality of women in the workplace. Other major projects included the development of guidelines on sex discrimination and sport, and guidelines for the superannuation industry concerning the amendments to the Sex Discrimination Act relating to superannuation.

In the Privacy area, several major projects were undertaken or completed into a diverse range of issues including covert surveillance, data-matching, HIV/AIDS information, telecommunications interception and new telecommunications technologies. Further details are given in the separate Annual Report of the Privacy Commissioner.

Complaint Handling

Following the trend in previous years, the number of requests for assistance from the Commission continues to rise. The Commission received over 33,000 approaches for assistance during 1991-92, an increase of close to 100% on the previous twelve months. Written complaints rose by more than 20% and complaints accepted as within jurisdiction rose by 10%.

In late 1991, a separate Privacy Complaints and Enquiries Unit (PCEU) was established to handle complaints and enquiries under the Privacy Act and other legislation administered by the Privacy Commissioner. Privacy complaints and enquiries were previously handled by the Conciliation Section in the Commission's central office. This initiative has led to improved efficiency in the handling of complaints generally.

The ACT Human Rights Office was opened in Canberra in December 1991. The office, which is a joint arrangement with the ACT Government, handles complaints under federal legislation administered by the Commission as well as complaints lodged under the ACT *Discrimination Act 1991*. Similarly, in Queensland under a joint arrangement with the Queensland Government, two new offices will be opened in Rockhampton and Cairns in July 1992 and, with the expanded Brisbane office, will handle complaints under both State and Federal legislation.

Public Hearings and Litigation

A small proportion (4.5%) of complaints in 1991-92 under the Sex Discrimination Act and Racial Discrimination Act are referred by the relevant Commissioner to the Commission for public hearing and determination. The number of matters being referred for public hearing has increased quite dramatically in the past two financial years - no doubt as a corollary to the large increase in complaints - and this has placed considerable strain on the Commission's resources.

The hearings have however resolved some important complaints and in a number of instances provided analysis and findings which will, hopefully, make a substantial contribution to equal opportunity law in Australia.

In addition, over the past two years, the legislation administered by the Commission has increasingly become the subject of litigation in the courts. This has also placed considerable burden on the Commission's resources, to the extent that funding has had to be shifted away from systemic change programs in order to meet legal costs.

During the year the Commission was fortunate to gain the services of a number of prominent lawyers as part time hearing Commissioners. Federal Cabinet agreed to the appointment of the Hon Robert Nettlefold, a retired judge of the Supreme Court of Tasmania; the Hon William Carter, a retired judge of the Supreme Court of Queensland, Mr A R Castan QC of the Victorian Bar; Ms Susan Kiefel QC of the Queensland Bar; and Mr Terry Worthington QC of the South Australian Bar.

Cooperative Arrangements

During 1991-92, the Commission continued its cooperative arrangements with Equal Opportunity Commissions in Victoria, South Australia and Western Australia for the performance on a joint basis of functions relating to human rights and discrimination legislation. Complaints lodged under Federal legislation at any of these State agencies are discussed in the relevant portfolio sections.

As a result of the new cooperative arrangements with Queensland and the ACT, this report contains separate chapters on the operation of the cooperative arrangements and the administration of the State/Territory Acts.

Public Awareness Activities

An important function of the Commission is to promote public awareness of human rights and, in particular, an understanding of Federal human rights and anti-discrimination legislation. The major avenues for reaching the public are through the media, public enquiries on major issues and speeches and addresses by the Commissioners and senior staff; distribution of posters and pamphlets; production of videotapes and training manuals; and participation in a range of seminars and public forums. The past year has seen production work carried out on Training Packages (videotapes and manuals) about Sex Discrimination, Race Discrimination and Privacy; and the writing or revision of pamphlets in all portfolio areas.

The Commission increased its range of publications during the year. (A complete list is at Appendix 4). New publications addressed such issues as Aboriginal rights, sexual harassment at work, and consumer credit information. With the amendments to the Privacy Act, in relation to credit reference information there was a heavy demand for information relevant to that area. A number of schools and tertiary institutions now include legal studies and multicultural studies as part of their curricula, and as a result requests for core material related to human rights, sex and racial discrimination legislation have increased significantly.

A regular highlight of the Commission's public activities is the annual Human Rights Awards ceremony. The awards which have attracted media coverage, are designed to encourage the fair, sensitive and accurate portrayal of human rights issues. The Human Rights Medal is the premier award which recognises outstanding work by an individual to promote human rights. The 1991 Medal winner was the Hon. Justice Michael Kirby AC, CMG. The year also saw the introduction of a special award for the corporate sector. A complete list of the award winners can be found in the section 'Across the Commission'.

Community Relations Strategy

HREOC is one of four agencies jointly administering the Commonwealth Government's Community Relations Strategy as part of the National Agenda for a Multicultural Australia.

HREOC has undertaken a number of specific projects which are designed to assist in the promotion of better race relations in Australia. The projects are outlined in the Race Discrimination section of this report.

Privacy

The Privacy Commissioner's jurisdiction was expanded during 1991-92, most significantly in respect to consumer credit reporting. This has led to a significantly increased number of enquiries and complaints and a substantial increase generally in the workload of the Commissioner and Commission staff.

The Privacy Commissioner is required, under the provisions of his Act, to report separately to Parliament. A comprehensive account of the operations of the Privacy Branch is contained in that document. However, a brief account summarising the major activities is included in this report.

THE COMMISSION

LEGISLATION

The Human Rights and Equal Opportunity Commission (HREOC) is set up to administer three Acts of Federal Parliament:

- *Human Rights and Equal Opportunity Commission Act 1986*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*

The Privacy Commissioner is a member of HREOC and is responsible for the administration of the:

- *Privacy Act 1988* **Human Rights**

and Equal Opportunity Commission Act

The *Human Rights and Equal Opportunity Commission Act 1986* establishes the Commission and provides for its administration, and gives force to five international instruments to which Australia is party:

The **International Covenant on Civil and Political Rights** deals with many human rights and includes the right, without discrimination, to:

- freedom from torture or cruel and inhumane punishment
- equality before the law
- humane treatment if deprived of liberty
- freedom of thought, conscience and religion
- peaceful assembly
- vote and be elected by equal suffrage
- marriage and family

The **Declaration of the Rights of the Child** provides that every child has the right to:

- a name and nationality
- adequate nutrition, housing and medical services

- education
- special treatment, education and care if handicapped
- adequate care, affection and security
- protection from neglect, cruelty and exploitation.

The **Declaration on the Rights of Disabled Persons** provides that people with disabilities have the right to:

- respect and dignity
- assistance to enable them to become as self-reliant as possible
- education, training and work
- family and social life
- protection from discriminatory treatment

The **Declaration on the Rights of Mentally Retarded Persons** provides that people with a mental disability have the right to:

- proper medical care and therapy
- protection from exploitation, abuse and degrading treatment
- a decent standard of living
- education, training and work
- due process of law
- review of procedures which may deny them these rights.

International Labour Organisation (ILO) Convention 111 is concerned with discrimination in employment and occupation. Australian adherence to this Convention provides that all people have the right to equal treatment in employment and occupation without discrimination on the basis of:

- | | |
|--------|------------|
| • race | • colour |
| • sex | • religion |

- political opinion
- social origin
- medical record
- impairment (including **HIV/AIDS** status)
- marital status
- disability (whether physical, intellectual, psychiatric or mental)
- sexual preference
- national extraction
- age
- criminal record
- nationality
- trade union activity

Racial Discrimination Act

The *Racial Discrimination Act 1975* was passed to give force to Australia's obligations under the **International Convention on the Elimination of All Forms of Racial Discrimination**. Its major objectives are:

- to promote the equality before the law of all persons regardless of their race, colour or national or ethnic origin
- to make discrimination against people on the basis of their race, colour or national or ethnic origin unlawful.

Sex Discrimination Act

The *Sex Discrimination Act 1984* has as its major objectives the following:

- to promote equality between men and women
- to eliminate discrimination on the basis of sex, marital status or pregnancy
- to eliminate sexual harassment at work and in educational institutions.

The Act gives effect to Australian obligations under the **Convention on the Elimination of All Forms of Discrimination Against Women**.

Privacy Act

The *Privacy Act 1988* is based on the **Organisation for Economic Development (OECD) Guidelines on the Protection of Privacy and Transborder Flows of Personal Data** and the **International Covenant on Civil and Political Rights (Article 17)**.

The OECD guidelines cover the collection of personal information, its use, access to and alteration of the information. There are strict privacy safeguards which Federal Government departments and agencies must observe in collecting, storing and using information.

The Act has three spheres of operation:

- Information Privacy Principles - to protect personal information which is collected by Federal Government departments or agencies.
- Tax File Numbers - to ensure that Tax File Numbers are collected and used only for tax related or assistance agency purposes (Tax File Number Guidelines).
- Consumer Credit Reporting - privacy protection for consumer credit information, including the type of information that can be collected and the use and disclosure of this information.

The Privacy Commissioner also performs functions under the following legislation:

- Crimes Act 1914 (Part VII . Spent Convictions - limits the extent to which organisations can take into account individuals' minor criminal convictions after ten years)
- Data-matching Program (Assistance and Tax) Act 1990 (regulates a program of data-matching between the Tax Office and four Assistance Agencies to detect overpayments, ineligibility for assistance and tax evasion)
- National Health Act 1953 (Medicare and Pharmaceutical Benefit Scheme Guidelines).

THE MINISTER

The Attorney-General, the Honourable Michael Duffy, MP, is the Minister responsible in the Federal Parliament for the Commission. He has the following powers under the HREOC 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;

- to declare, after consultation with the States, an international instrument to be one relating to human rights and freedoms for the purposes of the Act;
- to establish an advisory committee (or committees) to advise the Commission in relation to the performance of its functions and, at his request, to report to him on Australia's compliance with ILO Convention 111 and to advise him in regard to national policies relating to equality of opportunity and treatment in employment and occupation.

The Attorney-General also has the power to request the Commission to report to him on certain matters and to issue to the Commission a certificate that the disclosure of certain information or the contents of certain documents would not be in the public interest.

Under the Racial Discrimination Act and the Sex Discrimination Act, the Attorney-General may:

- appoint people to participate in inquiries and determine the terms and conditions of such appointments including their termination.
- refer any matter to the Commission for inquiry as a complaint;
- authorise financial assistance, under certain circumstances, to people who are parties to proceedings before the Commission.

The Minister also has a role under the Privacy Act, including receiving the Privacy Commissioner's reports to him about interferences with privacy or about proposed Federal legislation that may interfere with privacy. He can also consider applications for financial assistance and can issue certificates which prevent the disclosure of certain matters in the public interest.

During the year the Minister was required to exercise his statutory powers in respect of arrangements with the States for the performance of functions relating to human rights and the appointment of persons to act as part-time Hearing Commissioners in respect of referred matters.

THE COMMISSIONERS

The Commission is comprised of a part-time President and four full-time Commissioners.

The present Human Rights Commissioner and Race Discrimination Commissioner were appointed upon the establishment of HREOC on 10 December 1986 for statutory terms of seven years each. The Sex Discrimination Commissioner was appointed in late 1987 for a five-year term from February 1988. The Privacy Commissioner was appointed for five years with the introduction of the Privacy Act on 1 January 1989. Division 5 of the HREOC Act sets out the administrative arrangements relating to the Commissioners, including the terms and conditions of their appointment.

The Commissioners are assisted in the administration of their portfolios by an organisational structure which is outlined in the chart at the back of this report. Staff of the Commission also provide corporate support and staff regional offices in Queensland, Tasmania, the Northern Territory and the ACT, as well as the central office in Sydney.

* * * * *

OBJECTIVES, FUNCTION AND POWERS

The major objectives of the Human Rights and Equal Opportunity Commission are:

- to increase the understanding, acceptance and observance of human rights and equal opportunity in Australia;
- to promote a fairer society by protecting basic human rights and ensuring that Australia complies with its human rights obligations under international law.

The Commission carries out these objectives by assisting the Commissioners to administer the relevant legislation in the four portfolio areas and by implementing its mandate to:

- examine current or proposed legislation for inconsistencies with human rights principles
- report on action that should be taken by Australia regarding human rights
- inquire into any practice that may violate human rights
- carry out research and educational programs
- promote an understanding and acceptance of human rights in Australia.

For the purpose of the Commission's jurisdiction, 'human rights' are defined as those set out in the Covenant and Declarations scheduled to the HREOC Act - Sections 11 and 31 of that Act detail the full functions of the Commission.

Schedule 1 of the *Privacy Act 1988* amends the HREOC Act to make the Privacy Commissioner a member of HREOC. The Privacy Commissioner administers the Privacy Act in his own right but is assisted in that task by staff and resources of the Commission.

The Commission is given certain powers by law to discharge its responsibilities effectively. These include power to:

- conduct an inquiry as a result of a complaint, or on its own initiative, or when the Minister so requests, and to conciliate in the matter;
- decline an inquiry as the result of a complaint;
- require individuals to furnish information, produce documents or appear before it to give evidence (including on oath or affirmation);
- in certain circumstances, prohibit the disclosure of the identity of the person providing information.

The Commission can report to the Government on any matter arising in the course of its functions. With the approval of the Minister, it can establish advisory committees. It can delegate its powers and work with and consult appropriate individuals, government bodies and non-government organisations. The Commission is also empowered to:

- formulate guidelines for the avoidance by government of practices that infringe human rights;
- intervene, with leave of the court, in legal proceedings which involve human rights;
- undertake research and educational programs which promote human rights and coordinate any such programs undertaken by any other persons or authorities on behalf of the Commonwealth;
- inquire, report, conciliate and educate in relation to the International Labour Organisation Convention Concerning Discrimination in Respect of Employment and Occupation (ILO 111).

Under the Racial Discrimination Act and the Sex Discrimination Act, the Commission has further power to inquire into any alleged unlawful act of discrimination on the basis of race, sex, marital status or pregnancy following a

written complaint or when it appears to the Commission that an unlawful act has been committed. The relevant Commissioner attempts to settle the matter by conciliation.

The Privacy Act lays down strict standards that Federal Government departments and agencies must observe in collecting, storing and using personal information. The Privacy Commissioner can inspect the records of agencies and direct them to change their information handling practices to ensure that they follow certain Information Privacy Principles (IPPs).

He can investigate complaints of breaches of the IPPs and can award compensation if damage results. He can also issue Public Interest Determinations where the acts or practices of agencies breach the IPPs but the public interest in the agencies so doing outweighs the public interest in adhering to the Principles.

The Commissioner has similar functions and powers in relation to the Tax File Number guidelines and, since February 1992, to the credit reporting rules. He can also investigate complaints relating to the spent convictions provisions of the Crimes Act.

BRIEF HISTORY OF THE COMMISSION

The Human Rights and Equal Opportunity Commission was established on 10 December 1986, replacing the former Human Rights Commission and incorporating the functions of the Commissioner for Community Relations. A more detailed history of the Commission can be found in the Annual Reports for 1989-90 (pp. 11-14) and 1990-91 (pp. 9-10).

ACROSS THE COMMISSION

PRESIDENT OF THE COMMISSION

The Presidency of the Human Rights and Equal Opportunity Commission is a part-time position. The current President, Sir Ronald Wilson AC, KBE, CMG, a former judge of the High Court of Australia, works actively on the Commission's behalf. He presides at meetings of the Commission where general policy direction is set, acts as Hearing Commissioner at public inquiries, and as a public speaker and educator.

Sir Ronald was appointed on 7 February 1990 for a five-year term.

Statement from the President

Broadly speaking, HREOC's vision is that every Australian, whatever his or her age, sex, creed, colour, national origin or ability, should welcome and enjoy equal opportunity.

Driven by this vision, HREOC directs its efforts to enabling the entire Australian community to share it and to experience the reality of its achievement. It does this, in common with established State agencies in New South Wales, Victoria, South Australia and Western Australia, through extensive community education programmes, complaint-handling mechanisms and inquiry procedures.

It understands equal opportunity to mean that every person is encouraged to find enjoyment, self-respect and the respect of others in the fulfilment of their natural gifts and abilities, however great or limited they may be. Equal opportunity and the pursuit of excellence relative to the capacity of the individual are two sides of the same coin.

Equal opportunity necessarily encourages the development of individual initiative and self-reliance. An eagerness to facilitate mutual respect and to provide compassionate support and encouragement to one another in taking advantage of equal opportunity is the responsibility of every member of a caring society.

Australia is not just for winners. It belongs also to the disadvantaged, the defenceless and the powerless. Ultimately, achievement is to be measured against the capacity of the achiever.

As a part-time President I cannot claim credit for the record of achievement outlined in this report But I am proud of it. For a small agency I think it is quite remarkable. It has been possible only because of the gifts and commitment of the Commissioners and senior executives, supported, as they have been, by a skilled, hard-working and loyal staff The foundation Secretary, Mr Chris Sidoti, provided outstanding service to the Commission until his appointment as a Commissioner of the Australian Law Reform Commission in February.

I look forward to the coming year. It is expected to bring increased responsibilities to HREOC, with the appointment of a Disabilities Commissioner and an Aboriginal Social Justice Commissioner. In addition, with the passage of State equal opportunity legislation in Queensland, Tasmania, and Territory legislation in the Australian Capital Territory

and the Northern Territory, we can look forward to a stronger nationwide pattern of agencies committed to the task of imparting the vision of equal opportunity to every corner of this great land.

I commend this Report to the Parliament and to all readers.

ABORIGINAL AND TORRES STRAIT ISLANDER ISSUES

The Commission employs an Aboriginal Policy Advisor whose role is to advise the Commission on policy direction and issues concerning Aborigines and Torres Strait Islanders. This role is vital in ensuring that appropriate consultation is undertaken with relevant groups and that an Aboriginal and Torres Strait Islander perspective is brought to bear on the decision-making process.

The Aboriginal Policy Advisor has been involved during the year with public Inquiries, particularly the Cooktown and Mornington Island Inquiries and in consultations in Western Australia and the Northern Territory concerning the Mental Illness Inquiry. She has also represented the Commission at the Working Group on Indigenous Peoples in Geneva as a major focus of the Commission's work in relation to Aboriginal and Torres Strait Islander issues, and in preparation for the International Year of Indigenous Peoples which commences on 10 December 1992.

Some of the major issues relating to Aboriginal and Torres Strait Islander groups which have received the Commission's attention during the past year have been juvenile justice, education, health, and self-determination.

The Aboriginal Policy Advisor will play an important role in the establishment of the Aboriginal Social Justice Unit to support the Aboriginal Social Justice Commissioner.

COMPLAINT HANDLING

Complaints to the Commission increased significantly during 1991-92. The Commission received 33,402 approaches for assistance (an increase of almost 100% over 1990-91), including over 29,122 telephone enquiries and 535 personal interviews.

During the year, complaints under Federal legislation continued to be handled either by the Commission's central office in Sydney or one of its regional offices in Brisbane, Hobart, Darwin and Canberra; or by the State Equal Opportunity Commissions in Victoria, South Australia and Western Australia under cooperative arrangements with the Commonwealth. The cooperative arrangement with the New

South Wales Anti-Discrimination Board ended in June 1991. From that date, complaints under Federal legislation originating in New South Wales have been dealt with by the Commission's central office in Sydney. However, the two agencies will continue to work together to ensure that the rights of New South Wales residents are protected through State and Federal legislation.

Because of their essentially different nature to complaints under the discrimination legislation, complaints under the *Privacy Act 1988* have, since October 1991, been handled by a separate Privacy Complaints and Enquiries Unit established within the Privacy Branch. More comprehensive details on privacy complaints are provided in the Privacy Commissioner's annual report.

In the period 1 July 1991 to 30 June 1992, the Commission received 3730 written complaints - an increase of 623 (or 20.1%) over the previous year. Of these, 1580 were found to be within jurisdiction of one of the five Acts (including the ACT Discrimination Act) administered by the Commission (See Table 1). This represents a 10% increase on the previous year's total of 1437. The remainder were considered to be outside jurisdiction. It should be noted, however, that complaints which are subsequently found to be outside jurisdiction can be quite resource-intensive, as considerable investigation is often required before their status can be determined.

Conciliation continues to be an efficient and cost-effective means of resolving complaints. The average cost of conciliating a complaint is quite small (around \$1,200), compared with the reported cost per matter in the District or Supreme Court of \$50,000 to \$70,000. There is generally no cost to the parties in respect of complaints made to the Commission.

Table 2 shows that 1123 complaints were finalised during the year. Of those, 530 (or 47.2%) were successfully conciliated with a mutually agreed settlement, while 382 (or 34%) were discontinued by the complainant for a variety of reasons. Settlements included agreements by respondents to make significant policy changes, or institute training programs within the workplace, as well as substantial financial settlements - some in excess of \$30,000.

One hundred and four complaints (or 9.3%) were declined on the basis that they could not be substantiated. Only fifty complaints (4.5%) had to be referred for a formal hearing before the Commission because the relevant Commissioner was of the opinion that they could not be conciliated, or because the complainant had otherwise requested that the matter be referred. The outcomes are shown in Table 3.

An analysis of the complaints handled by the Commission's central office indicates that, of the complaints discontinued by the complainant, 50% were as a result of the complainant deciding not to pursue the matter further. Complainants may decide not to pursue a matter for a number of reasons, including obtaining another job, changing their minds about the value of pursuing a complaint or other personal reasons. 12.5% of discontinued complaints were closed after investigation of the matter revealed that

there was no evidence in support of the complainant's allegations. In these situations, the lack of evidence was discussed with the complainant and the complaint withdrawn.

Considerable time was involved in the investigation of many of these matters. In 9.4% of the discontinued cases, the complainants advised that they were amenable to the matter being pursued at a policy level rather than as an individual complaint. This often occurs when the matter complained of involves wider issues and can result in changes in practices to eliminate systemic discrimination. 9.4% of the discontinued complaints were withdrawn as they were resolved elsewhere. 18.9% were deemed withdrawn after the complainants had repeatedly failed to respond to correspondence from the Commission.

During the year, 2165 written complaints were found to be outside jurisdiction. Table 4 shows a breakdown of these complaints and illustrates the range of issues brought before the Commission. As stated earlier, these complaints, which are termed NUAs (Not Under the Act), often involve the Commission in considerable time and expense. They are, however, an indicator of areas of discrimination not presently covered by legislation.

The sections of this report which deal with the various Acts include details of some of the complaints dealt with by the Commission, including case studies of conciliated complaints and matters referred for formal hearing.

The termination of cooperative arrangements with the New South Wales Anti-Discrimination Board has led to a significant increase (175%) in the number of complaints under the Sex Discrimination Act and the Racial Discrimination Act handled by the Commission's central office. However, in spite of the increased workload, complaint processing times have been reduced due to increased staffing and efficiencies.

The case load has been particularly heavy in the Brisbane office where the number of complaints increased by 19.8% over the previous year. In addition, from 1 July 1992 the Commission's Queensland office will handle complaints under the Queensland Anti-Discrimination Act. Under a cooperative arrangement, however, additional staff have been recruited and the Queensland Government meets 50% of the operating costs of the Queensland office. Further details on activities in Queensland appear in a later chapter of this report.

The installation of a new complaints data base has significantly improved the Commission's ability to collect and analyse statistical information. As a result, the Commission is in a better position to identify issues in complaint handling which provide direction for its policy and educational activities, including programs aimed at bringing about systemic change to reduce discriminatory behaviour.

Comparison of 1990-91 and 1991-92 Complaints

New Complaints Received

	SDA	RDA	HREOCA Privacy		Total
1991-92	800	336	209	220	1,565
<hr/>					
1990-91	803	352	216	66	1,437

ACT Complaints

The ACT Human Rights Office was opened in December 1991. A cooperative venture between the Commission and the ACT Government, the office handles complaints under Federal legislation as well as under the ACT Discrimination Act which became operative in January 1992. A later chapter of this report provides further details.

Fifteen complaints were received under the *ACT Discrimination Act 1991*. Table 13 shows details of the grounds and areas of complaints. Details of the categories of complainant and respondent are set out in Table 14.

REFERRALS AND INTERVENTIONS

The workload of the Commission's Legal Services Section remained heavy throughout the year with an increase in the number of matters referred for inquiry, no doubt as a result of the significant increase in complaints which has occurred over the past three financial years.

The High Court decision in the matter of *In Re Marion*, in which the Commission was given leave to intervene in June 1990, was handed down on 6 May 1992. Details of this important decision are contained in the section on Human Rights. The Commission also sought leave to intervene in the matter of *Mt Isa Mines v. Lou Marks and Ors*, but was instead joined as the twentieth respondent. This case is described in the section on Sex Discrimination.

Referrals

Referrals are those complaints accepted as within jurisdiction by the Commission which are unable to be settled by conciliation and are therefore referred to a public hearing in accordance with the requirements of the legislation. The number of referrals has increased significantly since 1988-89, as can be seen from the following:

Year:	1988-89	1989-90	1990-91	1991-92
Number of referrals:	19	19	48	57

In order to meet the increased workload and maintain efficiency, the Attorney-General accepted a Commission recommendation to appoint several part-time hearing Commissioners in accordance with his powers under the HREOC Act. They are the Hon. Robert Nettlefold, the Hon. William Carter, Mr Ron Castan QC, Ms Susan Kiefel QC and Mr Terry Worthington QC. All are either retired judges or leading barristers. Their appointments have greatly assisted in keeping the matters awaiting hearing to manageable levels.

During the year, 57 matters referred for hearing under the Sex Discrimination Act and Racial Discrimination Act were either heard, settled or discontinued. The HREOC Act does not provide for the referral of unconciliated complaints. However, the Human Rights Commissioner can report to the Attorney-General in such cases. The Privacy Commissioner has the power to make determinations under the Privacy Act in respect of complaints against Federal agencies.

Forty-six matters remained on hand at the end of June 1992. Of these, 33 were awaiting a hearing date while the remainder had been part-heard or were awaiting the decision of the hearing Commissioner.

External Litigation

Mathews v. HREOC; HREOC v. Mathews

Mr Mathews was the respondent to a sexual harassment complaint heard by Commissioner O'Connor in January 1991. The Commissioner found for the complainant and Mr Mathews sought a review of this decision under the Administrative Decisions (Judicial Review) Act. As well as defending that action, HREOC instituted proceedings pursuant to s.82(1) of the SDA for the enforcement of Commissioner O'Connor's determination by the Federal Court.

The two matters were heard consecutively by Spender J in the Federal Court in Brisbane in April. The decision has been reserved.

Theresa Lynch v. HREOC and Kathleen Higgs Representing the Sisters of Charity

Ms Lynch lodged a complaint of sexual harassment with the Commission's predecessor in 1985. In February 1987 she sought access under the Freedom of Information Act to her file. The Commission released all documents with the exception of three notes of telephone conversations between officers of the respondent and the Commission's then agent, the NSW Anti-Discrimination Board. The documents were exempted on the basis of confidentiality and adverse effect on the Commission's conciliation function. Ms Lynch sought review in the Administrative Appeals Tribunal and before a single judge of the Federal Court. The Commission's decision was upheld on both occasions. On 20 February 1992 the Full Bench of the Federal Court dismissed a further appeal by Ms Lynch.

COOPERATIVE ARRANGEMENTS WITH THE STATES

Cooperative arrangements with the States are a means of minimising duplication in the provision of services relating to human rights at the Federal and State level. Cooperative arrangements provide, through delegation, for the State agency to handle complaints under Federal legislation and vice versa.

Under these arrangements, 'one-stop shopping' means that complainants need only go to one agency whether or not their complaint is to be pursued under State or Federal legislation. State Equal Opportunity Commissions in Victoria, South Australia and Western Australia handle complaints on behalf of the Commonwealth and HREOC handles complaints under State/Territory legislation in Queensland and the ACT. More details on the Queensland and ACT operations appear in the specific chapters relating to those offices.

Payments to the participating States under cooperative arrangements in 1991-92 were as follows:

Agency:	Victorian EOC	South Aust. EOC	Western Aust. EOC
Payment:	\$343,000	\$266,600	\$239,000

The Queensland and ACT operations are jointly funded ventures supported on a 50/50 basis by the Commonwealth and the relevant State/Territory Government. Total funding provided by the State/Territory Governments for these offices in 1991-92 was as follows:

- Queensland \$570,874
- Australian Capital Territory \$65,140

Although the cooperative arrangement with the NSW Anti-Discrimination Board ceased in June 1991, an amount of \$230,000 was paid to the ADB in 1991-92 as a contribution towards severance payments to staff of ADB made redundant as a result of the ending of the cooperative arrangement.

HUMAN RIGHTS AWARDS

The Human Rights Awards were established in 1987 to honour both individual commitment to human rights and contributions to the advancement of human rights made in the arts and the media. The 1991 Awards included an inaugural Corporate Award to recognise the efforts of organisations in promoting human rights.

Interest in the awards has grown each year, attracting more and more nominations in each field. The number of participants in 1991 grew to such an extent that the ceremony had to be transferred to a larger venue, the Powerhouse Museum (Sydney).

The ceremony, which took place on Sunday 24 November 1991, was presided over by the Commission's President Sir Ronald Wilson and compered by magistrate, Ms Pat O'Shane. Mr Chris Puplick, former Liberal Senator for New South Wales, and broadcaster Ms Geraldine Doogue presented the awards.

Human Rights Medal

The prestigious Australian Human Rights Medal was awarded to the Hon. Justice Michael Kirby AC, CMG in recognition of his consistent and outstanding contribution over many years to the promotion, observance and understanding of human rights.

Sir Ronald Wilson described Justice Kirby as 'an extremely warm and caring person who has devoted the major part of his life, both on a professional and private level, to the promotion, recognition and observance of individual rights. His effective advocacy and his integrity have been responsible for influencing many people both here in Australia and on the international scene'. His tireless advocacy of human rights causes both in Australia and overseas was also attested to in a personal tribute from former Prime Minister Mr Gough Whitlam.

Throughout the past decade, Justice Kirby has been a prolific speaker and writer on such issues as privacy, criminal procedure, equal opportunity, freedom of speech, indigenous rights and the domestic application of international human rights treaties. He is currently a Commissioner of the World Health Organisation Global Commission on AIDS, where he is promoting the rights of HIV/AIDS sufferers against discrimination and fighting oppressive and impractical measures such as compulsory screening, detention and segregation.

Justice Kirby, the President of the NSW Court of Appeal, was recently elected Acting Chairman of the Executive Committee of the International Commission of Jurists.

Human Rights Awards

These awards acknowledge the promotion of public understanding and awareness of human rights in Australia through the press and electronic media, and through literature and film. Over 200 entries were received in 1991, presenting a real challenge to the eight independent judging panels who decided the winners of the Medal and the various awards. The Commission extends its thanks to the talented professionals who voluntarily devoted much of their scarce time to the task of reading, watching, listening to or considering the many entries, the high standard of which was universally acclaimed.

Awards for Literature and Other Writing

- **Non Fiction** *Tell Me I'm Here.* Anne Deveson's personal and deeply moving account of her son Jonathon's schizophrenia. Published by Penguin Books.
- **Fiction** *Master of the Ghost Dreaming.* Mudrooroo Nyoongah (Colin Johnson). Set in the 19th century, this novel tells the story of a small Aboriginal tribe under threat of white invasion. Published by Angus and Robertson.
- **Poetry** *Komninos.* A collection of poetry by Greek-Australian poet Komninos Zervos. Published by University of Queensland Press.
- **Drama** *Bran Nue Dae* Jimmy Chi and his band Knuckles wrote and composed this highly-acclaimed and very popular musical about a young Aborigine's journey to consciousness. Published by Currency Press.
- **Songwriting** *Treaty.* Written and performed by Yothu Yindi, an Aboriginal band from the Northern Territory. Mushroom Music.

Awards for Film

- **Feature film** *A Woman's Tale.* The AFI award-winning film from Paul Cox, specially written for lead actress, Sheila Florence. Also starring Gosia Dobrowolska and Norman Kaye, the film celebrates the life of octogenarian Martha, now terminally ill. Beyond Films Limited.

- **Documentary film** *Mr Neal is Entitled to be an Agitator*. Daryl Dellora, the director, focuses on the late High Court Judge Lionel Murphy and his judgment in the Neal case. Murphy condemned the treatment of Neal, an Aborigine, who was dealt with more harshly by the law because of his political activity.

Awards for Media

- **Metropolitan** Adele Horin for her weekly column, 'My Generation' in the *Sydney Morning Herald*.
- **Regional** Walter Secord for a collection of articles on human rights issues in the *Australian Jewish News*.
- Magazines** Lynda11 Crisp for an article, 'Schizophrenia: A Fine Kind of Madness', in *The Bulletin*.
- **TV Documentary/ ABC TV's Four Corners for 'The Big Finish', Current Affairs** a profile of Sydney Symphony Orchestra Conductor Stuart Challender. Reporter, David Marr; Producer, Andrew Haughton.
- **Radio Doc./ Current Affairs** *Australia and East Timor: A Debt to Repay*. Australia's historical links with East Timor and the repercussions of the 1975 invasion. ABC Radio National Social History Unit. Writer/producer Julie Browning.
- **TV Drama** *Brides of Christ*. Six hour drama series set in Australia during a period of radical upheaval in society and the Catholic Church. Produced by RCC and the ABC, in association with R l'E (Ireland) and Channel 4 TV.

Corporate Award

1991 saw the establishment of a Corporate Award to recognise the efforts of an organisation in promoting human rights. This category attracted sixteen nominations. The winner was the Lotus Glen Correctional Centre located at Mareeba in far North Queensland.

Lotus Glen is Australia's most modern correctional centre, and prides itself on its innovative and humane approach to the treatment of offenders as well as its commitment to equal opportunity practices for staff.

More than 40% of offenders held at Lotus Glen are Aborigines or Torres Strait Islanders, and the centre has developed culturally sensitive and appropriate programs which take account of traditional belief systems.

The centre was nominated for the Corporate Award by Tharpuntoo, the Aboriginal and Torres Strait Islander Legal Service in Cairns. Tharpuntoo's nomination cites Lotus Glen's implementation of reforms recommended by the 1988 Kennedy Inquiry into Queensland Prisons and the more recent Royal Commission into Aboriginal Deaths in Custody.

MEDIA ACTIVITIES

The Commission's Media Unit is responsible for providing support to Commissioners in relation to the coverage of human rights, anti-discrimination and privacy issues.

The unit deals with an average of 50-60 phone contacts each week from regional and metropolitan media around Australia. Media releases are issued as appropriate to alert the public to major Commission initiatives, reports and responses to issues of public interest. A list of press releases issued in 1991-92 is provided at Appendix 5.

Media conferences are organised for the launch of major public Inquiries and reports. The Media Unit also liaises with non-government organisations to assist in achieving media coverage of external conferences and functions which involve some participation by the Commission.

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HUMAN RIGHTS

HUMAN RIGHTS COMMISSIONER

Brian Burdekin, formerly a lawyer and diplomat, was appointed as the first Human Rights Commissioner, for a seven-year term, in December 1986. The Commissioner is responsible for a wide-ranging portfolio and also for the day-to-day administration of the Commission.

Prior to his appointment, Mr Burdekin represented Australia in Washington and Geneva and in a number of international negotiations.

Statement from the Commissioner

One of the Commission's major responsibilities is to investigate any acts or practices that may breach any human right and identify action that needs to be taken by Australia to comply with our international treaty obligations.

In pursuit of this objective, the Commission has worked closely this year with Federal, State and Territory governments on the development of legislation (for example in the areas of disability and juvenile justice). Unfortunately, the Commission has also found it necessary to intervene on several occasions, when existing practices or proposed legislation have clearly contravened our international treaty obligations. These issues have included juvenile justice legislation in Western Australia, migration and refugee issues, Australian Defence Forces' policy concerning homosexuals, conditions in certain prisons and detention facilities, the proposed ban on political advertising, and public assembly laws. The Commission has also successfully conciliated a number of complaints and intervened in an important matter before the Full Bench of the Family Court.

Despite our current economic difficulties, we are still an extremely fortunate country - and we pride ourselves on our human rights record. We clearly have an obligation to honour the standards set in the human rights treaties we have ratified. The Commission has attempted to raise community awareness about those areas in need of urgent government and community attention. These include homeless children, children with disabilities, and prevention of discrimination on the basis of age, sex, sexuality or other grounds.

The Commission has also continued to document the appalling conditions and denial of fundamental human rights which many thousands of Australians affected by mental illness are still forced to endure. A growing recognition of the urgent needs of this disadvantaged group is encouraging - but these efforts are too few and too slow in coming. The final report of our Inquiry will be released in the first half of 1993.

It is encouraging that the work done by the Commission and the advantage of having an independent human rights body are increasingly being recognised - both nationally and internationally. In recent months the United Nations, the Commonwealth and a number of countries (including India, Russia, Indonesia and Thailand) have sought our advice concerning the functions and powers of our Commission in relation to establishing their own human rights machinery.

PUBLIC INQUIRIES

Mental Illness Inquiry

Notwithstanding the acceptance in some quarters of more enlightened ideas, Australians with a mental illness are still subject to serious violations of their human rights - either through inadequate or inappropriate treatment, lack of resources for rehabilitation, entrenched discrimination - or simply through being ignored.

In June 1990, after extensive research and consultation with many individuals and organisations concerned with mental illness, the terms of reference of a **National Inquiry Concerning the Human Rights of People with Mental Illness** were announced.

Chaired by the Human Rights Commissioner, assisted by Dame Margaret Guilfoyle DBE and Mr David Hall, the Inquiry has now received over 800 written submissions from individuals and organisations around Australia.

The Inquiry has also taken evidence from 350 witnesses at public hearings in every State and Territory except the Northern Territory (where it will sit in July 1992), and has consulted with approximately 200 people who have attended less formal consultations. Special consultations will be held with Aboriginal and Torres Strait Islander people in July this year.

Evidence presented to the Inquiry over the past two years clearly indicates that many thousands of mentally ill Australians have suffered serious violations of their human rights. The Inquiry's report, to be released early in 1993, will contain wide-ranging recommendations to overcome discrimination in the health system and the wider community and to safeguard individuals' rights to appropriate treatment.

In December 1991, the United Nations General Assembly adopted the **Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care** recommended by the United Nations Human Rights Commission. The Human Rights Commissioner played a significant role in drafting these Principles and they comprise basic benchmarks being used in the National Inquiry. It is reasonable to anticipate that Australia will take a leading role in their implementation. Indeed, under the **National Mental Health Policy** launched in May 1992 by the Australian Health Ministers, governments have already committed themselves to developing mental health legislation consistent with the UN Principles by 1 January 1998.

In this context the Human Rights Commissioner has almost completed an analysis of all relevant Federal, State and Territory mental health legislation by reference to these internationally accepted standards. This analysis will be released before the end of 1992.

The Commissioner made a submission in March 1992 to the Victorian Legislative Council Social Development Committee, at the request of the Committee, regarding proposed legislation on 'dangerous offenders'.

Homeless Children Inquiry

The Commission has corresponded with the Department of Social Security on measures to ensure that young homeless people receive benefits for which they are eligible. As noted elsewhere in this Report, a Working Party including the Commission and relevant Commonwealth Departments has commenced work towards identifying options for Commonwealth age discrimination legislation, which was among the Inquiry's recommendations.

The Commission also provided advice to the Queensland Housing Policy Review, drawing attention to the relevance of a number of recommendations made by this Inquiry.

The Human Rights Commissioner has continued to spend a substantial amount of time advising State governments on these issues and working with church, charitable and community-based organisations attempting to assist homeless children. It is pleasing to note that there continue to be important initiatives by governments based on the Inquiry's findings and recommendations.

RESEARCH AND POLICY

Convention on the Rights of the Child

The Commission is awaiting the Government's decision in response to its recommendation that monitoring the standards established in the Convention on the Rights of the Child be added to the Commission's responsibilities. In the meantime, the Commission continues to promote these standards pursuant to its existing responsibilities relating to human rights.

In July 1991 the Commission conducted a national seminar on the Convention, in conjunction with the Australian National University and ACOSS, and published the proceedings.

A survey of Australian law and practice relating to children (by reference to the provisions of the Convention) was commissioned by the Human Rights Commissioner and ACOSS. Release of the results of this study has been postponed - due to delays in survey responses. This is now planned for the second half of 1992.

The Commission has continued to be active in public discussion of children's rights issues. In 1991-92 this included drawing attention to inconsistencies between recent juvenile justice legislation in Western Australia and Australia's obligations under the Convention (as well as the recommendations of the Royal Commission into Aboriginal Deaths in Custody). A number of the views expressed by the Human Rights Commissioner publicly and in letters to the Western Australian Government before passage of the legislation have now been endorsed by the WA Legislative Council's Standing Committee on Legislation.

The Human Rights Commissioner has also been involved in planning for the first major international conference on family and children's law to be held in Australia in July 1993.

The Commission has recently provided information to the Government in response to questions received from the Special Rapporteur of the United Nations Commission on Human Rights regarding sale of children, child prostitution and child pornography.

National Disability Discrimination Legislation

The Disability Discrimination Bill was introduced into Federal Parliament on 26 May 1992, with the intention that the Bill should be open for public comment before passage of the legislation in August/September.

The Bill follows extensive work by the Commission, in consultation with relevant organisations and individuals over several years. This included a Discussion Paper issued in 1989 based on consultations conducted for the Commission by the National Council on Intellectual Disability; a Position Paper issued by the Human Rights Commissioner in 1991; a report in 1991 by a Working Party including the Commission and involvement in consultations with people with disabilities by that Working Party.

The Commission has worked closely with the Attorney-General's Department and with The Disability Advisory Council of Australia (DACA) in the drafting of the Bill, which constitutes a landmark in the improvement of legislative protection for the rights of people with disabilities.

Consistent with the views emerging from consultations with people with disabilities on the necessity to provide accessible remedies, the Bill provides for administration by the Human Rights and Equal Opportunity Commission, including the appointment of a Disability Discrimination Commissioner.

In addition to complaint-based provisions similar to those contained in the Sex Discrimination Act, the Bill makes provision for development of more detailed regulatory standards to promote access and equality for people with disabilities in areas such as employment and transportation.

The Commission intends (subject to appropriate resources being made available) to conduct an extensive education campaign on the legislation, in cooperation with other appropriate bodies.

Employment of People with Disabilities in the Australian Public Service

Due to the declining number of people with disabilities being employed in the Australian Public Service (APS)- and after this had been commented on by the Human Rights Commissioner - a Working Party was established, chaired by the Public Service Commission, to report to Cabinet on recommendations to improve access and opportunities within APS employment. HREOC was not included in the Working Party, but submitted comments on the Working Party's report.

Joint HREOC/Spastic Centre Conference on Disability and Employment

A conference jointly sponsored by HREOC and the Spastic Centres of Australia Association on employment - related issues for people with disabilities, held in October 1991, was attended by over 200 delegates.

Age Discrimination

Our 1990-91 Annual Report referred to efforts by the Commission since 1989 to promote national legislation to provide further protection against discrimination on the basis of age, and to the concern expressed by the Commission to the Attorney-General regarding lack of progress on this issue.

A Working Party (on which the Commission is represented) has now been established by the Attorney-General to conduct consultations and examine options for legislation. It commenced work in March 1992. The Commission has emphasised in this Working Party that action to remove age discrimination in Australian Government employment should not be delayed pending the outcome of consideration of more general legislation.

HIV/AIDS

The Commission has worked to ensure that the proposed national disability discrimination legislation incorporates prohibition of discrimination based on actual or imputed HIV/AIDS status. The Commission has also been closely involved in the drafting of anti-discrimination legislation in Queensland and the ACT which, in each case, covers discrimination based on sexuality or HIV/AIDS status.

The Commission will seek to have **HIV/AIDS** covered as far as possible in the further standards on human rights and disability presently being developed by the United Nations.

The Commission has participated in a Reference Group to advise the Department of Health, Housing and Community Services on the development of a community education campaign directed against discrimination based on HIV/AIDS.

Australian Defence Forces: Sexuality Discrimination

The Commission has received a number of complaints from homosexual members of the Australian Defence Forces regarding the current policy that homosexuals are unacceptable in the Forces. The Commission drew to the attention of the ADF that sexual preference is one of the grounds of discrimination in employment covered by the HREOC Act.

Discrimination under the Act does not include distinctions based on the inherent requirements of the job. The Human Rights Commissioner is satisfied, however, that the present exclusionary policy is broader than required by the inherent requirements of employment in the Forces. After a review conducted in consultation with the Commission, a new policy was prepared dealing in a non-discriminatory way with inappropriate sexual behaviour, including sexual harassment, in the Forces. The Minister for Defence announced the adoption of the new policy in June 1992. However, he also announced the continuation of the previous discriminatory policy. The Human Rights Commissioner has indicated to the Attorney-General that, in his view, the discriminatory policy is unacceptable and is inconsistent with Australia's international obligations. At the time of writing, the decision was being reconsidered. A formal report to the Attorney-General is presently under consideration.

Migration and Refugee Issues

During 1991-92, the Commission conducted inspections of several detention centres where applicants for refugee status are held. Our report arising from these inspections was provided to the Department of Immigration, Local Government and Ethnic Affairs (DILGEA). The report dealt with human rights issues in relation to the policy and practice involved in detention, access to information, advice, education and training, counselling and rehabilitation, and in relation to the policy and practice involved in detention of asylum seekers.

The report has been subpoenaed for the purposes of proceedings in the Federal Court on behalf of several asylum seekers. These proceedings were subsequently removed into the High Court and at the time of writing the High Court had reserved its decision. Matters dealt with in the report and further matters which have since arisen regarding detention and the rights of asylum seekers have continued to be pursued with DILGEA.

The Commission also wrote to the Joint Select Committee on Migration Regulations Inquiry on Conditional Migrant Entry, updating previous HREOC submissions.

Prisons

The Commission has (within the limits of available resources) pursued a number of policy issues arising from complaints and representations involving Federal prisoners, in particular regarding prison conditions. The Commission also receives numerous representations (although these do not constitute formal complaints) from prisoners sentenced under State and Territory laws.

In June 1992, at the request of the Human Rights Sub-Committee of the Joint Committee on Foreign Affairs, Defence and Trade, the Human Rights Commissioner provided the Sub-Committee with copies of letters previously sent by him to the Premier of one State expressing concern that prison conditions and certain policies in that State were not consistent with Australia's obligations under the ICCPR and certain standards laid down in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Human Rights Commissioner also made representations to the Attorney-General supporting arrangements being made for foreign prisoners to be transferred to their own countries to serve their sentences.

Ban on 'Political Advertising'

The 1990-91 Annual Report noted that the Human Rights Commissioner had written to the Attorney-General and the Minister for Administrative Services indicating that the (then) proposed legislation banning 'political advertising' on radio and television was inconsistent in a number of respects with the ICCPR, including the rights to freedom of information and expression, the right to participate in public affairs and particularly in relation to people with sensory disabilities or other difficulties in communication.

The Commissioner appeared before a Senate Select Committee on the Bill and indicated that although a number of his concerns had been addressed by amendments to the proposed legislation, the Bill as passed by the House of Representatives remained inconsistent with certain fundamental human rights.

In the Human Rights Commissioner's view, the report of the Committee (on the basis of which further amended legislation was passed) did not respond adequately to the human rights issues raised. The Prime Minister has indicated that the legislation will be reviewed after a short period of operation and the Commission will seek to be involved in any such review.

Public Assembly Laws

The Commission's 1990-91 Annual Report noted that, at the request of the Queensland Electoral and Administrative Review Commission (EARC), the Human Rights Commissioner had provided advice on human rights provisions and principles relevant to public assembly laws, and that this advice had been reflected in EARC's

Report on this area. Legislation has now been introduced in the Queensland Parliament which (as stated by the Attorney-General of that State) has been designed to be consistent with relevant human rights. The Commission welcomes this instance of recognition at the State level of the relevance of Australia's international treaty obligations with respect to human rights.

INTERNATIONAL INSTRUMENTS

New International Instrument on Human Rights and Disability

At the request of the Australian Government, the Human Rights Commissioner advised the Australian Government delegation to the first session (in September 1991) of the United Nations Working Group developing Principles on the Equalisation of Opportunities for People with Disabilities. For resource reasons, attendance at the second session in May 1992 was not possible. HREOC representation at the third session, scheduled for September 1992, has been requested by delegation members.

ILO 111: National Advisory Committee

The National Advisory Committee on Discrimination in Employment and Occupation which the HREOC Act provides for has not yet been established. Membership of the Committee is presently being finalised and the Committee is expected to be established in the near future.

ICCPR: First Optional Protocol

As previously recommended by the Commission (as well as by the Royal Commission into Aboriginal Deaths in Custody and a number of non-government organisations), Australia became party to the First Optional Protocol to the ICCPR on 25 September 1991. This permits individuals (on condition that they have exhausted all domestic remedies) to complain to the international Human Rights Committee regarding violations (whether by Federal, State or Territory Governments) of rights recognised under the ICCPR. The Commission has provided assistance to numerous individuals and organisations making enquiries regarding the Protocol, and has produced a concise fact sheet to inform the public about its effect.

Declarations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Commission has again recommended that Australia make the declarations required to accept optional procedures under the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment for complaints by

individuals and by other nations which are parties to the Convention and have made the same declaration. This recommendation was repeated in the submission by the Human Rights Commissioner to the Human Rights Sub-Committee of the Joint Committee on Foreign Affairs, Defence and Trade in March 1992.

Reporting by Australia under Human Rights Treaties

The Commission provided information to the Attorney-General's Department concerning the presentation of Australia's first Report under the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the international Committee Against Torture. The Commission also provided advice regarding preparation of Australia's first Report under the Convention on the Rights of the Child to the Committee on the Rights of the Child, and contributed to the preparation of Australia's third Report to the Human Rights Committee under Article 40 of ICCPR. The Commission provided material to the Department of Industrial Relations to assist in preparation of Australia's annual Report to the ILO under the Discrimination (Employment and Occupation) Convention, and also provided material in response to an ILO questionnaire regarding transnational corporations.

The Commission participated in a working party convened by the Department of Foreign Affairs and Trade to improve the processes of preparing Australia's regular reports under human rights treaties. The Commission emphasised, in particular, the need for increased consultation with non-government organisations; more adequate material on issues affecting Aboriginal and Torres Strait Islander peoples, and increased publicity for Australia's reports and their consideration by the international committees which receive them.

United Nations Conference on National Human Rights Institutions

The Human Rights Commissioner participated in, and contributed a major paper to, a United Nations conference on national human rights institutions in October 1991. The conclusions of that conference relating to the fundamental principles involved in establishing effective independent human rights bodies have now been endorsed by the United Nations Commission on Human Rights. The paper prepared by the Human Rights Commissioner has also been published by the Commonwealth as part of a manual on national human rights institutions for use in Commonwealth countries. A number of other countries (including several in our own region) have recently expressed interest in the Australian Commission as a possible model for the establishment of their own independent human rights machinery.

At the time of writing, it appears likely that the principles endorsed by the Human Rights Commission will be adopted by the UN General Assembly later this year.

World Conference on Human Rights

The Human Rights Commissioner participated as a member of the Australian delegation to the Preparatory Committee for the World Conference on Human Rights, to be held (for the first time in 25 years - the last such conference having been conducted in 1968) in July 1993. A meeting of national commissions on human rights has been proposed - to be held in association with the World Conference.

Other Participation in United Nations Human Rights Activities

At the request of the Government, the Commission prepared draft statements for the Australian delegation to the United Nations Commission on Human Rights, for the items on racism and on the rights of the child, as well as a draft resolution on national institutions on human rights.

INTERVENTIONS

The High Court decision on *In Re Marion* was handed down on 6 May 1992. The High Court appeal was heard on 30 April and 1-2 May 1991. The Commission, as first intervener in the matter before the Full bench of the Family Court, appeared.

The decision of the High Court is particularly significant, not simply because it finally settles the law as to who can authorise sterilisation procedures on children with an intellectual disability but also because the Court, in reaching its decision, recognised the fundamental human rights of individuals with intellectual disabilities.

In summary, the High Court held that parents or guardians cannot provide consent to an operation which sterilises a child in the absence of medical necessity to treat some malfunction or disease. Judicial approval must be obtained, unless legislation exists which provides the requisite procedural safeguards protecting the best interests of the child.

The majority of the Court held that:

It may also be said...that not only are there widely varying kinds of consequences of intellectual disability but such handicaps, possibly more so than other forms of disability, are often surrounded by misconceptions on the part of others in society, misconceptions often involving an underestimation of a person's ability.

Further, with respect to the capacity of people with intellectual disability to consent to medical procedures:

... The fact that a child is disabled does not of itself mean that he or she cannot give informed consent or, indeed, make a meaningful refusal. And there is no reason to assume that those attempting to determine capacity of an intellectually disabled child, including doctors, may not be affected by commonly held misconceptions about the abilities of those with intellectual disabilities.

COMPLAINT INVESTIGATION/RESOLUTION AND ENQUIRIES

Complaints under the HREOC Act.

Conciliation of complaints under the HREOC Act is conducted by the Commission's central and regional offices only. The cooperative arrangements with the States (Victoria, South Australia and Western Australia) provide for the resolution of complaints under the SDA and RDA only, although the relevant agencies refer to the Commission matters which appear to involve the HREOC Act.

Table 5 shows that 209 complaints within jurisdiction were lodged under the HREOC Act during the year. Of the 209 complaints accepted, 195 were lodged under **ILO** Convention 111. The greatest number of **ILO** 111 complaints (40, or 19%) involved alleged discrimination on the ground of age. Many of the complaints raised the issue of compulsory retirement ages prescribed in legislation and industrial awards. These complaints are difficult to conciliate as discrimination is lawful under existing statutory or award provisions.

Since the introduction of the additional grounds for complaint under ILO 111, there has been a decrease in complaints lodged under the other international instruments incorporated in the HREOC Act. Six complaints were received under the International Covenant on Civil and Political Rights, five under the Declaration on the Rights of Disabled Persons, two under the Declaration of the Rights of the Child and one under the Declaration of the Rights of Mentally Retarded Persons. Table 6 shows the grounds of all complaints lodged under ILO 111.

Respondents to complaints lodged at the Commission's central office under the HREOC Act included Federal Government departments (67, or 32%), State Government departments (41, or 19.6%) and private sector organisations (100, or 47.8%). A number of complaints which were intended to relate to provisions of the HREOC Act were found to be outside jurisdiction, as shown in Table 4.

Conciliated settlements under the HREOC Act have included financial compensation for individuals, changes in employment practices of corporations and the introduction of training programs in smaller businesses. Complaints under the HREOC Act can be difficult to conciliate because the Act does not render discrimination or breach of rights unlawful, and there is no public hearing available in situations where

conciliation is unsuccessful. The Human Rights Commissioner may, however, report to the Attorney-General on the outcome of a complaint under the HREOC Act.

The following case studies give some idea of complaints dealt with by the Commission under the HREOC Act and the remedies available.

Case study 1: *ILO 111 - Disability*

The complainant, who alleged that she had been discriminated against in her application for a relief staff position in a library, had been affected by cerebral palsy since birth and walks with a stick. She had been a voluntary worker for the library for three years and in that time had completed a Graduate Diploma in Librarianship.

After successfully applying for appointment to the relief staff, the complainant continued her voluntary work while awaiting advice of her roster. She also applied for a full-time position which had become available in the library. She was then informed that she had no right to apply for the full-time position, and would not be recommended for the relief position. It was suggested to her that she seek 'rehabilitation and counselling' from an agency equipped to deal with 'people like' her. She then lodged a complaint with HREOC.

The respondent conducted an internal enquiry and found the allegations to have substance. The respondent expressed regret that the discriminatory remarks had been made, stated that the relevant staff member had been counselled, and offered the complainant a relief position at the library. The complainant accepted the offer.

Case study 2: *ILO 111 - Criminal record*

A complaint was received from a woman on behalf of her 17-year-old grandson, who had been dismissed from a large retail store - allegedly because of his criminal record. The boy had never been charged or convicted of an offence and did not have a criminal record. He had, however, been 'cautioned' on several occasions when he was 12 or 13 years old. It appeared that the store had acted on unsubstantiated information from a customer. The matter was successfully resolved when, with the assistance of the union, the woman's grandson was re-employed.

Case study 3: *ILO 111 - Impairment*

The complainant had sustained neck and lower back injuries in a work-related car accident. A rehabilitation plan, designed by her doctor, required an initial reduction in the hours she worked, changes to her duties, physiotherapy and a special exercise program.

The complainant alleged that management at her workplace did not support her rehabilitation program and sought to undermine its effectiveness by giving her inappropriate duties and failing to make necessary workplace adjustments. She also claimed that her supervisor treated her injuries with suspicion and made negative comments about the legitimacy of her case.

An internal review of the complaint by the employer found the allegations to be substantiated and recommended that the individuals involved be counselled over their handling of the matter. The complainant was not satisfied with this outcome.

Following discussions with the employer, it was agreed that the complainant would be paid a sum of \$5000 in recognition of the stress, humiliation and injury to feelings she had experienced. She was also offered voluntary redundancy which she accepted.

Case study 4: *ILO 111 - Trade union activity*

A woman employed in an administrative position at a club alleged that she was forced to resign as a result of her union-related activities during an industrial dispute. She also claimed that the president of the club had made false accusations about her to the Board of Management which were recorded in official Board meeting minutes and later released to a local newspaper. The newspaper subsequently published an article based on the allegedly inaccurate information regarding the complainant's activities as a union delegate. She was able to provide evidence to substantiate the fact that the allegations made against her were incorrect.

In accordance with the outcome the complainant was seeking, the Board agreed to amend the relevant minutes and publish a formal apology in the newspaper. It also agreed that in future, any allegations against employees or club members would be drawn to the attention of the individuals concerned, so that they could be afforded the opportunity to respond.

Case study 5: *ILO 111 - Disability*

A woman with cerebral palsy approached a government employment agency as she was interested in two of the training courses offered. She attended an information seminar and was enthusiastic about the prospect of further study and training to facilitate her re-entry to the workforce. Shortly afterwards, however, she was advised that she had not been accepted to either course because she did not satisfy the selection criteria. Applicants for the courses were considered on the basis of suitability for the course, ability to participate successfully and complete the course and the likelihood of a suitable job outcome. The complainant was not selected for either course because it was considered that her particular disability would reduce her competitiveness in gaining employment following completion of the training.

In resolution of the complaint, the agency concerned agreed to conduct a full review of the woman's employment and training opportunities. Following further assessment, she was found suitable for one of the available courses. The agency also acknowledged that the matter had been dealt with insensitively and took action to ensure this would not happen again.

Case study 6: ILO 111 - Age

The complainant (aged 62) alleged that a State Public Authority had discriminated against him in employment on the ground of his age.

The complainant claimed that he had been approached on two occasions to take early retirement and was told that he would be approached again. He stated that he had made it quite clear to the manager who approached him on the first occasion that for personal reasons he did not wish to accept voluntary redundancy but wanted to work until the statutory retirement age. Additionally, he alleged that the duties attached to the position he held were being reduced without consultation with him. The complainant also claimed that information, concerning the restructuring of his unit in particular, was being withheld from him and that this 'harassment' was due to his refusal to take early retirement.

The Public Authority agreed to conciliate and to desist from further approaches regarding early retirement and, stated that, as far as possible, there would be no further changes to the complainant's position and that his employment was secure. The Authority also apologised for the harassment which the complainant had suffered.

EDUCATION AND PROMOTION

Publications

The ILO 111 Brochure, *Protection against Discrimination in Employment and Occupation*, has been revised and the new edition will shortly be available to the public. Arrangements have been made to publish the brochure in a number of different languages.

Revision of other Human Rights publications, *What are Human Rights?* and a pamphlet on conciliation, has been completed and these will be published during the year.

Training

A Computer Based Training Package entitled *Preventing Discrimination At Work* was completed in 1991. The package has been purchased by a number of large private and public sector organisations.

A training package and video entitled *ILO 111: The Best Person for the Job - Helping Managers Eliminate Discrimination in Employment and Occupation* has been delayed in its preparation, but should be completed during 1992 and be available to industry for training purposes during 1993.

HUMAN RIGHTS COMMISSIONER'S MAJOR SPEAKING ENGAGEMENTS

2 July 91	Address to Queensland Young Homeless Fund Conference: <i>Developing Effective Programs for Homeless Young People; The Importance of Prevention.</i>	Brisbane
3 July	Address Queensland Alcohol and Drug Foundation, Winter School Dinner; <i>Human Rights of Young Australians - Our Responsibilities</i> (by reference to the evidence from the Mental Illness Inquiry).	Brisbane
9 July	Opening Address to Mental Illness Inquiry Hearings; <i>The Evidence to Date.</i>	Newcastle
11 July	Opening Address to Mental Illness Inquiry Hearings; <i>Human Rights and Mental Illness - particularly in Rural Areas.</i>	Orange
16 July	Address to Mayfield Rotary Club; <i>Protection of Human Rights - The Role of the Community.</i>	Newcastle
18 July	Opening Address to the National Conference of the Australian National Association for Mental Health; <i>Human Rights and Mental Illness.</i>	Adelaide
18 July	Opening of Hindmarsh Youth Drug & Alcohol Intervention Program; <i>Homeless Youth and Mental Illness - the Costs of Inaction.</i>	Adelaide
19 July	Keynote Address to Child, Adolescent and Family Welfare Conference; <i>Transforming the Convention on the Rights of the Child into Australian Law and Practice - The evidence from the Mental Illness Inquiry.</i>	Canberra
22 July	Address to Yass Rotary Club Dinner; <i>Human Rights of the mentally ill - The Role of the Community.</i>	Yass
5 August	Address to Brisbane Boys College Senior Students; <i>Human Rights - The Reality and the Rhetoric.</i>	Brisbane
7 August	Launch of <i>The Housing Book</i> for homeless children. ACT Accommodation Service; <i>Homeless Youth - the Need for a Range of Accommodation Services.</i>	Canberra

9 August	Opening Address to Mental Illness Inquiry Hearings. <i>Evidence presented to the Inquiry to date - particularly in relation to regional centres and rural areas.</i>	Cairns
12 August	Opening Address to Mental Illness Inquiry Hearings. <i>Evidence presented to the Inquiry to date - particularly in relation to regional centres and rural areas.</i>	Townsville
14 August	Opening Address to Mental Illness Inquiry Hearings. <i>Evidence presented to the Inquiry to date.</i>	Brisbane
18 August	Launch of National Child Protection Week. <i>The Link Between Child Abuse, Post Natal Depression and Homelessness.</i>	Melbourne
19 August	Address to the National Association for the Prevention of Child Abuse and Neglect Seminar; <i>Legal Issues concerning the Convention on the Rights of the Child - the 'Rights' of the Homeless and Mentally Ill.</i>	Melbourne
22 August	Opening Address to the Federation of Ethnic Communities Councils of Australia Multicultural Youth Conference; <i>Youth - the Protection of their Human Rights.</i>	Sydney
29 August	Address to the 1991 Paraplegic & Quadriplegic Association of Queensland Conference; <i>Spinal Injuries - The Rights of People with Physical and Psychiatric Disabilities - Changing Attitudes and the Community Perspective.</i>	Townsville
4 Sept	Address to the United Nations Conference Preparing a New Instrument to Ensure the Human Rights of People with Disabilities.	Vienna
12 Sept	Address to the Conference preparing for the United Nations World Human Rights Conference. <i>National Human Rights Institutions and Regional Machinery for the Protection of Human Rights.</i>	Geneva
9 Oct	Keynote Address to United Nations Conference on National Human Rights Institutions.	Paris

16 Oct	Address to the Senate Standing Committee concerning the proposed ban on Political Advertising on Radio and Television. Canberra	
18 Oct	Address to Pt Lincoln Conference on Women's Health Issues; <i>Human Rights and the Mentally In - Particular Problems Facing Women.</i>	Pt Lincoln
18 Oct	Opening Address to Mental Illness Inquiry Hearings.	Pt Lincoln
21 Oct	Opening Address to Mental Illness Inquiry Hearings.	Adelaide
26 Oct	Address to Hills Grammar School Foundation Ball; <i>Human Rights and Responsibilities.</i>	Sydney
30 Oct	Opening Address - National Spastics Seminar; <i>Human Rights and Disability - Evidence from the Mental Illness Inquiry and the Importance of National Disability Legislation.</i>	Sydney
30 Oct	Address to Glen Waverley Uniting Church; <i>Mental Illness, human rights and our collective responsibility.</i>	Melbourne
4 Nov	Evening Guest Speaker - Carlingford Rotary Club; <i>Human Rights for all Australians.</i>	Sydney
11 Nov	Opening Address to Mental Illness Inquiry Hearings.	Hobart
12 Nov	Launch of Booklet <i>Recreating Mental Health</i> for Richmond Fellowship of Tasmania; <i>People with Mental Illness - the Right to Live as Full a Life as Possible.</i>	Hobart
14 Nov	Opening Address to Mental Illness Inquiry Hearings.	Devonport
14 Nov	Evening Address to the Lord Mayor, Councillors and advisers.	Burnie

20 Nov	W J Craig Memorial Lecture for Canterbury Family Centre; <i>Law, Democracy and Social Justice - the most urgent challenges.</i>	Melbourne
21 Nov	Address Salvation Army dinner at Crossroads Centre; <i>Our Homeless Children and our Mentally Ill.</i>	Melbourne
22 Nov	Keynote Address to the Alliance for the Mentally Ill - Australia's National Workshop & Annual General Meeting; <i>Balancing Rights - Mental Illness.</i>	Sydney
27 Nov	Keynote Address at the alternative Care Conference for Child And Family Welfare Association of Queensland; <i>The Convention and the Future.</i>	Brisbane
27 Nov	Address to The Business & Professional Women's Club; <i>Human Rights and the Mentally El; Law, Democracy and Social Justice.</i>	Newcastle
4 Dec	Guest speaker at Christmas Luncheon for Hamilton Saints Church; <i>Human Rights and Mental Illness - A Community Responsibility.</i>	Newcastle
10 Dec	Launch of Joint Agreement with Queensland on new State Anti-Discrimination Legislation.	Brisbane
5 Feb 92	Careforce Annual Lunchtime Forum; <i>Social Justice for Young Australians</i> (Evidence from the Homeless Children and Mental Illness Inquiries).	Rockhampton
6 Feb	National Conference of Head Injury Council of Australia; <i>Brain Injury, Mental Illness and the Rights of the Mentally Ill.</i>	Brisbane
10 Feb	Opening address to Mental Illness Inquiry Hearings.	Perth
14 Feb	Opening address to Mental Illness Inquiry Hearings; <i>Resources in Regional Centres - the Evidence to Date.</i>	Albany

16 Feb	Opening of Kardinia Aged Care Hostel for the Salvation Army; <i>Human Rights, Mental Illness (Dementia) and the Elderly</i> .	
17 Feb	Address to Children's Interest Bureau National Seminar; <i>The Convention on the Rights of the Child (and the Reality)</i> .	Geelong
17 Feb	Speech at the East Terrace Centre (Child and Adolescent Mental Health Inpatient Centre); <i>The Rights of our Young who are mentally ill</i> .	Adelaide
3 March	Opening of Forensic Psychiatry Unit for Child & Mental Health Service; <i>Mental Health Services for Juvenile Offenders</i> .	Adelaide
4 March	Keynote Address to the National Alzheimers Association Conference; <i>Human Rights and the Elderly Mentally Ill</i> .	Adelaide
5 March	Address to the West Australian Parliament's Standing Committee on Legislation. (<i>Regarding New juvenile justice legislation</i>).	Perth
18 March	Opening Address to Mental Illness Inquiry Hearings.	Canberra
17 April	Address to group of leading Russian Human Rights Organisations.	Moscow
30 April	Keynote Address to Young Presidents' Organisation Dinner; <i>Human Rights, the Disadvantaged and our Responsibilities</i> .	Melbourne
1 May	Launch of Schizophrenia Fellowship Booklet <i>Mind and Body A range of responses for people with Mental Illness</i> .	Melbourne
2 May	Keynote Address to the Inaugural Conference of the Institute of Australasian Psychiatrists; <i>New Directions, Human Rights and the Mentally</i>	Sydney

3 May	Keynote Address to National Catholic Conference of Religious Education; <i>Human Rights, Social Justice and Christian Principles</i> . (Latest evidence from the Mental Illness and Homeless Children's Inquiries.)	Brisbane
7 May	Address to Melvin Jones Fellows - Lions International Convention; <i>Disadvantaged Australians - the Challenge to us all</i> .	Newcastle
16 June	Address to the Joint Committee on Foreign Affairs, Defence and Trade Human Rights Sub-Committee.	Canberra
18 June	Address Wesley Mission's 'Guardians Group' Dinner; <i>Social Justice and Human Rights for Our Mentally</i>	Sydney
23 June	Address meeting of Women's Non Government Organisations; <i>Women, Mental Illness and our International Obligations</i> .	Sydney
30 June	Opening of Joint Regional Office for Human Rights Commission and Queensland Anti-Discrimination Commission; <i>The Importance of anti-discrimination legislation</i> .	Brisbane

RACE DISCRIMINATION

RACE DISCRIMINATION COMMISSIONER

Irene Moss was appointed in December 1986 for a seven-year term as the first Race Discrimination Commissioner. She exercises certain statutory powers of inquiry, conciliation and settlement of racial discrimination complaints on behalf of the Commission.

Before her appointment as Race Discrimination Commissioner, Ms Moss - who has degrees in law from Sydney University and Harvard - worked with the NSW Anti-Discrimination Board. She was involved in a number of landmark legal cases in the human rights and anti-discrimination areas.

Statement from the Race Discrimination Commissioner

The past year was an important year as international and domestic pressure increased for significant change. Among the key events, Australia acceded to the First Optional Protocol under the International Convention on Civil and Political Rights, allowing Australians to take human rights violations to an international forum. Governments and the community began to digest and respond to the findings and recommendations of the Reports of the Royal Commission into Aboriginal Deaths in Custody and the National Inquiry into Racist Violence. Overseas, South Africa's white population voted to end apartheid, though the implementation of this vote is tragically stalling.

*However, it was our television screens that brought home the gross inequities of racism to Australians. The ABC's *Cop It Sweet* program on policing in the Redfern Aboriginal community in Sydney and the home-made video of off-duty police officers at a private party parodying the deaths of two Aboriginal people showed how deeply entrenched racist attitudes can be in our institutions. From America, the graphic coverage of the Rodney King bashing and the Los Angeles riots brought more horrifying pictures of racist violence and brutality.*

As tragic as these events were, they did serve to create greater awareness and understanding of some of the issues raised in the Aboriginal Deaths in Custody and Racist Violence Reports. Both reports highlighted the poor state of Aboriginal/police relations in Australia, the crisis in confidence of Aboriginal people in our criminal justice system and the underlying social and institutional conditions which continue to disempower Aboriginal people.

Early 1992 saw the beginnings of the Federal Government's response to these two landmark reports. A key announcement was the proposal to appoint an Aboriginal Social Justice Commissioner to the Commission with the initial task of producing an annual State of the Nation Report on social justice for Aboriginal and Torres Strait Islander people. The Commission has also been asked to produce an annual State of the Nation report on the situation of people of non-English speaking background. These initiatives will ensure that the pressure for reforming current injustices for racial and ethnic minority groups in Australia is maintained.

PUBLIC INQUIRIES

Cooktown Inquiry

As discussed in last year's Annual Report, an Inquiry was conducted into the provision of health services to Aboriginal communities in Cooktown, Hopevale and Wujal Wujal in far North Queensland. The Inquiry was chaired by the Commission's President, Sir Ronald Wilson, and the report of the Inquiry was released in August 1991. The Commission determined to hold a public inquiry in response to allegations by members of those communities that the treatment and services provided to them was inferior to that of non-Aboriginal communities. These allegations were raised during preliminary investigation of two specific complaints under the *Racial Discrimination Act 1975* alleging discrimination in the provision of certain treatment to Aboriginal persons.

The Inquiry found that the provision of health services to Aboriginal And Torres Strait Islanders in Cooktown, Hopevale and Wujal Wujal was inadequate and at times culturally inappropriate. It also found that:

- community members suffer from a legacy of dispossession, poverty and racism which has a continuing impact upon their health;
- there had been insufficient involvement by Aboriginal Councils and community members in government decision-making processes governing their health needs and lives generally;
- there was a lack of appropriate, accredited training for Aboriginal and Torres Strait Islander health workers;
- the rights of Aboriginal women to choose where and how they gave birth had been disregarded.

The Inquiry found that nurses at Hopevale and Wujal Wujal were highly dedicated and attempted to meet the diverse needs of the communities. Nonetheless, it found that nurses need special training to work in remote areas and to appreciate and respond to cultural differences. Similarly, medical practitioners need opportunities to develop a better understanding of Aboriginal and Torres Strait Islander culture.

Most of the evidence given to the Inquiry indicated that the focus for achieving culturally appropriate services for the communities should be on primary health care.

During the Inquiry, the Queensland Government was undertaking a major restructuring of health service delivery and that process has acknowledged many of the problems governing the provision of services to remote Aboriginal and Islander communities. This restructuring included the incorporation of Hopevale and Wujal Wujal into the public hospital system and significant upgrading of these communities' facilities and services.

The Federal Government endorsed 65 of the 67 recommendations of the Report of the National Inquiry into Racist Violence which included legislative reforms in the area of racist violence and racial hatred.

The Commission is already undertaking several projects which will assist in the implementation of some of these recommendations, covering such areas as media reporting of issues relating to race and ethnicity, community education packages for Aboriginal and Torres Strait Islander people and people of non-English speaking background, data collection on the incidence of racist violence, a code for the private rental market and a training package for counselling the victims of racist violence. These and other projects are being undertaken by a special unit in the Commission as part of the Commonwealth's Community Relations Strategy.

The inquiry into the distribution of alcohol in the Northern Territory as it affects Aboriginal people, and research into water supply technologies for remote communities, are two other significant projects nearing completion. I hope these will provide practical strategies for addressing the issues in question.

The unfortunate coincidence of massive restructuring of Australian industry, international technological change and the recession has seen the disappearance of a great number of jobs from the Australian market place. Most of these are in the unskilled and semi-skilled areas - areas in which people of non-English speaking background are over-represented. The fact that these people may also face cultural and linguistic barriers when dealing with mainstream services adds to the difficulty in finding appropriate and viable solutions to the problem.

Partly in recognition of this problem, the Commission has jointly funded a research project with the NSW Ethnic Affairs Commission aimed at improving the access of people of non-English speaking background to government programs addressing redundancy and re-training.

*Another important initiative in this area, the Race Relations in the Workplace Program, has taken on an expanded role with the production of a training package, **Diversity Makes Good Business - Managing a Multicultural Workforce**, now being trialled in seven major organisations.*

The downturn in the economy and contraction of the job market has again triggered public debate over our immigration policies. Although the tone of the debate is not overtly racist, the media conveys a feeling of resentment towards immigrants and a strong tendency to scapegoat them for the present depressed labour market. As one of the major forces that shape public opinion, the media has failed to present a critical assessment of the issues.

Although genuine free debate on all government policies is to be supported, I sincerely hope that political parties resist the temptation to capitulate to ill-informed public opinion when formulating policies in this highly emotionally-charged area.

The report of the Inquiry recommended a number of strategies to:

- increase the involvement of Aboriginal and Torres Strait Islander people, and the recognition of primary health care principles, in the design and delivery of health services to the communities;
- ensure health professionals and administrators receive appropriate cross-cultural training;
- increase Aboriginal and Torres Straits Islander women's involvement in identifying and developing programs to address their needs and concerns.

Inquiry into Race Discrimination, Human Rights and Distribution of Alcohol in the Northern Territory

As outlined in last year's Annual Report, the Commission initiated an inquiry in August 1990 to ascertain the nature and extent of alcohol distribution in the NT, the extent to which these factors contribute to alcohol abuse and whether limitations on distribution contravene the Racial Discrimination Act and/or international human rights instruments.

In addition to receiving several written submissions and undertaking a substantial literature review of the subject, the Race Discrimination Commissioner and Commission staff conducted formal meetings and informal discussions with a range of individuals and organisations. In September 1991, the Acting Race Discrimination Commissioner and two Commission staff visited Central Australia and Darwin to undertake consultations with Aboriginal organisations who made submissions and the Northern Territory Government. These consultations included visits to the Aboriginal communities of Ntaria (Hermannsburg) and Yuendumu, which provided valuable opportunities to gain a closer understanding of the complexity of problems of alcohol use and abuse for Aboriginal people and to explore their specific concerns.

The report of the inquiry is nearing completion and is expected to be released in December 1992. In addition to examining the matters mentioned above, the report will also consider strategies to address alcohol abuse in the community and for greater participation by Aboriginal communities in decision making.

National Inquiry into Racist Violence

The Report of the National Inquiry into Racist Violence, released in April 1991, generated considerable interest from the public and governments around Australia. In early 1992, the Federal Government endorsed 65 of the 67 recommendations of the report and is now moving towards legislation to make incitement to racial hatred unlawful.

Some recommendations are being addressed in projects currently being undertaken by the Commission as part of the Government's Community Relations Strategy and are detailed below. Discussions have been held with Police Commissioners in two States about ways of implementing the Report's recommendations concerning police. Further projects are being developed and a systematic follow-up of the progress by government agencies in implementing the recommendations will be undertaken during 1992-93, most probably in the context of producing the annual State of the Nation Reports on Aboriginal social justice and on people of non-English speaking background.

ABORIGINAL AND TORRES STRAIT ISLANDER ISSUES

Water Supply to Aboriginal and Torres Strait Islander Communities

As discussed in last year's Annual Report, the Commission has undertaken a project aimed at determining how cost-effective, efficient and appropriate technology can be used by Aboriginal communities in remote areas of Australia to gain access to an adequate, reliable and safe water supply. The research is being undertaken by Dr Bruce Walker of the Centre for Appropriate Technology, Alice Springs.

Field studies have been conducted with nine Aboriginal and Torres Strait Islander communities in a variety of geographical locations ranging from the central desert to coastal towns and islands in the Torres Strait.

The consultant will now return to each community to discuss the findings of the case studies and issues arising from these to be addressed in the final report. It is envisaged that these findings and issues will be submitted to a forum of peak Aboriginal organisations. This process is being adopted to ensure that outcomes of the project represent Aboriginal and Torres Strait Islander responses to the issues raised by the case studies. Hence completion of the project has been extended to a date later in 1992.

Information Kit for Aboriginal Communities

A poster and pamphlet have been prepared targeting Aboriginal and Torres Strait Islander people with the aim of informing them of their rights under the Racial Discrimination Act and encouraging their use of the legislation in appropriate cases.

Baryulgil Review

In 1990, the Race Discrimination Commissioner released a report on certain health and safety issues for residents of Baryulgil, an Aboriginal community in Northern NSW, associated with past asbestos mining in the area. The report also examined concerns about housing in the nearby Malabugilmah community

In November 1991, the Race Discrimination Commissioner commenced a review of the situation at Baryulgil and Malabugilmah to ascertain what action had been taken in relation to the recommendations of her 1990 report. She visited the two communities in March 1992 to discuss progress with community members and government officials.

The New South Wales Government has made significant progress towards addressing safety concerns, having conducted extensive air sampling and ground contamination surveys of the area. A works program to decontaminate the village and rehabilitate the mine site is now awaiting funding approval.

Mornington Island

In late 1990, the Race Discrimination Commissioner commenced investigations into the circumstances surrounding an incident involving police and Aboriginal persons on Mornington Island and the underlying causes of frustration by Aboriginal people with police and other services on the Island.

An initial visit to the Island took place in April 1991 and a preliminary report was prepared for the Race Discrimination Commissioner. The report identified a number of issues relating to the administration of criminal justice on the Island, the current system of local government and various social, economic and health related issues.

In November 1991, the Race Discrimination Commissioner and several Commission officers visited the Island and conducted further consultations with Aboriginal community members and representatives of government and non-government service providers on the Island.

A report is being prepared which will aim to identify the underlying causes of frustration of Aboriginal people on the Island and recommend strategies for improvements to Aboriginal-police relations, service delivery and other sources of disadvantage. The report is expected to be released later in 1992.

RESEARCH AND POLICY

The Rights of Non-English Speaking Background Workers: Retrenchment and Retraining

In November 1991, HREOC and the NSW Ethnic Affairs Commission (EAC) commenced a joint research project aimed at providing better information on and protection for the rights of workers of non-English speaking background who may be faced with retrenchment. The project is designed to identify the needs of these workers and to assist Federal and State Government agencies and private employers to meet those needs.

A special project officer based at the EAC commenced work on the project in January 1992 and has undertaken a literature review and extensive consultations with policy makers, service providers, community organisations and individual members of the target groups. A number of seminars were held in June 1992 to enable discussion of issues arising from the consultations and a final report is due later in 1992.

South Sea Islander Research Project

The Commission is preparing a report for the Federal Attorney-General on the situation of descendants of those South Sea Islanders brought to Australia in the mid 1800s to work in Queensland's sugar industry. The report will examine the disadvantage experienced by these descendants in such areas as employment, health and housing and the causes of this disadvantage.

The research follows on from a 1991 report by the Evatt Foundation, *Australian South Sea Islanders in Australia: A Report on the Current Status of South Sea Islanders in Australia*, which found that South Sea Islander people were a dispossessed minority group discriminated against because of their colour. The Report found that they suffered similar discrimination to Aboriginal and Torres Strait Islander people in areas such as employment, housing, health and legal services, education and training and economic development.

A consultant was appointed in March 1992 to conduct research and prepare the report which is expected to be released in October 1992. The research for the report, which has funding assistance from the Office of Multicultural Affairs (OMA), is being undertaken in close consultation with South Sea Islander communities and includes a census-style survey of community members.

Media Reporting of Issues Relating to Race and Ethnicity

The Centre for Independent Journalism at the University of Technology, Sydney, has undertaken this project with funding and guidance from the Commission and the Department of Employment, Education and Training.

The need for such a project arose out of the National Inquiry into Racist Violence, which found that media reporting often contributed to the stereotyping and vilifying of Aboriginal people and members of ethnic minority groups.

The Centre has produced a resource book designed for working journalists, giving clear guidelines on acceptable terminology and behaviour, facts about land rights and immigration (for example), and myths to avoid. The book is due to be launched in July 1992. In addition, the Centre has commenced work on a textbook for use with students of media, to train new journalists, broadcasters and producers to be more sensitive to race and ethnicity issues.

'State of the Nation' of Non English Speaking Background Australians

The Government's response in April 1992 to the National Inquiry into Racist Violence and the Royal Commission into Aboriginal Deaths in Custody included not only the creation of the position of Aboriginal Social Justice Commissioner with responsibility for reporting on the 'State of the Nation' with regard to Aborigines and Torres Strait Islanders, but also the commissioning of a similar report with regard to people of non-English speaking background from the Race Discrimination Commissioner. Both 'State of the Nation' Reports will be presented to Federal Parliament on 30 June 1992 and annually thereafter.

COMMUNITY RELATIONS STRATEGY

When the Community Relations Strategy (CRS) was launched by the Prime Minister in April 1991 under the National Agenda for a Multicultural Australia, carriage of the Strategy was divided between four organisations: the Office of Multicultural Affairs, the Aboriginal and Torres Strait Islander Commission, the Department of Immigration, Local Government and Ethnic Affairs, and HREOC (represented by the Race Discrimination Commissioner).

The CRS is designed to promote tolerance of, and respect for, the cultural diversity within the Australian community. Its objectives include the reduction of systemic, as well as direct, discrimination against people of different race, ethnicity, religion, culture or language.

A separate CRS Unit was established within the Commission in January 1991 to discharge the Commission's responsibility for a program of seven national projects, detailed below.

Community Education Package for Aboriginal and Torres Strait Islander People

This project involves the development of a pilot resource package to assist Aboriginal and Torres Strait Islander communities with information and strategies for resolving human rights and discrimination issues at the local level.

The package is designed as a series of illustrated chapters based on particular issues, such as education, health, police, consumer issues and housing. All units have been researched and trialled in a range of Aboriginal and Torres Strait Islander communities in Queensland. The focus is on rights and responsibilities and aims to enable individuals and communities to take effective action to protect their rights.

A training program is also being produced to assist community workers and others to use the material in community development programs as well as with individual clients. It is anticipated that the pilot package will be distributed in October 1992.

Additional funds have been made available as a part of the Federal Government's response to the Royal Commission into Aboriginal Deaths in Custody, to extend the project to each State and Territory.

Community Education Package for People of Non English Speaking Background

The objective of this project is to provide an information resource package for community workers working with people of non-English speaking background in order to help them to empower their clients to solve their own problems and protect their rights through information and strategies for accessing the system. The package will provide information and strategies in relation to problems with immigration, social security, health, education, employment, consumer affairs, neighbourhood issues, tenancy, police, and domestic violence.

The pilot package which has been developed for use in Victoria, will be released in October 1992.

Workplace Project

This project is a continuation of the **Race Relations in the Workplace** program which has been in operation on a small scale since 1988 and has been reported on in the three previous Annual Reports. The aim of the current project, entitled **Managing Cultural Diversity**, is to demonstrate to employers the advantages to be gained from effectively managing culturally diverse workforces both in terms of compliance with anti-discrimination legislation and in terms of improved industrial relations and productivity.

Five organisations are participating in the project under the title **Diversity Makes Good Business**. Materials developed by the Commission under the Race Relations in the Workplace program are being trialled and refined as a part of the process. The

final product will include a series of case studies reflecting the diversity of issues and approaches adopted by the participating companies. These will be used to develop models for best practice which will be promoted for use in other workplaces.

A video, *Managing Cultural Diversity*, has also been produced and was screened on SBS TV in March 1992.

Housing Project

This project aims to develop a national code of practice for real estate agents and owners to reduce discrimination in the private rental market. A code of practice has been developed and is currently the subject of discussions with the Real Estate Institute of Australia. Discussions are also taking place with Equal Opportunity and Anti-Discrimination agencies in each State and Territory in relation to the development of guidelines on the application of local legislation to the Code.

Data Collection

This project is aimed at establishing uniform national procedures for the collection, analysis and reporting of statistics on racist violence, intimidation and harassment. Agencies involved in the collection of data on criminal justice issues including courts, police, legal services and ombudsman are being asked to incorporate information on racist motivation as a part of their standard collection of statistics on reported incidents.

A significant initiative is a pilot project being conducted with the NSW Police Service. Police from three patrol areas of Sydney are required to record victims' perceptions of prejudice as a factor in the motivation of all incidents reported during a three month test period. The focus of the project is not limited to incidents motivated by racial prejudice, but includes 'hate crimes' based on a range of factors including race, ethnic, religion and sexual preference.

The objective of the project is to develop an effective model for collection of data on the incidence of hate motivated crimes. It is also anticipated that the application of the data into police intelligence systems will sensitise police to these issues and assist them in the development of preventative community policing strategies.

Training Package for Counsellors of Victims of Racist Violence

To assist those who work with victims of racist violence, a two-tier training package is currently being developed. The first tier is targeted towards those who are the victim's first point of contact: police, hospital staff, teachers or community workers, who need to be able to give immediate advice and support. The second tier is for professional counsellors who need to be able to appreciate the emotional and cultural issues in order to be able to provide an effective counselling service.

Youth Project

This project, aimed at promoting awareness of human rights and anti-racist principles among young people, has evolved into a national campaign entitled **Different Colours, One People**. The campaign concepts and slogan were market-researched in three States by the consultant organisation.

The first phase of the campaign strategy involves seeking the support of personalities in the music, sports and entertainment industries to use their position to make a stand against racism. People approached to be campaign advocates are those who will appeal to young people as role models, to set an example and encourage young people to have the skills and courage to oppose racism. A magazine is being produced to assist the advocates with the some of the information and arguments they might need to use in interviews, speeches and in their own work.

The public phase of the campaign will be launched in July, 1992.

All Community Relations Strategy projects are due for completion by the end of 1992. However, the material and strategies developed will have an ongoing effect.

INTERNATIONAL INSTRUMENTS

Australia's obligations as a party to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) require the provision of periodic reports to the United Nations. During the year, HREOC provided an account of its anti-racism activities, and those of its predecessor, the Human Rights Commission, and the Commissioner for Community Relations, for the period from 1985 to the present.

This account will form part of the Australian Government's ninth Report to the United Nations as part of the international monitoring by the UN Committee on the Second Decade to Combat Racism and Racial Discrimination.

LEGISLATIVE REVIEW

The Federal Government, as part of its response to the National Inquiry into Racist Violence and the Royal Commission into Aboriginal Deaths in Custody, announced its intention to proceed with Federal legislation regarding racial vilification.

The Race Discrimination Commissioner had made a number of recommendations regarding such legislation in the report of the National Inquiry. The Attorney-General

regarding such legislation in the report of the National Inquiry. The Attorney-General is expected to announce the proposed legislation before the end of 1992 and to allow a period for public comment.

COMPLAINT INVESTIGATION/RESOLUTION AND ENQUIRIES

Table 7 shows that 336 complaints were accepted as within the jurisdiction of the Racial Discrimination Act (RDA) during the year. This represents a slight decrease from last year's figure of 352 complaints. Last year's figures included 105 complaints handled by the NSW Anti-Discrimination Board (ADB). With the termination of the cooperative arrangement with the ADB, the Commission's central office now has carriage of race discrimination complaints under Federal legislation which originate in NSW. The Commission's central office received 60 complaints under the RDA in 1991-92, an increase of 100% over the previous year, but still less than expected given the reported large volume of complaints under the RDA previously handled by the ADB (105 in 1990-91).

While employment-related complaints constituted the largest percentage (53.3%) of matters dealt with under the Act, there were also a significant number of complaints (115) relating to the provision of goods and services, which represents 34.2% of race complaints overall.

Following the release of the Race Discrimination Commissioner's report into the *Experience of Overseas Trained Medical Practitioners in Australia*, the Commission has received a number of complaints relating to the recognition of a variety of overseas professional qualifications.

Table 8 shows the available information indicating the ethnicity of complainants. Complaints from Aboriginal and Torres Strait Islander people represent 32.4% of the total number of complaints received under the RDA. People of non-English-speaking background lodged 38.7% of the complaints. Following the trend in previous years, men were more likely than women to lodge complaints under the RDA. Of the 336 complaints received under the Act, 180 (or 53.6%) were from men and 128 (or 38.1%) were from women, with the remainder being lodged by organisations. Data on complainants and respondents is shown in Table 9.

The following case studies illustrate some of the different types of complaints received under the Racial Discrimination Act.

Case Study 1: *Provision of goods and services*

The complainant alleged that in driving her and her husband home, their taxi driver was abusive and made a number of racist remarks, including: 'You bloody Pakistani -

get back to your own country'.

HREOC notified the Manager of the taxi service who subsequently advised that the driver had admitted the allegations, and that the matter had been referred to the NT Department of Transport and Works (who issue taxi licences).

That department contacted the complainant and advised her that the driver had been asked to show cause why he should not have his licence revoked. The driver had again admitted the allegations and offered to apologise. He had been put on notice that a further substantiated complaint would result in a recommendation to the Registrar of Motor Vehicles that his licence be cancelled or suspended.

The complainant accepted the apology and withdrew her complaint.

Case Study 2: *Employment*

The complaint alleged that he had been discriminated against in his employment by a government organisation on the ground of his race. The complainant alleged that he had been subjected to a racist remark by a supervisor; that for a few months his name had been removed from the higher duties list precluding him from advancing his career; and additionally, that there was no career path in his unit, because it was regarded as 'specialist'.

An internal investigation by the respondent organisation found there was systemic discrimination in the area in which the complainant worked. Specifically, when a vacancy occurred in a related area, people in the complainant's area were overlooked as possible candidates. The organisation said this had occurred because it mistakenly believed that the complainant and others doing the same job had specialist skills which could not be utilised elsewhere. The effect, it was agreed, was to hinder career advancement. The respondent also agreed that the complainant's name had been removed from the higher duties list by mistake and offered to pay compensation for the period the complainant could have acted in a higher position. The supervisor to whom the racist remark had been attributed denied intending any offence or that the remark was in fact racist. Despite the denial an apology was offered.

The complaint was ultimately settled with the payment to the complainant of approximately \$4,500 for the lost opportunity to act in higher duties, and expenses incurred in pursuing the complaint. The organisation gave an undertaking to develop training for the complainant and to provide as far as possible, some security regarding his employment with the organisation.

Case Study 3: *Goods and Services*

An Aboriginal organisation, on behalf of nine Aboriginal complainants, lodged a complaint alleging discrimination against a private bus company. The organisation advised that nine individuals were travelling to a conference by bus when the smoke

alarm was triggered by one of the complainants smoking in the toilet. It was alleged that the bus driver stopped the bus and forcibly ejected the individual concerned. This action was allegedly accompanied by racist remarks from the driver. As the incident occurred in the middle of the night in a remote area, one of the complainants opted to get off with the individual concerned so that he would not be alone. The remainder of the complainants got off at the next town as they were concerned with the welfare of their two colleagues. As a result, none of the group was able to attend the conference. The complainants advised that they were distressed and humiliated by the incident.

The complainants acknowledged that the individual should not have smoked on the bus. However, they alleged that a non-Aboriginal person would not have been treated in such a harsh manner.

The respondent company denied the allegations and advised that the driver was only adhering to the rules. However, incident reports obtained from the company indicated that other passengers who had been caught smoking on company buses had been given a warning and told that if they were caught again they would be put off at the next town.

The matter was settled when the bus company agreed to provide a written apology to the complainants, waive outstanding bus fares, pay financial compensation and issue guidelines to employees on procedures to be adhered to in relation to passenger misconduct. The Aboriginal organisation agreed to continue to refer its bus bookings to the company.

Case Study 4: *Racial discrimination*

A young woman of Irish background had worked as a divisional officer in an insurance firm for a number of years.

A newly appointed male supervisor indicated that he was dissatisfied with her role in the office structure and took steps to downgrade her position. When she resisted these changes he began a campaign of repeated disparaging remarks about her ethnic origins. This included a continuous stream of 'Irish jokes' in the company newsletter, the publication of which was part of his duties.

Senior management was well aware of the racial jokes and comments and despite the woman's complaints did nothing to discipline the supervisor.

The woman was eventually retrenched from her position because of 'office restructuring'.

After the woman lodged a complaint with the Commission, senior management of the firm acknowledged that she had been discriminated against. She was provided with good references, a written apology and received financial compensation of \$10,000.

REFERRED MATTERS

Scott and Wood v. Venturato Investments ('The Herbert Hotel Case')

The complainants in this case, which was heard by Commissioner O'Connor in Townsville in August 1991, were two Aboriginal women. They complained that they had been refused service on the ground of their race at the Herbert Hotel in Townsville.

Immediately after the refusal of service they contacted the Aboriginal Legal Service in Townsville which lodged a complaint on their behalf.

The evidence showed that after being served two rounds of beer a bar attendant at the Hotel refused to serve them any further drinks. No explanation was given for this refusal and there was no reason to suggest that the complainants were intoxicated. Following the refusal of service the women left the Hotel feeling upset and humiliated by the treatment that they had received.

The Commissioner upheld the complaints and ordered the Hotel to pay the sum of \$1200 compensation to each of the complainants and to publish an apology in the local newspaper.

Aboriginal Student Support and Parent Awareness Committee (Traeger Park Primary School) v. Northern Territory Minister for Education

The complainant alleged that the respondent's decision to close Traeger Park Primary School as a government school breached the Racial Discrimination Act. Traeger Park Primary School was a school predominantly attended by Aboriginal children and had developed specialist programs for its students.

This was the first complaint made and referred for public Inquiry after the amendments of December 1990 to the Racial Discrimination Act. The amendments relevant to these proceedings were:

- (i) that which introduced the provision of indirect discrimination; and
- (ii) that which repealed the requirement that race be the dominant reason for the act of discrimination.

The Inquiry was conducted in Alice Springs by Commissioner William Carter on 11, 12 and 13 December 1991. The Commissioner's decision was handed down on 26 February 1992.

Although the complaint was ultimately dismissed the Commissioner found that one of the bases for the decision to close the school was the student population's race. However, it was not established to the degree necessary at the Inquiry that the decision had the **purpose** or **effect** of nullifying or impairing the exercise, on an equal footing, of the students' right to education or training.

Steven Mead v. Southern Districts Football League

The complainant, an Aboriginal man, alleged that the respondent had discriminated against him in the sentence the League's tribunal imposed on him for striking an opponent during the 1989 League Grand Final. The complainant alleged that white players were treated more leniently by the Tribunal. The President, who conducted the inquiry in Albany (WA), found that there was no evidence to substantiate a complaint of racial discrimination and dismissed the complaint.

Tsambourakis v. CSIRO

Dr Tsambourakis lodged a complaint with the Commission alleging that he had been the subject of unlawful racial discrimination in the course of his employment with the CSIRO. After initial documentary evidence was filed, the respondent sought to invoke s.25X of the Racial Discrimination Act, asserting that the complaint lacked substance. The parties having agreed, Commissioner Castan determined this preliminary issue on the basis of lengthy written submissions from both parties. The respondent's submission was upheld.

EDUCATION AND PROMOTION

The Community Education section recently published *Race Relations in the Workplace*, a report on two successful pilot studies undertaken with industry in Sydney and Brisbane. Follow-up projects to the pilot studies are included in the Community Relations Strategy, as outlined above.

During the **Race Relations in the Workplace** program, the Commission acknowledged the need for supportive resource material aimed at persuading industry that management practices which are sensitive to a culturally diverse workforce can result in efficiency gains. It has recently completed a training package for human resource and personnel managers within industry. The package, called **Diversity Makes Good Business . Managing a Multicultural Workforce**, contains a number of discrete modules.

With funding from the NSW Education and Training Foundation, the Commission has completed a video to accompany the training package mentioned above. The production work was undertaken by SBS-TV which screened the documentary as part of its *English at Work* series in February 1992. The program, although made in English, was broadcast with some voice-over information in Italian, Greek, Spanish, Arabic and Vietnamese.

A poster and pamphlet about racial discrimination specially designed by and for Aboriginal and Islander communities have been completed and will be officially launched by the Race Discrimination Commissioner in July 1992.

The inclusion of legal studies and Aboriginal studies in some school curricula has led to an increased demand from school students for written information about human rights and anti-discrimination legislation. Coupled with an increased demand for speakers on the same subjects, this has significantly increased the workload of the Community Education section.

Sessions on racial harassment for workplace contact officers were run for the Australian Tax Office and the Australian Customs Service. Trainers and staff at the Trade Union Training Authority requested a presentation on anti-discrimination legislation and training strategies on workplace harassment issues; this was organised and follow-up workshops are in hand.

Other sessions and workshops organised by Community Education include four sessions on racism for the State Government Circuit Breaker Program; and two workshops at the Youth Action Policy Association Forum.

**RACE DISCRIMINATION COMMISSIONER'S
MAJOR SPEAKING ENGAGEMENTS JULY 1991-JUNE 1992**

- 15 Aug 91 *Barriers to Access and Equity* Migrant Women Workers' Conference,
Adelaide (By proxy)
- 24 Aug 91 *Migrant Women and the Law* (By proxy)
- 24 Sept 91 *Double Disadvantage* Joint Conference on Intellectual Disability,
Melbourne (By proxy)
- 11 Oct 91 *Racist Violence in the Australian Context* Communities: Evolution and
Revolution Conference, Australian Catholic University
- 28 Oct 91 *Overcoming Racist Violence* Address at Council of the Aboriginal
Education Consultative Group AGM, Richmond NSW.
- 28 Nov 91 *Introductory Address* Luncheon for Mr Morris Dees, Parliament House,
Sydney
- 4 Dec 91 *Special Treatment: Locking Up Aboriginal Children* Launch of
documentary, Sydney
- 11 Dec 91 *NIRV and the Role of HREOC* Address at AGM of the Hunter Region
MRC, Newcastle
- 31 Jan 92 *The Too-Hard Basket: Provision of Services for Young NESB People in the
ACT* Launch of Report, Canberra
- 7 Feb 92 *Calling Australia Home* Australian Chinese Forum (NSW) Seminar,
Sydney
- 15 Feb 92 *Rights and Redress under the RDA* Address to the Upper South Coast
Regional AECG, NSW
- 20 Feb 92 *Human Rights and Legal Aid* Address to the National Legal Aid
Conference, Sydney
- 25 Feb 92 *Managing Cultural Diversity in the Workplace* Address to Rotary Club,
Sydney
- 28 Feb 92 *Speech* Chinese Cultural Association, Sydney
- 6 March 92 *The Future of Australia's Dreaming* Address to Australian Museum
Conference, Sydney

- 16 March 92 *Legal Protection for NESB Women* Address to the NSW NESB Women's Consultative Committee Forum, Sydney
- 22 March 92
International Week of Solidarity with Peoples Struggling Against Racial Discrimination Joint HREOC/UN Ceremony, Sydney
- 25 March 92 *Fairfield Multicultural Family Planning Association* Official Opening, Fairfield, NSW
- 30 March 92 *Anti-Racism Strategies* Address to Port Augusta District Leadership Network, South Australia
- 6 Apr 92 *Racism in Australia* Address to Symposium on Immigration and Refugees, Brisbane
- 26 Apr 92 *Issues for Future Lawyers* Address at Multicultural Festival, Queensland University of Technology
- 27 Apr 92 *Armenian Genocide Commemoration* Keynote Address, Sydney
- 1 May 92 8 *Human Rights Agencies and the Protection of Individual Rights* Address to Administrative Law Conference, Australian National University
- May 92 27 *Human Rights and its Implications for Migration Policy* Address to Migration Law and Policy Seminar, University of Technology, Sydney
- May 92 *Speech* Annual Conference of Central Co-ordinating Committee of Spokeswomen, Sydney
- 20 June 92 *Progress in Combating Racial Discrimination* Address to Apex Club, Sydney
- 21 June 92 *Human Rights Issues in relation to Serial Sponsorship* Address to Serial Sponsorship Seminar, Sydney (By proxy)
- Welcome Stranger* Address to National Forum on Refugees, Sydney
- 29 June 92 *Roles for the Alfred Dreyfus Unit* Address to the B'nai B'rith, Sydney

SEX DISCRIMINATION

SEX DISCRIMINATION COMMISSIONER

Quentin Bryce AO commenced her five-year appointment as Sex Discrimination Commissioner in February 1988, having been the Commission's Regional Director for Queensland.

Ms Bryce has spent most of her career as an academic lawyer and has a long background in issues relating to equality and opportunity, equal status for women and the rights of children.

In 1983, she was appointed the Director of the Women's Information Service in Queensland (Office of the Status of Women, Department of Prime Minister and Cabinet). Ms Bryce was a member and Convenor of the National Women's Advisory Council and was the women's representative to the National Committee on Discrimination in Employment and Occupation (ILO 111). She is actively involved in a wide range of non-government organisations concerned with human rights.

Statement from the Sex Discrimination Commissioner

During 1991-92, the Sex Discrimination Act was the subject of extensive analysis and review. This attention was timely and appropriate as the legislation has been in operation for seven years.

The Report of the Inquiry into Equal Opportunity and Equal Status for Women in Australia by the House of Representatives Standing Committee on Legal and Constitutional Affairs, aptly titled Half Way to Equal, examined the impact of the Sex Discrimination Act on increasing equal opportunity and equal status for women. The Report concluded that the operation of the legislation, while protecting the rights of individual women who have had occasion to avail themselves of the Act, has resulted in a degree of re-education of the Australian public. The Report states while there is still need for further education of the implications of the legislation, successes to date suggest that it is time that aspects of the current Acts now need to be amended to reflect the more sophisticated level of public understanding'.¹

The Committee made several recommendations in respect of the Act. These recommendations are of practical import and would, I believe extend and enhance the effectiveness of the legislation. They reflect the views of the majority of the well informed thoughtful submissions of thousands of Australians who participated in this wide ranging and all encompassing examination of the position of Australian women. The

¹ House of Representatives Standing Committee on Legal and Constitutional Affairs 1992, Half Way to Equal - Report of the Inquiry into Equal Opportunity and Equal Status for Women in Australia, AGPS, Canberra, p. 259.

Chairman², the Committee and its Secretariat are to be congratulated on the conduct of the Inquiry, in particular on the painstaking lengths to which they went to consult.

I look forward to the response of the Federal Government to the Report.

A second more specialised examination of the Act is nearing completion: the Review of Permanent Exemptions. This review which I was authorised to undertake by the Human Rights and Equal Opportunity Commission concerns the following sections:

- s13 - instrumentality of a State*
- s38 - educational institutions established for religious purposes*
- s39 - voluntary bodies*
- s40 - acts done under statutory authority*
- s42 - sport*

I appreciate the contribution that many organisations and individuals have made to the review and I propose to present my report and recommendations to the Commission in September 1992.

Women and men from all walks of life have used the Sex Discrimination Act to seek a remedy when they are discriminated against on the grounds of sex, marital status or pregnancy. This Report presents the relevant statistics and provides some case studies which reveal certain trends. One which concerns me particularly is the high proportion of sexual harassment complaints. 46% of the complaints are of sexual harassment in employment.

This figure indicates that far too many women are affected by this debilitating and humiliating form of sex discrimination in their working lives and I would suggest that it reflects only 'the tip of the iceberg' of its incidence. It has been encouraging to observe the continued success of the 'Shout' campaign in reaching young women with information about their rights and strategies for dealing with sexual harassment. I am disappointed, however, to note that certain sections of the media continue to trivialise sexual harassment.

*It must be acknowledged that many private and public sector employers and educational institutions have developed programs and policies on sexual harassment which are effective and sensitive. Australia is admired by many other countries for the progress made through legislative and educative means to reduce sexual harassment. The training package and resource kit developed by the Commission, *Eliminating Sexual Harassment in the Workplace*, will be available in December 1992. Next year, in consultation with unions and employers, I will develop a campaign to raise awareness amongst men of the effects of sexual harassment.*

² The Hon Alan Griffiths MP, Chair, 35th Parliament, Michael Lavarch MP, Chair, 36th Parliament.

The Working Conditions and Environment Department of the International Labour Organisation (ILO) commissioned me to prepare a monograph on combating sexual harassment at work in Australia. The information will be incorporated in the Spring 1992 edition of the ILO 's Conditions of Work Digest. It has been published an Occasional Paper by the Commission.

Two major projects are nearing completion:

- *Sports Guidelines which will provide a guide for sports women and sporting organisations on the provisions of the Sex Discrimination Act.*

The Report of the findings and recommendations from the Inquiry into Sex Discrimination in Overaward Payments will be released in late 1992.

Further information on these projects are detailed later in this report.

As I am sure my predecessor Pamela O 'Neil would agree, the responsibility for looking after the SDA for a few years is an awesome one. Many colleagues and friends provide encouragement, support and critical analysis. I am grateful to them.

* * * * *

PUBLIC INQUIRIES

Inquiry into Sex Discrimination in Overaward Payments

The Prime Minister announced the Inquiry into Sex Discrimination in Overaward Payments on International Women's Day 1991. The impetus for the Inquiry was the NWCC's report entitled *Pay Equity for Women in Australia*. This report documented the long-standing pay differential between men and women, namely the disparity in overaward payments: payments over and above the basic rate set out in minimum rates awards. Women who work full time receive 83% of men's full time earnings, but they earn only 53% of the overaward payments men receive. Examples are service increments, bonus payments and payments for merit, which are negotiated at the enterprise level on an individual basis or by unions and management.

The aim of the Inquiry is to gather information on why women do so poorly in terms of overaward payments, and develop measures to improve women's access to them.

The terms of reference of the Inquiry are:

- (i) to examine the differences which may exist in relation to the incidence and level of overaward payments made to men and women in Australia;

- (ii) to assess the extent to which any differences relating to the availability and payment of overaward wage rates and benefits may be due to discrimination against women in the area of employment; and
- (iii) to make recommendations as to measures which might be taken to eliminate such discrimination to ensure the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work (as is expressly provided for in Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women).

The terms of reference include the investigation of part-time workers' access to overaward payments, and assessment of the impact of award restructuring and current wage fixing principles.

The Inquiry was advertised in a national women's magazine and women were asked to describe their experiences of discrimination in overaward payments by calling a toll free telephone number or writing to the Commission. The advertisement continues to generate responses from women. Nearly one hundred written and telephone responses have been received, providing valuable anecdotal evidence, which highlights the secrecy which often surrounds overaward payments negotiated on an individual basis.

In addition, forty-five formal submissions from State and Federal government departments, unions, women's groups and private sector organisations have been received. These submissions have provided some useful statistical and empirical information as well as qualitative material.

The statistical information shows that, regardless of occupation or position, women are much less likely to receive overaward payments than men. Evidence in case studies suggests that the segregation of women and men in the workplace, the concentration of women in part-time and casual work, and the lesser value placed on women's work are major factors in the disparity in overaward payments.

The report of the Inquiry is expected to be released in the latter half of 1992.

RESEARCH AND POLICY

This year research and policy work in the sex discrimination area has focused on major projects aimed at addressing the inequities that confront women in their working lives. The Inquiry into Sex Discrimination in Overaward Payments and the proposals relating to workers with family responsibilities (ILO Convention No 156) has contributed to raising awareness of the continuing pattern of disadvantage for women in relation to employment, such as pay equity, occupational segregation and the lack of flexibility in work practices. The proposed amendment to the Sex

Discrimination Act making dismissal on the ground of family responsibilities unlawful will assist in protecting women's basic right to work and encourage more responsive and flexible employment practices.

Other areas of research and policy work relating to employment are detailed below.

Women and Superannuation

In August 1991 the Sex Discrimination Commissioner in conjunction with other organisations sponsored a conference on women and superannuation entitled the 'Superwoman Conference'. The Commissioner presented an address on recent amendments to the Sex Discrimination Act, which removed the blanket exemption for superannuation and replaced it with a more limited exemption. The address was subsequently published as an occasional paper entitled *Women and Superannuation*.

Draft guidelines on superannuation and the Sex Discrimination Act were distributed for comment to the superannuation industry during the year. The final Guidelines will be released at the end of 1992.

Sexual Harassment in the Workplace

In January 1992 the Conditions of Work and Welfare Facilities Branch, Working Conditions and Environment Department of the International Labour Organisation (ILO), commissioned the Sex Discrimination Commissioner to prepare a monograph on sexual harassment at work in Australia be included in the Spring 1992 edition of the ILO's *Conditions of Work Digest*. The monograph will focus on the measures various industrialised countries have taken to address sexual harassment in the workplace.

The monograph was published as an occasional paper entitled *Sexual Harassment at Work in Australia*. The paper was released in April 1992.

The production of the monograph provided an opportunity to research current developments in Australia made by government, unions and industry to address sexual harassment. There is an increasing sophistication in the measures adopted to address sexual harassment and all sectors have been involved to some extent in developing preventive strategies and complaint procedures. There is a climate of change which is affecting attitudes and work environments. This is demonstrated by the increasing level of complaints lodged with the relevant authorities and the extent of educational and other resource material currently available.

Sexual harassment continues however to affect the working lives of many Australian women. There are pockets of business and industry, which remain problematic and pose real difficulties. Further refinement of existing strategies, the development of new approaches and widespread change in attitude is needed before sexual harassment is eliminated from the workplace.

The Commissioner also provided a foreword for a CCH booklet entitled *Countering Sexual Harassment - A Manual for Managers and Supervisors*. This publication provides a comprehensive study of the law on sexual harassment in Australia.

Women, Sport and the Sex Discrimination Act

A project of special importance to the Commissioner has been the development of guidelines on sex discrimination and sport.

Some progress has been made by governments, organisations and individuals in providing equal opportunities for sportswomen, but there is still much to be done. The Sex Discrimination Commissioner has developed the Guidelines to assist making participation in sport fairer for women and girls. *Women, Sport and Sex Discrimination - Guidelines on the Provisions of the Sex Discrimination Act 1984*, will be launched in September 1992.

The purpose of the Guidelines is to raise awareness of sex discrimination in sport; inform readers about the provisions of the Sex Discrimination Act in relation to sport and the complaint procedures under the Act, and assist in the development of strategies to overcome sex discrimination in sport. They have been written for a diverse audience and should provide timely assistance for:

- sportswomen who wish to know their rights and how to lodge a complaint;
- sporting organisations wanting to comply with the Act;
- government agencies funding sport; and
- equal opportunity practitioners, women's organisations, and interested individuals who wish to understand the application of the Act in the sporting environment.

Women and Work Seminars

The Sex Discrimination Commissioner held two seminars in conjunction with the 'Her Story, Images of Domestic Labour in Australian Art', exhibition at the SH Ervin Gallery in Sydney in September 1991. Papers were presented by two prominent Australian women, Dr Dale Spender and Susan Ryan AO, and dealt with women's work in the past and implications for women's work in the future. The proceedings from these seminars were published as an Occasional Paper entitled *Her Story - Images of Domestic Work*

SUBMISSIONS

The Sex Discrimination Commissioner has made submissions to a number of Inquiries and Reviews held by other organisations which have been relevant to investigating sex discrimination and promoting equal opportunities for women. These have included:

The Senate Select Committee Inquiry into Community Standards Relevant to the Supply of Services Utilising Telecommunications Technologies

The concerns of the Sex Discrimination Commissioner regarding the impact on women of 0055 phone calls and the introduction of pay television, were presented to the Committee in September 1991. The Commissioner voiced her concern that such services should not present images of women which are degrading and involve violence.

Review of the Effectiveness of the Affirmative Action Legislation

The Sex Discrimination Commissioner presented a submission in January 1992 to the Affirmative Action Agency's Review of the Effectiveness of the *Affirmative Action (Equal Opportunity for Women) Act 1986*. The submission argues that there is a strong relationship between the Sex Discrimination and the Affirmative Action Acts. Both are based on the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and both Acts share the objective of the elimination of discrimination against women in employment and the promotion of equal employment opportunities for women.

The Commissioner expressed the view that the Affirmative Action Act has played a significant role in the elimination of discrimination at work and recommended that the coverage of the Act should be extended to enhance its effectiveness.

Inquiry into Pregnancy Discrimination

The Sex Discrimination Commissioner presented a submission and gave oral evidence to the Pregnancy Discrimination Inquiry being conducted by the NSW Anti-Discrimination Board in conjunction with the NSW Women's Coordination Unit and the NSW Department of Industrial Relations, Employment, Training and Further Education.

The Commissioner recommended that priority be given to the development of information campaigns and educational programs directed at women, employers and the community in general. These measures should make information on the rights and responsibilities of pregnant employees readily available, and help to address the discriminatory attitudes directed at women participating in the workforce.

INTERNATIONAL INSTRUMENTS

ILO 156: Workers with Family Responsibilities

International Labour Organisation Convention No 156 Concerning Equal Opportunities for Women Workers and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities (ILO 156) was adopted by the International Labour Office in 1981 and ratified by the Australian Government on 30 March 1990.

The Convention requires that Australia's national policy aim to enable workers with family responsibilities to engage in employment without discrimination, and as far as possible, minimise the conflict between work and family responsibilities.

The Commission has been participating in inter-departmental committees coordinated by the Department of Industrial Relations, which have been established to look at proposals for legislative change and community education.

The Commission believes that the Sex Discrimination Act is of particular relevance to the implementation of ILO 156 as women continue to bear primary responsibility for the care of families and in doing so, face discrimination in employment.

This work has resulted in a proposal to amend the Sex Discrimination Act in order to make dismissal on the basis of family responsibilities a ground for discrimination.

UN Status of Women Commission

The Sex Discrimination Commissioner prepared briefing material to the Office of the Status of Women and the Department of Foreign Affairs for the Thirty-sixth Session of the United Nations Commission on the Status of Women which was held in March 1992. The briefing paper dealt with *Equality: Elimination of De Jure and De Facto Discrimination Against Women*, the priority theme for the thirty-sixth session. There has been considerable progress achieved in eliminating 'de jure' discrimination, but less in eliminating 'de facto' discrimination. The use of special measures as a method of addressing the consequences of past discrimination which prevent women from fully exercising their rights was examined at the session.

LEGISLATIVE REVIEW

Review of Permanent Exemptions

The Sex Discrimination Act aims to prohibit discrimination in certain areas of public life on the grounds of sex, marital status and pregnancy. However, there is a number of exemptions contained within the Act. In December 1990, the Commission commenced a review of the exemptions in the following sections:

- Section 13 - instrumentality of a State;
- Section 38 - educational institutions established for religious purposes;
- Section 39 - voluntary bodies;
- Section 40 - acts done under statutory authority;
- Section 42 - sport.

The purpose of the Review is to assess whether these exemptions are still appropriate. Ninety submissions and responses have been received, focusing mainly on Sections 13, 38 and 40 of the Act.

A review of the exemption relating to the Social Security Act (Section 40(2)(h)) will be conducted as a separate exercise due to the complexity of the issues involved in the context of a broader review under S.40A(1) which was inserted in the Act 1991. This section requires the Minister to review the exemption of the Social Security Act before 1 June 1996. Section 40a(2) requires that the review consider whether the exemption should be repealed.

The exemption under Section 40(1)(e) **an order or award of a court or tribunal having power to fix minimum wages and other terms and conditions of employment** attracted extensive comment. Individual women were concerned that their pay was not equal to that of men doing similar work, and that the exemption prevented them from using the Act to determine whether discrimination had occurred. Some unions and trades and labour councils argued strongly that the exemption should be removed, while others argued that it should remain.

The Section 38 exemption **educational institutions established for religious purposes** also attracted much comment. Some submissions expressed the view that the exemption was no longer required, while others asserted that religious liberty was a fundamental right which should not be curtailed by the state.

COMPLAINT INVESTIGATION/RESOLUTION AND ENQUIRIES

Table 10 shows that 800 complaints within jurisdiction were lodged under the Sex Discrimination Act (SDA) during 1991-92. This figure is almost identical to the number (803) received last year. Last year's figures included 235 complaints handled by the NSW Anti-Discrimination Board (ADB). With the termination of the cooperative arrangement with the ADB, the Commission's central office now has carriage of complaints under Federal legislation which originate in NSW. The central office received 110 complaints under the SDA in 1991-92, an increase of 175% over 1990-91. However, this was less than expected given the NSW figures for previous years (the increase in central office complaints representing only one-third of the total NSW complaints for 1990-91).

The largest proportion of the 800 complaints received involved allegations of sexual harassment in employment (366 or 45.8%). Complaints of sexual harassment include those lodged on the grounds of sexual harassment or sex and sexual harassment together. This represents an increase of 7% in complaints of this type over last year's figure. Complaints on the ground of sex constituted the next largest category, with 268 or 33.5% of complaints, an increase of 3.6% over 1990-91. Complaints on the ground of pregnancy represented 12.6% of all complaints lodged under the SDA.

Table 11 outlines the areas in which complaints under the SDA were lodged. As in previous years, the vast majority of complaints (714, or 89.3%) were in the area of employment. Access to goods, services, places and facilities represented 5.1% of all complaints with 41 complaints being received in this area.

The categories of complainants and respondents are set out in Table 12. The majority of complaints under the SDA was lodged by women. This is to be expected, as the basis of the Act is the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). 63 complaints were received from men, a slight decrease on the 70 complaints received from men last year.

The following case studies illustrate typical complaints lodged under the Sex Discrimination Act and their outcomes.

Case study 1: *Sex discrimination*

A woman alleged that she was discriminated against on the ground of sex and/or marital status by being refused a credit card with a retail organisation.

She alleged that the company indirectly discriminated against her as it did not assess her disposable income accurately. Specifically, she alleged the company used the fact that she was on a supporting parent's pension as evidence of her inability to make repayments. It was alleged that because more men than women were able to meet the requirement of being in full-time paid employment, indirect discrimination had occurred.

The matter was resolved when the complainant re-lodged her application which was then approved.

Case study 2: *Pregnancy*

The complainant lodged a complaint with the Commission alleging that her employment with a private company had been terminated because of her pregnancy. She alleged that at the interview for the position she was asked by one of the company's managers whether she had plans to start a family. The complainant stated that she did not but shortly after commencing work, she discovered that she was in fact pregnant.

The complainant claimed that she immediately informed her supervisor who informed the Managing Director. As the complainant had only been employed by the company for approximately seven months she was not automatically entitled to maternity leave. The complainant alleged that she applied for and was granted maternity leave but that the day before commencing leave, her employment was terminated. The company disputed that maternity leave had been granted and argued that it had been misled by the complainant at the initial interview. Through the conciliation process, the company became aware of its responsibilities towards its pregnant employees under the Sex Discrimination Act.

The company agreed to pay the complainant \$6750 as compensation for lost wages and stress.

Case study 3: *Sexual harassment in employment*

A woman who was employed as an Executive Secretary complained of sexual harassment by her supervisor, who was one of the General Managers of a large insurance company. She alleged that he continually inquired about her private life, touched her, made remarks about her dress, hairstyle and appearance, and felt he had a right to flirt with her. She felt this behaviour was demeaning and unprofessional. When she had made her objections known, they were brushed aside and trivialised. The complainant lodged the complaint when, in the context of an annual appraisal, the General Manager had expressed his anger at not being able to have a more 'casual' relationship with her. She felt unable to use the companies' internal grievance procedures because of the General Manager's seniority.

The General Manager did not deny the substance of the allegations but denied that his conduct constituted sexual harassment or discrimination. He also denied that his behaviour had continued after the complainant made her objections known. He claimed that the relationship between a manager and his secretary needed to be more than a simply professional one and that he was concerned and interested in all his staff.

The company provided a copy of its EEO policy, detailed its internal grievance procedures and emphasised that it did not tolerate sexual harassment. However, it also denied that the General Manager's behaviour constituted sexual harassment.

A conciliation conference was held to discuss these issues. The complainant sought a written apology and an undertaking not to repeat the behaviour from the General Manager; these were provided. She also sought agreement from the company to reprimand the General Manager, a commitment to take disciplinary action should it recur, and a commitment that her position was not in jeopardy because of this complaint. The matter was successfully conciliated when the company agreed to these requests.

Case study 4: *Sex discrimination*

A woman who was employed as a nurse in a private hospital, complained of sex discrimination when she was forced to retire at 60 years of age in accordance with the hospital's alleged retirement policy which allowed males to work until 65 years of age.

The hospital advised that it had no such policy, which had been the mistaken interpretation of an executive who was no longer employed. It apologised to the complainant, reinstated her and paid her \$25,000 in lost wages and damages.

Case study 5: *Pregnancy*

A union, on behalf of one of its members, claimed that a policy of a large financial institution discriminated against female employees on maternity leave. The policy in question related to a staff share purchase scheme. Staff members on extended leave were not eligible to participate in the scheme. The union claimed that the majority of members who take extended leave do so for the purposes of maternity leave.

The complaint was resolved when the policy was amended to allow staff on extended leave to purchase shares.

REFERRALS

A v. Caboolture Shire Council

A was employed as a labourer by the Caboolture Shire Council on a project which was funded by the Commonwealth Employment Program. She worked with the Council from 2 February - 27 May 1987 when she was dismissed from her job.

A claimed that while she worked on the project she was sexually harassed by the foreman of the works. She also claimed that she had reasonable grounds for believing that she would be disadvantaged in her employment if she rejected the advances.

The Council denied that harassment had taken place. In support of the denial the Council pointed out that A had not complained about the alleged harassment at the time. The Council also claimed that A was dismissed because of her poor work performance which created difficulties with the other members of the work gang.

Hearing Commissioner Susan Kiefel QC upheld the complaint, finding that the complainant had been discriminated against on the ground of sex as a result of the sexual harassment. In relation to the failure of the complainant to report the harassment Commissioner Kiefel pointed to the difficult position in which an harassed person can be placed if she wishes to keep her job. The Commissioner also found that the problems with the work performance of the complainant stemmed from the stress she suffered from the harassment.

The complainant was awarded \$3000 compensation for humiliation and embarrassment and \$3020 for wages lost as a result of her dismissal.

Lesley Begg v. P & O Resorts Pty Ltd

Lesley Begg had been employed by the respondent in a number of capacities, including reception and maintenance work, at Cradle Mountain Lodge in Tasmania. When the position of campground manager became vacant. Ms Begg applied for the position but was unsuccessful. A male applicant won the position.

Ms Begg lodged a complaint under s.14 of the Sex Discrimination Act alleging that the respondent had discriminated against her in her employment on the ground of her sex. Shortly after the commencement of the hearing in Devonport, Tasmania the parties entered into negotiations and settled the dispute on a confidential basis.

Alexander Proudfoot & Others v. Commonwealth of Australia & Others

This complaint related to the provision of health services established for women (e.g. the Women's Health Service conducted by the ACT Board of Health and the Canberra Women's Health Centre). In short, the complainants alleged that services that provided general medical treatment or health care advice to women only were in breach of the Sex Discrimination Act. They did not complain about those aspects of the services that related to 'female specific' conditions. The President of the Commission conducted the inquiry in Canberra. He found that the exclusion of men from the services was discriminatory but that the exemptions provided by s.32 (services the nature of which is such that they can be provided to one sex only) and s.33 (measures intended to ensure equal opportunities) applied and accordingly the services were not in breach of the Act.

C, M and S v. Telecom

The complainants, female engineering students at the Royal Melbourne Institute of Technology, alleged sex discrimination by Telecom in the conduct of selection interviews for entry into the cadet engineering stream of the corporation.

Each complainant alleged that the interviews were unfair because they included reference to irrelevant material; were conducted in an intimidatory manner; and were highly aggressive. They alleged that male interviewees were not treated in a similar way.

Hearing Commissioner O'Connor found the complaints substantiated. He found that a number of factors combined to support the view that the complainants had suffered sex discrimination. These factors were:

- the intimidatory nature of the questioning at the interviews, with a series of 'put downs' being directed at the complainants and topics of arguable relevance being broached;
- the failure to implement guidelines for interviews involving women applicants; in particular:
 - (i) the lack of any consideration by the panel members as to whether more sensitive procedures were needed for dealing with female applicants seeking to enter traditionally male areas of employment;
 - (ii) the limited awareness of the details of the organisation's personnel policy as it dealt with procedures affecting women;
 - (iii) the insensitive way in which the panel addressed the topic of how women would fit into a male-dominated environment and the likelihood that a woman who expressed strong views on the subject would be passed over;
- the evidence of two other females that their interviews had been aggressive;
- the lack of any evidence from male witnesses reporting similar experiences;
- the only evidence given by males indicating no concern as to the content and style of their interviews.

The Commissioner was not satisfied that, had the complainants been interviewed fairly and without discrimination, they would have succeeded in gaining positions in the Telecom cadet engineering stream. However, he did believe that it was appropriate to award monetary compensation in respect of the emotional distress suffered by the complainants.

C was awarded \$3,000; M \$6,000 and S \$4,000.

INTERVENTIONS

On 5 February 1992 HREOC appeared as the twentieth respondent in the hearing before Davies J in the Federal Court in Sydney in the matter of *Mt Isa Mines v. Lou Marks and Ors*. The first eighteen respondents were individual members of the National Occupational Health and Safety Commission (Worksafe). Worksafe itself was the nineteenth respondent. The Commission sought leave to intervene however Davies J was of the opinion that the Commission should be joined as a respondent.

Mount Isa Mines (MIM) sought orders to prevent the proposed National Inorganic Lead Standard and the Draft National Code of Practice for the Control and Safe Use of Inorganic Lead at Work being declared by Worksafe pursuant to section 38(1) of the *National Occupational Health and Safety Commission Act 1985* (NOHSC Act).

At issue was the fact that the draft Code and proposed Standard do not discriminate between male and female workers but require a progressive lowering of lead levels for all workers in the lead industry and the adoption of extensive preventative measures. Paragraph 14(1) of the proposed Standard states that the criteria for exclusion from working in a lead-risk job are:

- (a) personal medical condition;
- (b) pregnancy;
- (c) breast feeding; and
- (d) such other basis as may be permitted under relevant anti-discrimination legislation.

Paragraph 12.1(d) of the draft Code states:

We are advised by HREOC that employers wishing to exclude women, other than those pregnant or breast-feeding, from lead-risk jobs will need to seek an exemption from the relevant Sex Discrimination legislation.

Worksafe undertook not to release the draft standard and code pending the outcome of the litigation.

On 13 March 1992, Davies J handed down his decision in favour of MIM. He declared that paragraph 14(1)(d) of the proposed national inorganic lead control standard and paragraph 12.1(d) of the proposed national code of practice for the control and safe use of inorganic lead at work, both dated 4 December 1991, would be invalid if they were adopted. He ordered that Worksafe, before adopting a standard and code for the lead industry, consider further whether there are any appropriate provisions which, in their opinion from the point of view of occupational health and safety, should be included.

On 29 April 1992, HREOC lodged an appeal to the Full Federal Court. Worksafe also lodged an appeal which was subsequently withdrawn.

No hearing date has been set.

EDUCATION AND PROMOTION

The major object of the SDA is to promote the equality of men and women'. To do this, the Act gives the Commission an educational and research role.

Much of the Sex Discrimination Commissioner's time is devoted to 'the promotion of equality' and to raising awareness of the SDA, especially its implications for employment.

The Sex Discrimination Commissioner and staff presented a number of addresses to both public and private sector organisations during the year. Information was frequently sought from the Commission about the legislation and effective measures in educating employers and employees as to their obligations in this area. Consequently, the pamphlet *Sexual Harassment in the Workplace* has been revised and will be widely available in September 1992.

The Commissioner maintains regular liaison with non-government organisations and community groups and regards the opportunity to present papers at conferences and to speak to groups as an important community education function. Students in senior school and those involved in vocational training courses are particularly targeted. Issues raised and discussed at public meetings provide direction for future projects and indicate the degree of public awareness of the Sex Discrimination Act. The publication of her speeches in a variety of journals and monographs assists the wider dissemination of information on sex discrimination issues.

Training and educational material has been designed to assist middle managers in medium sized organisations to be aware of the impact of sexual harassment and develop measures to address sexual harassment in the workplace.

**SEX DISCRIMINATION COMMISSIONER'S
MAJOR SPEAKING ENGAGEMENTS 1991-92**

2 Jul 91	<i>Indirect Discrimination</i> - The Challenge for the 90s Seminar, Brisbane
3 Jul	<i>Protection v Paternalism</i> Women, Management and Industrial Relations Conference, Macquarie University Graduate School of Management, Sydney
8 Jul	Graduation Address, University of Adelaide, Adelaide
11 Jul	<i>Sex Discrimination in the 90s</i> Australasian Law Students Conference, Brisbane
24 July	<i>Service Delivery to the Client: A Human Rights Perspective</i> Royal Australian Institute of Public Administration Endowed Lecture, Brisbane
26 July	<i>Guest Speaker</i> Book Launch: Stained Glass in Australia, Dr Beverley Sherry, SH Ervin Gallery, Sydney
1 Aug	<i>The 7th Anniversary of the SDA</i> Women's Electoral Lobby, Parliament House, Canberra
16 Aug	<i>Women and Superannuation</i> Superwoman - A conference on Women and Superannuation MSB Tower, Sydney
19 Aug	<i>Guest Speaker</i> , Department of Employment, Vocational Training and Industrial Relations, Vision 2000 Conference, Gold Coast, Queensland
26 Aug	<i>Guest Speaker</i> , Public Service Association of SA Biennial Conference, Adelaide
3 Sept	<i>Guest Speaker</i> , Engineers 2000 Awards, Institution of Engineers, University of Sydney
10 Sept	<i>You and Your Career in the 90's</i> , BP Oil Breakfast, Eden on the Park, South Melbourne
13 Sept	<i>Girls and Education</i> : Equity Conference Queensland Department of Education, Cairns

14 Sept	<i>Guest Speaker:</i> Global Solutions for Global Problems Seminar United Nations Association of Australia, Lakeside Hotel, Canberra
23 Sept	<i>Opening Address,</i> Women and Work Seminar, SH Ervin Gallery, Sydney
26 Sept	<i>Pay Equity and the Sex Discrimination Act: The Overaward Payments Inquiry.</i> Office of the Director of Equal Opportunity in Public Employment, Hilton Hotel, Sydney
1 Oct	<i>Human Rights and Equal Opportunity and Women Today</i> Business and Professional Women's Club of Sydney Waratah Inn, Sydney
2 Oct	<i>Introduction to Naomi Wolf - The Beauty Myth</i> Random Century Literary Evening, Brisbane
9 Oct	<i>Keynote Address</i> Agriculture, the Environment and Human Values University of Western Sydney Conference, Sydney
11 Oct	<i>Guest Speaker,</i> New Mind New World - A Curriculum for the Future, Coolum, Queensland
14 Oct	<i>Young Career Woman Award (Judge)</i> Australian Federation of Business and Professional Women, Brisbane
20 Oct	<i>Am I Crazy?</i> SA State Conference on Women and Mental Health, Port Lincoln SA
23 Oct	<i>Guest Speaker,</i> Family Planning Association, Queensland, Annual General Meeting, Brisbane
24 Oct	<i>The Role of the Human Rights and Equal Opportunity Commission</i> Vehicle Builders Employees' Federation, Melbourne
30 Oct	<i>Keynote Address:</i> Productivity Week Department of Productivity and Labour Relations, Perth
11 Nov	<i>Updating Discrimination Practices, Policies and Issues</i> The Association of Risk and Insurance Managers of Australia 1991 Conference, Sheraton Hotel, Brisbane
12 Nov	<i>Guest Speaker,</i> Businessmen's Luncheon, Brisbane
13 Nov	<i>Guest Speaker,</i> Ladies Probus Club of Auchenflower, Brisbane

18 Nov	<i>Guest Speaker</i> , Liberal Party of Australia - Qld Division St Lucia Branch meeting, Brisbane
21 Nov	<i>Guest Speaker, Sexual Harassment, Superannuation and Overaward Payments for Women</i> Women's Forum - Women's Advisory Councils Parliament House, Sydney
29 Nov	Centre for Australian Public Sector Management (CAPSM) Human Resource Management and Industrial Relations in the Public Sector, Griffith University, Queensland
6 Dec	<i>A Hypothetical on EEO</i> , Queensland Education Department, Brisbane
9 Dec	<i>Women Working for Human Rights: Human Rights Week 1991</i> Human Rights and Equal Opportunity Commission, The Greek Club, Brisbane
12 Dec	<i>National Council of Women Consultation</i> , Brisbane
21 Dec	<i>Address to Graduates</i> , Graduation Ceremony University of Queensland, Brisbane
8-12 Jan 1992	<i>Guest Speaker</i> <i>Indigenous Women's Caucus</i> , The Global Feminist Conference, National Organisation of Women (NOW) Conference, Washington, DC, United States of America
17 Jan	<i>Combating Violence Against Women</i> , International League for Human Rights, New York, United States of America
18-22 Jan	<i>Guest Speaker</i> International Women's Rights Action Watch (IWRAW) Advisory Group Meeting, New York, United States of America
20 Jan	<i>Looking Beyond Equality - The Convention on the Elimination of All Forms of Discrimination Against Women</i> , Loes Brunott Memorial Seminar, New York, United States of America
22-24 Jan	<i>Observer</i> The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), New York, United States of America
27 Jan- 7 Feb	<i>Australian Delegation Member</i> , United Nations Commission on Human Rights, Geneva, Switzerland Meetings with the Working Conditions and Environment Department, International Labour Office, Geneva, Switzerland

- 3 Mar 92 *Our Hands - Their Care:* Home Care Service of NSW
Cabarita Beach International Hotel, Cabarita, Queensland
- 9 March *Unfinished Business:* Pamela Denoon Memorial Lecture
Australian National University, Canberra
- 16-21
March *International Women's Day*
Schedule of activities, Darwin
- 24 Mar *The Over-Award Payments Inquiry*
IRR Conference: Equal Opportunity at the Enterprise Level
Gazebo Hotel, Sydney
- 25 Mar *Launch of the India Campaign*
Amnesty International, Sydney
- 27 Mar *Getting Involved: Reflections of a Parent*
Our Daughters, their Schools, their Futures Conference
Ministerial Advisory Committee on Gender Equity,
Professional Development Centre, Brisbane
- 30 Mar *Launch of Campaign for Eliminating Sexual Harassment*
University of NSW, Sydney
- 2 Apr *Human Rights in the 90s:* Women, Men and Mental Health Conference
University of Queensland, Brisbane
- 7 Apr *Keynote Address*
Aboriginal and Torres Strait Islander Women: Part of the Solution
Office of Indigenous Women (ATSIC) Annual Women's Advisers
Conference, Canberra
- 26 Apr *Guest Speaker:* Australian Federation of University Women, Federal
Council Meeting, University Queensland, Brisbane
- 29 Apr *Guest Speaker:* Australian Bankers Association,
Manly Pacific Hotel, Sydney
- 5 May *Launch of 'On the Level' Menopause - Make it Easy'*
Family Planning Association, Sydney
- 26 May *Oral Evidence,* Anti-Discrimination Board, Inquiry into Pregnancy
Discrimination, Sydney
- 28 May *Women and Superannuation*
Association of Superannuation Funds of Australia May Luncheon
Sheraton Hotel, Brisbane

- 3 June Australia in the 21st Century, Film Australia Think Tank, Sydney
- 12 June *Guest Speaker:* Queensland Quilters Foundation Annual Convention,
Brisbane
- 19 June *Sexual Harassment and the SDA*
Work Environment Unit Managers Conference
Department of Social Security, Canberra

PRIVACY

PRIVACY COMMISSIONER

Kevin O'Connor, Australia's first Privacy Commissioner, was appointed on 1 January 1989 for a five-year term. He is a member of the Human Rights and Equal Opportunity Commission and is assisted by the Commission's staff in administering the *Privacy Act 1988*.

Before his appointment, Mr O'Connor was Deputy Secretary in the Victorian Attorney-General's Department and Secretary to the Standing Committee of Attorneys-General. His professional experience is in law and government with particular emphasis on law reform and human rights. Mr O'Connor graduated in Law from Melbourne University and holds Master's degrees in Law from the Universities of Melbourne and Illinois.

Statement from the Privacy Commissioner

Federal legislation extending my jurisdiction to a significant area of private sector activity took effect during 1991-92. The legislation establishes privacy protection for consumers' credit information used by the credit industry. A Code of Conduct was issued which supplements the requirements of the legislation. The legislation (mainly found now in a new Part HIA of the Privacy Act 1988) and the Code together deal with:

- *the type of information which may be held about individuals in a central credit reporting database; who may have access to the information and how the information may be used;*
- *standards for the handling and exchange of consumer credit worthiness information by credit providers;*
- *dispute settling procedures relating to credit reporting.*

Increasingly federal government administration is incorporating privacy considerations into its administrative procedures. Another change apparent over the course of the year has been the increased volume of enquiries and complaints received about privacy issues. Privacy complaints, previously handled by the Conciliation Branch of the Commission, are now the responsibility of a new Privacy Complaints and Enquiries Unit within the Privacy Branch. Whilst the number of enquiries dealt with by the Privacy Hotline has been significant since its inception, the volume of calls again increased over the year whilst the number of formal complaints received also grew substantially. It is expected that the volume of work in this area will continue to increase as individuals become more aware of their rights under the Act.

Support for the Privacy Commissioner's function is primarily provided by the Privacy Branch of the Commission. The work of the Privacy Commissioner and the Branch is dealt with in greater detail in the separate annual report of the Privacy Commissioner made under section 97 of the Privacy Act.

The Privacy Commissioner's separate annual reporting requirement is reflective of the Privacy Act's approach of vesting all its statutory functions in the Privacy Commissioner. This contrasts with the other jurisdictions of the Human Rights and Equal Opportunity Commission where the exercise of most functions is vested in the Commission as a whole.

The following report provides a brief outline of the major privacy activities of the year.

POLICY ACTIVITIES

Credit Reporting

Part IIIA of the Privacy Act concerning credit reporting was phased into operation during the year. The Code of Conduct for Credit Reporting was issued in September 1991 following close consultations with the credit industry and consumer representatives. The Code included detailed explanatory notes and a number of associated determinations. Parliament made a number of amendments to the Act to overcome technical difficulties identified during consultations.

The Code of Conduct sets out procedures for settling disputes relating to credit reporting and gives guidance on a number of aspects of the Act, including as to notices to be given to consumers and the obtaining of consents. Numerous advices on the application of the Act have been given to credit providers and detailed fact sheets have been prepared on the most frequently asked questions.

Information Privacy Principles (IPPs)

The Privacy Branch continued to give regular advice to Commonwealth agencies about their obligations under the IPPs. In 1991-92 issues included:

- **Covert Surveillance:** Following consultations with Commonwealth agencies the Privacy Commissioner issued guidelines concerning the use of covert optical surveillance in Commonwealth administration. These guidelines outline the steps to be followed and factors to be considered in deciding whether to undertake surveillance, with specific attention to the use of covert surveillance in the handling of compensation claims.

- **Telecommunications:** The Privacy Commissioner made a submission to the AUSTEL Inquiry into the privacy implications of telecommunications services. Officers of the Privacy Branch also participated in a series of Australia wide consultations which were organised by Austel as part of the Inquiry.
- **Law Enforcement Access Network (LEAN):** LEAN is an initiative of the federal Attorney-General's Department. It will bring together in a national database companies, land and property information for use by a wide range of federal and state agencies with law enforcement and revenue protection responsibilities. The information concerned is currently maintained in various national and state registers, and is available for public inspection. LEAN will allow the data to be accessed and compared in much more sophisticated ways. The Privacy Branch is advising the Attorney-General's Department about compliance with the IPPs.

Public Interest Determination

Telecom Australia applied in December 1990 to the Privacy Commissioner for a Public Interest Determination which would enable the disclosure of personal information held in its modified white pages database to law enforcement agencies on an on-line number-to-name basis; and to be permitted to dispense with requirements to notify customers of this practice and to keep a log of the disclosures. A final determination was issued on 27 September 1991. This determination declared unnecessary the application as it related to disclosure on the grounds that the disclosure was in accordance with Information Privacy Principle 11.1(e). The other elements of the application were dismissed as they were not regarded as establishing a benefit that outweighed to a significant degree the public interest associated with adherence to the IPPs.

The Privacy Contact Officer Network

The Branch assisted in the establishment of a Privacy Contact Officer Network linking officers responsible for privacy matters in Federal agencies. There were several Network meetings and two editions of a newsletter *Privacy Link* have been published. The network assists in increasing privacy awareness within agencies and provides a means of effective liaison with the Privacy Branch.

Datamatching Guidelines

Following an extensive consultation process involving Commonwealth agencies, privacy and other interest groups and the Privacy Advisory Committee the Privacy Commissioner issued final guidelines to assist agencies in the conduct of data-matching programs. The guidelines are advisory and are issued under section 27(1)(e) and (k) of the Privacy Act.

A report detailing the consultation process and issues raised was made to the Attorney-General and is available to the public. A number of agencies, primarily those involved in the payment of benefits, have agreed to adopt the guidelines.

Medical Research Guidelines

Guidelines issued by the National Health and Medical Research Council, for the protection of privacy in the conduct of medical research, were approved by the Privacy Commissioner in February 1990. The guidelines took effect on 1 July 1991 and will lapse on 30 June 1994.

The Privacy Commissioner published a booklet outlining the history of the guidelines, his reasons for approval and the issues to be kept under consideration during the review period.

HIV/AIDS Working Party

The Working Party, set up under the National **HIV/AIDS** strategy and chaired by the Privacy Commissioner, has completed its deliberations. The final report on privacy aspects of the handling of **HIV/AIDS** information is in preparation and is expected to be released in September. The report will contain guidelines on the collection, use and disclosure of this class of sensitive information.

Medicare and Pharmaceutical Benefits Programs Privacy Guidelines

Section 135AA of the National Health Act requires the Privacy Commissioner to issue guidelines for the conduct of the Medicare and Pharmaceutical Benefits Programs.

Draft guidelines were prepared and, in February 1992, were circulated for comment to government health agencies and health research and interest groups, privacy, social and civil liberties organisations. The guidelines were generally seen as acceptable by both government and non-government bodies.

Advice from the Attorney-General's Department on the interpretation of some areas of section 135AA led the Department of Health, Housing and Community Services to suggest that legislative amendments may be needed to enable some elements of the draft guidelines to be implemented. Consequently guidelines were not issued. A report was provided to Parliament setting out reasons for failing to issue guidelines by the statutory deadline of 1 April 1992 and providing a summary of progress in the development of the guidelines. It is expected that the guidelines will be issued later in 1992.

Tax File Number Guidelines

The Privacy Branch continued to give advice to employers, Commonwealth agencies and investment bodies in relation to compliance with the Tax File Number (TFN) Guidelines and was represented on the Australian Taxation Office's interest payers and dividend payers joint working parties on tax file number issues. Further consultations will lead to the issuing of revised TFN Guidelines, which will reflect the 1990/91 extensions to the tax file number system related to the data-matching program and take account of practical experience with the operation of the guidelines.

Spent Convictions

In order to increase awareness about the operation of Part VIIC of the Crimes Act, Compliance Note 2/91 was prepared. The Compliance Note is aimed at State government agencies, private sector groups and individuals and was widely distributed.

Applications for exclusions were received from a number of Commonwealth agencies and private sector groups and the Privacy Commissioner provided the Attorney-General with recommendations on these applications. No further exclusions were granted during the year.

COMPLIANCE ACTIVITIES

A comprehensive program auditing compliance with the Information Privacy Principles and Tax File Number Guidelines was undertaken throughout the year. An examination of TFN procedures within the Australian Taxation Office was also completed. Visits were made to credit reporting agencies to inspect systems in place prior to the introduction of the credit reporting provisions and a credit reporting audit program commenced in May 1992.

Audits

Fifteen IPP and seventeen TFN audits were either completed or commenced. Most of the TFN audits were undertaken by consultants under the direction of Compliance Section staff.

Investigations

A wide range of investigations were carried out during the year into allegations of interferences with privacy involving both tax file number and Commonwealth agency records. These included investigations into the release of personal information by the Department of Social Security (DSS), Australian Taxation Office (ATO) and Department of Employment, Education and Training (**DEET**) as a result of printing malfunctions. Reports by the Privacy Commissioner on the DSS and **ATO** incidents were submitted to the relevant Ministers.

Personal Information Digest

In compliance with Information Privacy Principle 5, the Commissioner published the 1990 Commonwealth Personal Information Digest in July 1991. The 1990 Australian Capital Territory Personal Information Digest was published and distributed in February 1992. The 1991 Digests were about to be printed in June 1992.

Monitoring the Data Matching Program

A new Information Technology Standards section was established in Canberra in May 1991, to monitor compliance with the privacy safeguards built into the *Data-matching Program (Assistance and Tax) Act 1990*. The Data Matching Agency (DMA), which is staffed by specially designated officers of the Department of Social Security (DSS), undertook six matching cycles in 1991-92. The participating (source) agencies are the Australian Taxation Office, and the Departments of Social Security; Veterans' Affairs; Employment, Education and Training; and Health, Housing and Community Services (First Home Owners Scheme).

Inspections of the procedures and practices in more than forty State, regional and area offices resulted in the detection of some breaches of the Act or guidelines. As a result agencies modified their procedures in accordance with the Privacy Commissioner's findings.

Information Technology Standards staff are present during Step 5 of matching cycles, at which the data is matched and non-discrepant data is destroyed, to ensure controls covering computer processing are met. A computer security control model is being developed in consultation with DSS which will establish procedures for DSS staff to monitor security, access and authorisation.

The procedures for receiving and dispatching computer tapes between source agencies and the Data Matching Agency have also been reviewed. The sampling and statistical systems in place at assistance agencies are being reviewed.

COMPLAINT INVESTIGATION/RESOLUTION AND ENQUIRIES

Because of the increasing number of complaints and the specialised nature of the jurisdiction, it was decided in mid 1991 to transfer the handling of privacy complaints from HREOC's Conciliation Section to a new unit within the Privacy Branch.

The Privacy Complaints and Enquiries Unit was established with temporary staff and took over the processing of new complaints, and most of the existing open files, from 4 November 1991. Permanent staff were appointed early in 1992 and by the end of the year the Unit had taken over all open privacy complaints.

During the year 220 complaints within jurisdiction were received by the Commissioner. 163 complaints concerned alleged breaches of the Information Privacy Principles, while 9 related to allegations of breaches of the Tax File Number Guidelines and 2 involved the spent conviction scheme. The credit reporting provisions, which came into full effect on 25 February 1992, occasioned 50 complaints.

All but one privacy complaint to date have been resolved without resorting to the Privacy Commissioner's powers of determination. Many resulted in changes of policy or practices by Federal agencies. After preliminary investigation, 8 complaints were withdrawn on the basis either that the complaint was outside of the jurisdiction of the Privacy Act, or that the complaint was adequately resolved prior to commencing a formal investigation.

The Privacy Hotline, which had previously been operated by the Conciliation Section was, as in previous years, taken over by the Privacy Branch for the duration of the privacy advertising campaign from July to September 1991. At the end of this campaign it was decided to combine the Hotline operation with the new complaints unit. This has the advantage of a larger pool of experience in privacy enquiry and complaints issues, flexibility in work allocation and greater job satisfaction.

At the beginning of the year the number of enquiries received on the toll-free hotline remained fairly static at about 250 per week. Towards the end of the national awareness campaign, during September and October, the number of enquiries jumped to about 400 per week with a peak of 600.

In February 1992, when the credit reporting provisions of the Act came into full effect, credit enquiries substantially increased the number of hotline calls to about 500 per week and this level was generally maintained for the remainder of the year.

EDUCATION AND PROMOTION

The Privacy Commissioner has a responsibility to promote awareness of the legislation for which he has responsibility and to undertake educational programs. In this, he is assisted by the Commission's Community Education and Promotion Section.

Public Awareness Campaign

A national public awareness campaign was again conducted from July to September 1991. Newspaper advertisements featuring the toll-free Privacy Hotline number were placed in national newspapers and one hundred and forty two posters appeared on Citylites and Metrolites (rear-lit billboards) in Sydney, Melbourne and Brisbane.

A Doctors Television Network (DTV) five-minute 'infomercial', which targets people in doctors' waiting rooms, hospitals etc was produced and presented in July and September. Fifty thousand pamphlets about the Act were also distributed by DIV.

Community Awareness of Information Privacy Principles

A number of projects have been undertaken which are aimed at increasing private sector awareness of privacy issues. A training package for the adoption of information privacy principles by private sector managers is currently being developed with funding assistance from the NSW Education and Training Foundation.

Publications

The general Privacy Pamphlet was translated into Vietnamese, Spanish, Arabic and Chinese.

In terms of the Credit Reporting provisions, work has been focused on ensuring industry and consumer awareness of rights and responsibilities under the legislation, by way of production and dissemination of a number of explanatory materials. These include, for consumers, a new brochure which provides information on the manner in which credit providers and credit reporting agencies are required to handle consumer credit information. Over 55,000 of these brochures were circulated. Also 1,600 Consumer Guides, offering practical advice on obtaining access and seeking amendment to credit information files relating to an individual, were distributed.

For credit providers, a brochure directed to the needs of industry in complying with the provisions of Part IIIA of the Privacy Act was published this year and over 14,000 credit providers and other affected parties received copies. The Privacy Branch produced a series of fact sheets and these address questions frequently raised by those sectors which handle consumer credit information including consumer and commercial credit providers, mercantile agents and financial counsellors. Over 8,000 were sent out upon request.

Numerous other publications were widely distributed throughout the year. A detailed listing of publications is contained in the Privacy Commissioner's fourth annual report. Below are some examples of the type of publications distributed.

Reports

- Covert Optical Surveillance in Commonwealth Administration - Guidelines, February 1992
- Report of an Investigation. Mail-out Errors: Australian Taxation Office, April 1992
- Report of an Investigation. Mail-out Errors: Department of Social Security, May 1992
- Medicare and Pharmaceutical Benefits Programs Privacy Guidelines: Report to Parliament Under Section 135AA of the National Health Act 1953, May 1992
- Data-matching in Commonwealth Administration: Report to the Attorney-General and Final Guidelines, June 1992

Instruments Issued by the Privacy Commissioner

- Credit Reporting Code of Conduct and Explanatory Notes, and Determinations under s.11B(1)(b)(v)(B) and s.18E(3), September 1991
- Data-matching (Assistance and Tax) Act Guidelines, September 1991

Compliance Notes

- Compliance Note 2/91 - Old Convictions and Non-Commonwealth Sectors

Submissions

- Submission to the Austel Inquiry into the Privacy Implications of Telecommunications Services, February 1992
- Review of Telecommunications (Interception) Act 1979 - Submission to the Attorney-General's Department, April 1992

Information Sheets

- Credit Reporting Fact Sheets 1-6
- Credit Reporting Consumer Guide 1

Digests

- Commonwealth Personal Information Digest 1990
- ACT Personal Information Digest 1990

Privacy Seminars

The Privacy Commissioner participated in credit industry seminars held in most capital cities, and has spoken at numerous engagements since on the operation of the law. Full details are contained in his fourth annual report. Commission staff conducted privacy seminars for non-government organisations in Hobart, Adelaide and Perth.

Privacy Videos

Two new videos were produced and are now available. One, *Information Privacy and Your Rights*, is aimed at the general public and provides a 10-minute introduction to the rights of individuals under the Privacy Act. The other video, *Information Privacy - Managing Your Responsibilities* is of 11 minutes duration and is designed for businesses and organisations. A video distribution company has been engaged to market and distribute these videos.

Funding was received during the financial year from the NSW Education and Training Foundation to develop a training pack, *Privacy Principles: Protecting Your Business and Your Clients - Information Privacy Management*. This package will focus on the voluntary adoption of information privacy principles by private sector managers and is currently being developed.

PRIVACY COMMISSIONER'S MAJOR SPEAKING ENGAGEMENTS 1991-92

15 July 91	<i>Privacy Amendment Act 1990 : Role and Responsibilities of the Privacy Commissioner</i> , Australian Institute of Credit Management WA Division, Perth.
3 Sep 91	<i>Credit Reporting : The Privacy Act, the Code of Conduct and Associated Determinations : An Overview</i> . Credit Reference Association of Australia, Sydney.
6 & 9 & 13 Sep 91	<i>Credit Reporting : The Privacy Act, the Code of Conduct and Associated Determinations : An Overview</i> . Credit Reference Association of Australia, Brisbane, Adelaide and Melbourne.
20 Sep 91	<i>Credit Reporting : The Privacy Act, the Code of Conduct and Associated Determinations : An Overview</i> . Credit Reporting Seminar, Tasmanian Collection Services, Hobart.
19-20 Nov 91	<i>Working with Information Privacy : The Australian Experience</i> . Managing the Impact of Information Conference, New Zealand.
3 Dec 91	Keynote Address: <i>Privacy in an Information Society</i> . CIRCIT Conference, Melbourne.
24 Mar 92	<i>The Privacy Act : Relevance for Fraud Control and Investigation</i> . IIR Fraud Management Series: 'Combating Fraud and Corruption in Government', Sydney.
24 Mar 92	<i>Privacy and New Telecommunications Products and Services</i> . IIR Conference: 'Telecommunications Network Competition', Sydney.
24 Mar 92	<i>Privacy Legislation and Criminal Investigation</i> . 2nd AFP 'Management of Serious Crime' Course, Canberra.
6-7 Apr 92	<i>Federal Credit Reporting Law : Early Experience</i> . Current Affairs Study Centre Seminar: 'Privacy Amendment Act, Credit Reporting and NSW Data Protection Bill', Sydney.
20 May 92	<i>Privacy Issues : TFN and Computer Systems We Trust</i> . EDPAC '92 - National Conference of EDP Auditors, Adelaide.
1 June 92	<i>Privacy and the Credit Reference System</i> . CIRCIT Conference, Melbourne.

- 9 & 11 June *Federal Credit Reporting Law : Early Experience.* Australian Credit Management Conference, Sydney and Melbourne.
- 10 June 92 *Privacy Legislation and Welfare Assistance.* Annual General Meeting of the Welfare Rights Unit, Melbourne.

CORPORATE MANAGEMENT

CORPORATE MANAGEMENT

The Commission appears as a sub-program in the Attorney-General's portfolio program structure.

In 1991-92 the Commission sub-divided its own program activities into the following program elements:

- Human Rights
- Race Discrimination
- Sex Discrimination
- Privacy

Program activity and reporting (including financial reporting) for 1991-92 is based on this structure.

The major legislation and regulations applicable to Corporate Services include:

- *Public Service Act 1922*
- Personnel Management Manuals and Streamlining Guidelines
- Audit Act and Finance Regulations
- Freedom of Information Act

Corporate Services is responsible for the timely and efficient provision of services to areas within the Commission, including:

- Financial Management
- Human Resource Management
- Accommodation and Services
- Purchasing and Travel
- Library Services
- Records Management
- Computer Support

The Commission's corporate goals and direction are set by the members of the Commission meeting as a corporate body. The Commission's program structure is organised so that each Commissioner is responsible for the management of a specific program of activities and budget in his or her area of responsibility. Individual Commissioners report regularly to the Commission on their plans, strategies and program outcomes.

All staff are given the opportunity to provide input to the corporate planning process. A new Corporate Plan is being developed, taking into account comments made by branch and section heads and their staff.

The Commission is characterised by its relatively small size (less than 140 staff); its geographic spread, with offices in Sydney, Brisbane, Cairns, Rockhampton, Hobart, Darwin and Canberra; and a diversity of activities as can be seen from earlier chapters of this report. These considerations require maximum flexibility in the Commission's operations to ensure that it is able to meet effectively the constantly changing environment in which it operates. Qualities of flexibility and multiskilling in its staff are of vital importance in meeting these challenges.

FINANCIAL MANAGEMENT

Financial management and reporting has been carried out with the aid of a computer-based financial accounting system. Program managers receive detailed monthly reports to improve the quality of decision making and financial management. However, the increasing complexity of the Commission's budget as a result of additional functions and joint funding arrangements with Queensland and the ACT has highlighted the need for an overhaul of the present system and this is currently underway.

Financial Statement

The Commission's Financial Statement for 1991-92 appears at Appendix 3.

The Commission's running costs form a consolidated budget from which allocations are made to the various program elements. The present arrangements allow for maximum flexibility in the management of programs and program funds.

Figures 1 and 2 and 3 show the breakdown of expenditure by program element, and by classification, and a comparison of expenditure by classification between 1990-91 and 1991-92. Figures 4 and 5 indicate estimated expenditure by both program element and classification for 1992-93.

The increase in expenditure has occurred in the running costs area as a result of the full-year effect of Credit Reference Reporting and Data Matching responsibilities and the Commission entering into cooperative arrangements with the ACT and Queensland Governments relating to the joint administration of Federal/State legislation.

Payment of Accounts

The Commission received 3,287 accounts during the year. Of these 3,255 accounts were processed for payment on the due date. 32 accounts were not processed as at 30 June 1991 as they were not due for payment until financial year 1992-93.

Purchasing

The Commission's purchasing procedures address a wide range of purchasing situations, allowing managers to be flexible when making purchasing decisions whilst still complying with current government policies.

Information Technology Purchasing Policy

HREOC information technology (IT) acquisitions have adhered to the relevant Government purchasing policy as outline in the *IT Buyer's Handbook* (published by DAS).

The purchase process involves the following three considerations:

- 1 value for money
- 2 open and effective competition
- 3 support for local industry whenever possible.

In addition, there is a commitment to the adoption of open system interconnection (OSI) standards when applicable.

Property Usage

The Commission occupies approximately 3,257 square metres of floor space at an average cost of \$353.00 per square metre.

Fraud Control

The Commission has been assessed a low risk by the Fraud Control Committee of the

Attorney-Generals' Department. The Commission continues to rely on internal controls to monitor and investigate fraud risk areas.

HUMAN RESOURCES MANAGEMENT

The *Public Service Act 1922* governs the Commission's staffing arrangements. The Commission's average staffing level for 1991-92 was 134. As a result of the devolution of functions from the Attorney-General's Department, the Commission assumed responsibility for its own payroll processing in April 1992.

During the financial year 1991-92:

- 17 new staff were permanently appointed to the Commission
- 13 new staff were promoted or transferred in from other APS departments and agencies (this includes 6 staff on temporary transfer)
- 38 new staff were engaged as short-term temporary staff
- 2 employee-initiated permanent part-time proposals were approved
- 25 new positions were created
- 12 staff resigned/transferred/were promoted (this includes 5 staff who ceased temporary transfer)
- 37 positions were advertised in the *Gazette* and the press

The Commission's staffing profile within classification levels appears at Table 15; the staffing profile with regard to permanent or temporary employment appears at Table 16.

Postseparation Employment

There were no cases of postseparation employment during 1991/92.

External Consultants

The Commission engages consultants depending on the budget, size, nature and complexity of a particular consultancy task. Consultants are selected either through public tendering, restrictive tendering, or by reference to its Register of Consultants. The register was established initially by advertising in all major press for expressions of interest from researchers and other specialist consultants who wished to be included. Expressions of interest are sought through public advertising annually. The Register is constantly being updated and individuals or firms who wish to be included can obtain registration forms from the Commission's central office or by telephoning (02) 229 7600.

A list of external consultants engaged by the Commission during 1991-92 is set out in Appendix 2.

A complete listing of consultancies is available from the Commission on request.

HUMAN RESOURCES DEVELOPMENT

The Commission recognises that a planned investment in Human Resource Development (**HRD**) is in the interests of its future strategic direction and that training and development play an important role in maximising the potential of its staff. Total salary expenditure for 1991-92, including cooperative arrangements, was \$5,106,000. Direct expenditure on Human Resource Development was \$188,342 (3.68% of total salaries). The Commission met its minimum training guarantee requirement of \$51,060.

As at 30 June 1992, there were 134 full and part-time staff and 110 participated in training activities during the year. A total of 531 staff days were devoted to training and development in 1991-92, which represents an average of approximately 3.9 days per staff member.

In 1991-92 the **HRD** Sub-Committee began developing the Commission's Senior Officer Performance Appraisal Program.

The Commission's HRD database was used to record staff attendance at training courses and seminars. The database was used to provide the statistics required in the Public Service Commission HRD Survey.

Staff of the Commission have access to a variety of formal and informal training and development opportunities. Comprehensive details of **HRD** activities are provided in the Commission's report to the Public Service Commission. The more significant issues covered in the report are discussed below.

Training

Throughout 1991-92, staff attended courses such as effective writing skills, supervision and negotiation skills. These courses were conducted by various organisations including the Attorney-General's Department, the Public Service Commission and the NSW Joint Agency Training Committee. In addition, the Commission runs in-house training courses on administrative and other topics such as legal research and negotiation skills, as well as seminars for conciliators at which experts in various fields present sessions.

Several legal and para-legal organisations provide continuing legal education, often through courses which give academic accreditation for the participants. To further the aims of multiskilling, staff from the Policy/Research and Conciliation sections, as well as legal staff, attended such courses during the year.

Staff are offered a variety of computer training courses conducted internally and externally. Most staff have attended courses in the use of WordPerfect. The Computer Support Officer also provides training in-house for staff on a variety of computer-related matters. At each work location the Computer Support Officer has trained a staff member to provide front-line computer support. In addition, a number of staff attended external, specialist computer skills courses, including desk top publishing and introduction to spreadsheet applications.

Servicewide Training

These courses are generally sponsored by other Commonwealth agencies and provide training in such areas as administrative law, industrial relations, occupational health and safety, financial and staff resource management skills.

During the reporting year, staff also attended work-related seminars and conferences which provided them with professional and technical development opportunities.

Studies Assistance (Studybank)

In 1992, approved studies assistance was given to fifteen staff members under the Studybank scheme. This was a significant increase over the previous year.

Overseas Staff Exchange

The Commission supports the concept of overseas staff exchanges which give its own staff the opportunity to learn at first hand the human rights experiences of other countries and to study different methodologies being used to promote human rights. Equally, the Commission welcomes working visitors from abroad and is pleased to share its own experiences with them.

During 1991-92, a staff member undertook a two-month secondment with the Danish Human Rights Centre.

Middle Manager Development

One staff member of the Commission is currently participating in the Senior Women in Management Program (SWIM). This program is partly funded under the Public Service Commission's Middle Manager Development Program.

Work Experience Placements

The library regularly accommodated student fieldwork placements (one long-term and several short-term) from the New South Wales TAFE Library Practice Associate Diploma course.

In response to requests from organisations such as Skillshare, Mission Employment and the Commonwealth Rehabilitation Service, the Commission provided eight work experience placements during 1991-92.

INDUSTRIAL DEMOCRACY

The Commission's policy on Industrial Democracy is to ensure that staff are more fully able to contribute to the efficient and effective operation of the Commission. It believes that staff would enjoy a better quality of working life if they are involved in the decision-making process, and that in this way the Commission can provide a more effective service to the public. The Commission is therefore committed to the involvement of its staff in that process through the industrial democracy procedures outlined below.

The Human Rights Commissioner as executive head is responsible for Industrial Democracy matters within the Commission. The position of Director, Corporate Services has, as part of its functions, the responsibility for implementing industrial democracy principles and practices in the workplace. This responsibility is shared in a general sense by all staff of the Commission through the Consultative Council process.

Major Priorities 1991 92

The Commission's main industrial democracy priorities last year were to meet the targets in the Industrial Democracy Plan, i.e. finalise the review of information flows; increase union membership; and review the ID Plan, Consultative Council Charter, and Union Membership Policy. These objectives were met. The Industrial Democracy Sub-Committee was also involved in the development and review of a number of Human Resource Management policies.

Significant Activities 1991 92

The joint union/management Consultative Council (established two years ago) met quarterly. The Council comprises equal numbers of union and management members, and regional office management and staff are represented.

The Industrial Democracy Plan was reviewed and a new plan developed following consultation and agreement between management and the union. The revised plan was endorsed at the March 1992 Consultative Council meeting and a copy of the plan was forwarded to the Department of Industrial Relations.

A number of Human Resource Management policies were developed, and some existing policies (including the Policy on Union Membership) were reviewed by management and the union.

The following sub-committees and working party of the Consultative Council operated during 1991-92:

- Industrial Democracy Sub-Committee (this sub-committee is responsible for HRD matters)
- Work and Job Design Working Party
- Equal Employment Opportunity Sub-Committee
- Occupational Health and Safety and Accommodation Sub-Committee

In addition, the Commission has an Information Technology Advisory Committee which, although not a sub-committee of the Consultative Council, includes union representatives. The activities of these committees are described in the relevant parts of this report.

Consultative Mechanisms

Apart from the Consultative Council, which is the peak management/union consultative forum, there are a number of other consultative mechanisms in the Commission:

- Commission meetings, to which staff have input by way of discussion papers and the minutes of which, except for items of a confidential or sensitive nature, are made available to staff;
- senior staff meetings, where overall priorities and work programs are discussed, objectives and goals determined, and activities planned;
- Branch/Section/Regional Office meetings, where senior officers involve their staff in the process of developing individual programs, tailored to the relevant work area;
- Project/Work Group meetings, where planning, implementing and monitoring specific projects takes place;

- full staff meetings, where significant matters affecting all staff, whether union members or not, are discussed;
- Union meetings, where matters of industrial concern are discussed;
- periodical reports by senior staff, on progress within their areas as well as on staffing/resource issues;
- a weekly Staff Notice, which informs staff of a wide variety of issues, including personnel matters and other items of interest.

Monitoring, Review and Evaluation

The Consultative Council is charged with responsibility for monitoring, review and evaluation of the progress and effectiveness of Industrial Democracy in the Commission.

Major Priorities 1992/93

The major priorities next year will be to meet the targets in the revised Industrial Democracy Plan, including establishing a joint union/management working party to consult on accommodation requirements for the possible relocation of Central Office; undertaking a review of the Consultative Council and its sub-committees; making information on all new and revised human resource management policies and Practices available to staff for consideration and comment; and fully involving staff in any internal management review processes.

OCCUPATIONAL HEALTH AND SAFETY

The Commission continues to place a high priority on occupational health and safety issues.

The Occupational Health and Safety (OH&S) Sub-Committee of the Consultative Council met regularly during 1991-92 and reported on its progress and future directions to the Council. The sub-committee undertook the following major activities:

- amended the interim OH&S Policy and Agreement to comply with the OH&S legislation;
- investigated and made recommendations on first aid requirements of the Commission's central and regional offices;

- prepared and distributed administrative instructions on first aid officers, first aid kits and sick rooms, and emergency evacuation procedures;
- undertook a workplace safety audit of central office and prepared a report and recommendations;
- continued to educate staff in OH&S matters.

Accommodation

The Commission undertook several fitouts of existing and additional office space in its Central Office in the American Express Building to accommodate the increased staff numbers resulting from its additional responsibilities. The fitouts were designed in accordance with Commonwealth Occupational Health and Safety standards. Office design, ambient atmosphere and the use of ergonomic furniture have all been utilised to assist in the creation of a safe and healthy workplace.

The Commission also established an office in Canberra in December 1991, which required minor fitout work. Similar work was undertaken in the Brisbane office to accommodate additional staff resulting from wider responsibilities in the Queensland region, and preparations for establishing offices in Cairns and Rockhampton were well advanced by 30 June 1992.

EQUAL EMPLOYMENT OPPORTUNITY

The objective of the Commission's Equal Employment Opportunity (EEO) Program is to enhance equal opportunity to the point where it may simply be incorporated within the Corporate Plan and not (except for statutory requirements) be regarded as a discrete issue to be given an identity separate from other management issues.

EEO Resources and Consultative Mechanism

The Secretary of the Commission is the Senior Executive responsible for EEO matters within the Commission. The Personnel Manager has responsibility for EEO coordination and grievance handling within the Commission. In regional offices, day-to-day responsibility for EEO falls to the Regional Directors.

Within its resources, the Commission assists other Federal and State agencies, professional bodies and private companies with training on race, sex and disability discrimination; on cultural diversity in the workplace and on EEO requirements for managers and supervisors.

The consultative mechanism for EEO is part of the Industrial Democracy process. There is an EEO Sub-Committee of the Consultative Council which reports to that forum. The Sub-Committee consists of three management representatives and three union representatives.

Statistical Data

Tables 17 and 18 shows the Commission's proportion of EEO target group members in comparison with service-wide averages prevailing at 30 December 1991. The Commission uses the NOMAD system to prepare the statistical data.

Last year's Annual Report noted that the Commission's priority for EEO would be to review the EEO Plan and meet the targets identified. The EEO Sub-Committee has commenced the review of the plan and is in the process of developing a new EEO Plan for 1992-95. The objectives in the current plan have been met to the extent possible.

Achievements 1991-92

Significant achievements during the year included:

- Three staff in Central Office (two female and one male) attended Sexual Harassment Contact Officer training.
- A staff member was permanently appointed under the Intellectual Disability Access Program.
- A number of placements were offered to socially disadvantaged persons through Mission Employment and other agencies. On the completion of their placements, these people were encouraged to apply for inclusion in the Commission's Temporary Employment Register. Some of them have subsequently been successful in obtaining temporary employment within the Commission.
- A summer clerkship was offered to a legal student of Aboriginal background.

Major Priorities 1992-93

The major priority for the coming year is to revise the EEO Plan and to implement it upon its endorsement by the Public Service Commission.

ACCESS AND EQUITY

Access and equity is one of the major components of the Federal Government's Social Justice Strategy. It requires all departments and agencies to ensure that their services are equitable and accessible to all Australians, regardless of linguistic, cultural or distance barriers that may impede service delivery.

The Commission's Access and Equity Plan is published in the *Attorney-General's Department Second Triennial Access and Equity Plan* (AGPS Canberra, 1991). The Commission's plan makes each Commissioner responsible for access and equity considerations within his/her own portfolio, and the Secretary of the Commission responsible for access and equity in the corporate service area.

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INFORMATION MANAGEMENT

Management Information Systems

A review of computer networking options for the Commission was completed. However, given that the Commission's lease in the American Express Tower Building expires at the end of 1993 and that a decision has not yet been made on the possible relocation of the Sydney-based staff, implementation of the recommended option will not proceed until early 1994.

During the year, the Commission contracted for the establishment of a mailing list database. The database was installed in March and staff received training to facilitate bulk mailouts by Privacy Branch and Community Education and Community Relations Sections.

Library

The Commission's library provides a comprehensive research resource for Commissioners and staff as well as to the general public.

Regular reader education sessions and demonstrations of new databases including AUSTROM and MicroMAIS have been held for staff. The inter-library loans system used in the library was streamlined to take advantage of automation; the library now uses the National Library of Australia's ABN module, SIM-PC.

The library is open to the public by appointment, between 10.00am and 4.30pm; a coin-operated photocopier is provided.

FREEDOM OF INFORMATION

The Freedom of Information (FOI) Act extends the right of access of the Australian community to information in the possession of Federal Government agencies.

The Act requires agencies to publish information about their operations and powers affecting members of the public as well as manuals and other documents used in making decisions or recommendations affecting the public. It also requires agencies to provide access to documents in their possession unless the documents fall within an exception or exemption specified in the legislation.

Access to all documents in the Government's possession is not, however, always possible as confidentiality must be maintained where necessary for the protection of essential public interests and the private and business affairs of persons about whom the information is collected. Complaints under the Acts administered by the Commission are subject to the confidentiality provisions of those Acts.

During the period 1 July 1991 to 30 June 1992 the Commission received thirteen requests for access to documents pursuant to the Freedom of Information Act. Two of the requests were for access to documents arising from particular policy areas. The remaining applications were by parties to complaints lodged with the Commission.

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 and resolution of complaints.

Legal

- Matters including legal documents, opinions, advice and representation.

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 printed material which is available to the public has been listed at Appendix 4.

Freedom of Information procedures

Initial enquiries concerning access to Commission documents should be directed to the **FOI** Officer by either telephoning (02) 229 7600 or by writing to:

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

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

Level 24, American Express Building
388 George Street, SYDNEY 2000
Telephone: (02) 229 7600

Ground floor,
187 Melbourne Street, SOUTH BRISBANE 4101
Telephone: (07) 844 6099

First floor, Randazzo Building
80 Mitchell Street, DARWIN 0800
Telephone: (089) 81 9111

Suite 4, Ground floor, The City Mill,
11-13 Morrison Street, HOBART 7000
Telephone: (002) 23 8511

REGIONAL OFFICES

The Regional Directors in each of the Commission's state offices are members of their local Regional Directors' forums. In the Northern Territory, the Regional Director is Chair of the Commonwealth EEO Steering Committee, and is a contact for the EEO Section within the Public Service Commission

Regional conciliation staff undertake promotional and educational activities on behalf of the Commission which also serve to further the objectives of EEO within their State. These activities have included presentations to groups on topics such as sexual harassment and the operation of the Racial Discrimination and Sex Discrimination Acts.

The Regional Office of Queensland, whose activities have been reported in this section in previous Annual Reports, now warrants a separate chapter in order to fulfil its statutory obligations to the Queensland Government resulting from the recent passage of State anti-discrimination legislation. Likewise, the ACT Office is reporting its activities in a separate chapter, being a summary of the separate report it is now obliged to present to the ACT Government in accordance with the discrimination legislation enacted there. These chapters follow the Regional Office reports.

Tasmania

A major focus for the Tasmanian Regional Office during the 1991-92 financial year was continuing education and the furthering of contacts throughout the wider Tasmanian community in order to heighten public consciousness in relation to human rights matters and discrimination issues.

The year saw a stabilisation in the level of formal complaints lodged with the Commission in Tasmania after a significant increase in the previous year. This meant that whilst complaints were readily able to be dealt with, resources were also available to be directed to the continuing process of education and community contact.

In the area of direct education, the Commission received many invitations and opportunities to conduct seminars and address audiences; staff undertook speaking engagements almost every week. Audiences included students at the University of Tasmania, high schools, matriculation and TAFE colleges; State and Commonwealth Government departments and agencies; and a wide variety of non-government organisations, unions and local councils. Whilst many of these engagements were centred in Hobart, regular visits were also made to Launceston and the North-West Coast; and together with two trips to the West Coast, ensured that good contact was maintained with the whole region. A pleasing feature of these educational contacts was the opportunity to conduct a seminar for senior police at the Police Academy and extended contact with the State Department of Community Services.

As well as this more formal educative contact, somewhat more informal links continued to be developed with many of the groups mentioned above. A focus for these contacts was the organisation of Human Rights Week which saw the involvement on the organising committee of more non-government organisations than ever before. Human Rights Week itself saw the sponsorship of events in Hobart, Launceston and Burnie with highlights being the presentation of Tasmanian awards for humanitarian activities and a concert at Parliament Lawns which attracted several hundred people.

Towards the end of 1991, the then State Government introduced into Parliament a wide-ranging anti-discrimination bill. After being passed in the Lower House the bill lapsed when a change of Government ensued during the summer Parliamentary adjournment. Although it is understood that this Bill may be re-introduced by the new Government in a somewhat amended form, no timetable for this legislation has been publicly announced.

Another matter of significance which occurred towards the end of 1991 was the programming of public hearings relating to the National Inquiry into the Rights of People with Mental Illness. These were held in Hobart and Devonport in November 1991 and gave many interested parties an opportunity to present their views in this important area.

During the year a part-time Hearing Commissioner, Mr Robert Nettlefold QC, was appointed by the Attorney-General in particular to undertake public hearings of Tasmanian cases before the Commission. Mr Nettlefold is a former Tasmanian High Court judge and his appointment has been a welcome and important one in clearing the backlog of cases which had built up in recent times, as well as bringing the expertise of a senior lawyer and jurist to the determination of matters.

Northern Territory

1991-92 was a busy year for the Commission's Northern Territory Regional Office, located in Darwin. The office has become increasingly proactive in promoting an understanding of human rights issues, the Commission's role, its jurisdiction and its responsibilities.

Although the number of formal complaints remains relatively low, many enquiries were received under the Racial Discrimination Act, the Sex Discrimination Act and the Human Rights and Equal Opportunity Commission Act. Privacy matters were referred to Sydney.

One of the Commission's major initiatives in the Northern Territory - the Race Discrimination Commissioner's Inquiry into Human Rights and the Distribution of Alcohol - has involved close liaison with peak Aboriginal organisations and senior officers from the Northern Territory Government.

The National Inquiry into Mental Illness, chaired by the Human Rights Commissioner, has attracted wide interest, especially with regard to the hearings that will be conducted in the Northern Territory in July 1992. Arrangements are in place to ensure Aboriginal people have the opportunity to present evidence to the Inquiry.

Climatic conditions, difficult terrain and huge distances are impediments to overcome in ensuring that all people are aware of, and have access to, the Commission. This is particularly important as there is no Northern Territory anti-discrimination legislation, although it is expected such legislation will be introduced in 1992-93.

One of the initiatives taken by the regional office to address the problem of communicating with isolated communities is a monthly radio broadcast on ABC regional radio, outlining the Commission's role, responsibilities, and procedures.

There are still large numbers of enquiries relating to matters which are outside the Commission's jurisdiction. Commission staff liaise closely with agencies such as the Office of the Ombudsman, Legal Aid Commission, Aboriginal Legal Aid, the Department of Industrial Relations and the Office of Multicultural Affairs to ensure the referral of persons to an appropriate agency if necessary.

In the Northern Territory, a vigorous community education program remains the Commission's highest priority with particular attention being given to identified disadvantaged groups.

AUSTRALIAN CAPITAL TERRITORY
HUMAN RIGHTS OFFICE

AUSTRALIAN CAPITAL TERRITORY HUMAN RIGHTS OFFICE

The ACT *Discrimination Act* 1991 provides for the appointment of a Discrimination Commissioner. Professor Philip Alston, Professor of Law and Director of the Centre for International and Public Law at the Australian National University, was appointed to this position in January 1992 for a term of three years.

The ACT Human Rights Office was established at the end of 1991 by agreement between the ACT Government and the Commonwealth. The Office is funded jointly by the ACT and the Commonwealth and is staffed and administered by the Human Rights and Equal Opportunity Commission. The Office assists the ACT Discrimination Commissioner in exercising his powers under the ACT Discrimination Act as well as complaints which arise in the ACT under the Sex Discrimination Act, the Racial Discrimination Act and the Human Rights and Equal Opportunity Commission Act.

During the first six months of operation, the focus has been on setting up the Office in temporary premises (a move to more suitable permanent premises is expected to occur during 1992-93) and filling staff vacancies on a permanent basis. The Office is staffed by a Director, a Senior Conciliation Officer, and an Enquiries Officer, and shares office support with the Privacy Branch's Information Technology Standards section which is presently co-located with the Human Rights Office. The nature of the Office results in staff having responsibility for a wide and varied range of tasks.

The ACT *Discrimination Act* 1991

The Discrimination Act makes discrimination on the following grounds unlawful:

- sex
- sexuality
- transsexuality
- marital status
- status as parent or carer
- pregnancy
- race
- religious or political conviction
- physical, mental or intellectual disability
- association with a person who has one of these attributes

The Discrimination Act operates in the areas of:

- employment

- education
- access to buildings and places
- the provision of goods, services and facilities
- the provision of accommodation
- club membership

In some areas there are exceptions permitted so that discrimination may not be unlawful. For example, measures intended to achieve equality of opportunity for different classes of persons do not constitute unlawful discrimination.

There are special provisions which make sexual harassment, racial vilification and victimisation unlawful.

Where a matter cannot be conciliated, it may be referred to the Discrimination Commissioner for a hearing. In addition to this function, the Commissioner's functions include promoting an understanding and acceptance of the Act; undertaking research and developing educational and other programs for the purpose of promoting the objectives of the Act; reviewing ACT laws and examining any proposed laws to ascertain whether they are consistent with the Discrimination Act.

Activities of the ACT Human Rights Office

The priority which has had to be attached to establishment matters during the first few months of operation meant that the Office did not seek a high public profile. It was also necessary to seek advice on several aspects of the operation of the Discrimination Act.

Nevertheless, the Office has handled a wide range of complaints during this period - the complaint work has grown steadily since the Office's establishment - as well as engaging in educational and promotional activities. Pamphlets and posters explaining the role of the Human Rights Office were printed and distributed.

The Discrimination Commissioner provided advice to the ACT Attorney-General's Department on several pieces of draft legislation; briefed a staff member of the US Congressional Human Rights Sub-Committee on national and ACT arrangements for protecting human rights; and discussed Australian human rights approaches with a Cambodian delegation. He also met representatives of the Australian Jewish community to discuss the ACT Discrimination Act.

The Commissioner also gave various radio and television interviews and spoke at a number of public meetings, including:

18 March 1992	Keynote address, <i>ACT Discrimination Act</i> , Meeting of ACT College Law Teachers, Tuggeranong Community College, ACT
8 April 1992	Address on <i>Prisons and the ACT</i> , ACTCOSS Conference, ACT
29 April 1992	Address to Annual National Conference of Australian Community Legal Centres, Canberra
Staff at the Office	addressed the following groups:
8 May 1992	Voluntary workers at the Citizens Advice Bureau
11 May 1992	Harassment contact officers at the Australian Bureau of Statistics
12 June 1992	Legal/business studies students at Erindale College

**QUEENSLAND ANTI-DISCRIMINATION
COMMISSION/HREOC**

QUEENSLAND ANTI-DISCRIMINATION COMMISSION/HREOC

Background

Following almost a year of consultations and discussions with interested groups, the Queensland Government introduced its Anti-Discrimination legislation into Parliament in November 1991. HREOC consulted closely with the Queensland Attorney-General's Department in the shaping of the legislation and made many suggestions which were adopted by the Queensland Government. The Commission also consulted closely with the Queensland Government on Federal/State arrangements for the administration of the legislation on a joint basis. The Queensland *Anti-Discrimination Act 1991* was passed by the Queensland Parliament on 3 December 1991.

Commonwealth/State arrangements

On 10 December 1991, Federal Attorney-General Michael Duffy and Queensland Attorney-General Dean Wells signed an agreement arranging for the federal Human Rights and Equal Opportunity Commission to perform the functions of the Queensland Anti-Discrimination Commission for a five-year period.

This arrangement allows just one point of contact for advice and the handling of complaints under both Federal and State anti-discrimination laws. It is also a sensible arrangement from a budgetary perspective as it ensures that the experience and expertise of Federal and State agencies are combined and services are not duplicated.

Joint offices of the Human Rights and Equal Opportunity Commission and Queensland Anti-Discrimination Commission have been established in Brisbane, Rockhampton and Cairns. In addition, the offices of the Community Justice Program in Mount Isa and Townsville provide a first point of contact for people wishing to lodge complaints of discrimination.

Anti-Discrimination Commissioner

The Commission's Queensland Regional Director, Ms Helen Twohill, acted as Queensland Anti-Discrimination Commissioner as from 30 June 1992 pending the appointment of a permanent Commissioner. The position includes the dual role of state Manager for HREOC in Queensland.

The Anti-Discrimination Commissioner reports to the Queensland Attorney-General on a monthly, quarterly and annual basis.

Anti-Discrimination Act

After extensive community consultations, the Anti-Discrimination Act was passed by the Queensland Parliament on 3 December 1991, assented to on 9 December 1991 and proclaimed on 30 June 1992.

The Anti-Discrimination Act aims to promote equality of opportunity for everyone by protecting them from unfair discrimination in various areas of public life, from sexual harassment and from conduct such as discriminatory advertising and victimisation.

If people are treated unfairly in a particular area because of any of the following attributes, they can lodge complaints with the Commission:

- sex
- pregnancy
- breastfeeding
- race
- religion
- trade union activity
- marital status
- parental status
- age
- impairment
- political belief or activity
- lawful sexual activity
- association with, or relation to, someone identified on the basis of any of these attributes.

The areas covered in the Act are:

- work
- goods and services
- insurance
- accommodation
- administration of state laws and programs
- local government
- education
- superannuation
- disposition of land
- club membership and affairs

The sections on superannuation and insurance do not become operative until 9 December 1992.

The sexual harassment provisions of the Act are broader than in any similar legislation in Australia in that sexual harassment is made unlawful in any situation rather than in defined areas such as work and education.

Sexual harassment is broadly defined to include any unwelcome sexual conduct that is offensive, humiliating or intimidating.

Incitement to racial or religious hatred, discriminatory advertising, victimisation and separation of a guide dog from an impaired person are offences under the Act.

Complaints can also be made about someone requesting or encouraging another person to contravene the Act or requests for unnecessary information on which discrimination may be based.

The process for attempting to settle complaints is a two-tiered one: conciliation followed by a Tribunal hearing where the complaint cannot be resolved through conciliation.

The Act also establishes the Anti-Discrimination Commission and the Anti-Discrimination Tribunal.

Anti-Discrimination Commission

The main functions of the Anti-Discrimination Commission are:

- to inquire into and attempt to conciliate complaints of discrimination and sexual harassment
- to carry out investigations relating to discrimination
- to undertake research and community education programs to promote equality of opportunity
- to examine legislation to determine whether it is inconsistent with the purposes of the Anti-Discrimination Act and to report on these matters to the Attorney-General
- to consult with relevant organisations on ways of improving services and conditions affecting disadvantaged groups
- when requested by the Attorney-General, to research and develop additional grounds of discrimination and to make recommendations for their inclusion in the Anti-Discrimination Act
- to promote an understanding, an acceptance and the public discussion of human rights in Queensland
- to intervene, where appropriate, in court proceedings involving human rights issues.

The structure of the Commission is illustrated in the organisational chart at the end of this chapter.

AntiDiscrimination Tribunal

The main functions of the Anti-Discrimination Tribunal are to:

- hear and determine complaints that the Anti-Discrimination Act has been contravened
- grant exemptions
- provide opinions about the Act's application.

Complaint handling

As the Anti-Discrimination Act did not become operative until 30 June 1992, complaints have not yet been received under this Act. Hundreds of preliminary inquiries have been made and inquirers have been given information about the new Act and advised that the legislation is not retrospective.

Objectives

The Commission's objectives are to:

- promote the goals of Queensland Anti-Discrimination Commission and the Human Rights and Equal Opportunity Commission and an understanding of Commonwealth human rights and State anti-discrimination legislation throughout all areas of Queensland;
foster and encourage in the community informed and unprejudiced attitudes with a view to eliminating discrimination;
- provide effective redress for unlawful discrimination;
- encourage the application of equal opportunity principles and practices in employment, education, the provision of goods and services, accommodation, advertising and other areas of public life;
- develop in the community an understanding and appreciation of the contribution human rights and anti-discrimination laws make to economic well-being and social justice in Queensland.

Corporate Goals

The three year plan also outlines the Commission's corporate goals. They are to:

- administer the legislation for which the Commission is responsible as effectively as possible with the resources allocated;
- carry out its functions and service its clients in the most competent and efficient manner possible;
- manage at all levels at the highest possible standard, and maximise the potential of Commission staff by being a fair and responsible employer and adopting professional human resource practices.

Three Year Plan

The Commission has developed a strategic plan for its work during the period 1991 - 1994. The plan covers objectives, community education, complaint handling, special projects, administrative matters and staff training.

Overall Strategies

The Commission's overall strategies for the next three years are to:

- adopt complaint handling practices that are effective in resolving complaints, timely and of the highest possible standard;
- develop adequate training, educational and promotional programs to inform the public about their rights and about human rights and anti-discrimination issues generally;
- undertake policy development and research programs in areas of concern;
- consult with relevant non-government organisations and join with them in co-operative ventures which are consistent with the Commission's goals;
- monitor media coverage of human rights and anti-discrimination issues to ensure accurate, responsible and sympathetic reporting;
- report and make recommendations to government regarding the legislation administered by the Commission;
- develop a program of advice, guidance, liaison and training for Federal and State agencies in respect of all anti-discrimination legislation;

- develop and promote a corporate approach to management, planning and operations;
- maximise efficiency and economy in the use of resources;
- adopt management information systems which support effective program evaluation and accountability;
- take advantage of technological developments to promote cost-effective management operations;
- develop an integrated human resource management strategy;
- maintain equal employment opportunity as an integral part of the Commission's functions; and
- promote the merit principle in recruitment, appointments and promotions.

New offices

Between January and June, 1992, a great deal of time was spent establishing and staffing the Commission's new offices in Cairns and Rockhampton. Complaints will be handled from these offices and staff will also undertake community education programs in the region.

COMMUNITY EDUCATION

The time-lag between the passing of the Act by Parliament and its proclamation was organised to allow the Commission to carry out an extensive community education program throughout the State to advise employers, community groups, State Government agencies and other organisations of their rights and obligations.

Seminar program

Between January and June 30, more than 5,000 people attended 74 free seminars on the new Act as part of the structured program conducted by the Commission. Two sessions were conducted in Ipswich, Toowoomba, Roma, the Gold Coast, Caboolture, Nambour, Logan City, Gympie, Maryborough, Bundaberg, Gladstone, Rockhampton, Mackay, Townsville, Cairns and Mount Isa -- one for community groups and interested individuals and the other for private sector employers and State Government agencies.

In Brisbane, two seminars open to all private sector employers were conducted and many major employers have arranged for the Commission to conduct in-house training sessions for their staff.

Training for State Government agencies in Brisbane was conducted on request for the following departments and agencies:

- Department of Family Service and Aboriginal and Islander Affairs
- Department of Administrative Services
- Department of Tourism, Racing and Sport
- Justice Department
- Queensland Health
- Department of the Attorney-General
- Public Trustee Office
- Department of Primary Industries
- Department of Education
- Department of Employment, Vocational Training and Industrial Relations
- Queensland Police Service
- Department of Transport
- Queensland Rail
- Various Regional Health Authorities

In conjunction with the Public sector Management Commission, a seminar was also held for all chief executive officers for State government agencies.

Seminars have been held for community and other groups such as the Nursing Mothers Association, the Queensland Council of Parents and Citizens Associations, the Queensland Law Society and various trade unions and professional associations.

Seminar participants were asked to complete evaluation forms at the conclusion of the program. As part of this evaluation, they were asked to give the seminar a 1 to 10 rating. At least two-thirds of the participants rated the seminar they attended at 7 or above.

Other speaking engagements

In addition to the structured seminar program as outlined above, Commission officers spoke about the Anti-discrimination Act and the federal legislation administered by the Commission and the Commission's role and work to various groups, on request. Between January and June 30, Commission officers spoke to such groups on 90 occasions.

Relationships with target groups

In the lead-up to the proclamation of the Act, the Commission held reference group meetings with client groups to encourage ongoing two-way communications and to inform them about the new legislation.

Reference group meetings were held with groups representing women, Aboriginal and Torres Strait Islander people, gay men and lesbians, older people, people from non-English-speaking backgrounds, people with physical, intellectual and psychiatric disabilities and trade unions.

The Commission employs an Aboriginal Liaison Officer who regularly visited Aboriginal and Torres Strait Islander communities around the State to provide information about the new Act.

Commission officers are involved in a range of activities and committees in both the government and non-government sectors. These committees and groups include:

- Police/Ethnic Advisory Group
- Department of Family Services and Aboriginal and Islander Affairs EEO Consultative Committee
- Police/Gay Liaison Committee
- Aboriginal/Police Liaison Committee
- Prisoners support groups
- Community Disability Alliance
- Network for Intercultural Communication
- West End Inter-Agency Group
- Aboriginal Elders
- Mt Isa Community Relations Committee

- Mareeba Community Relations Committee

Publications

The Commission produced a range of publications to inform people of their rights and obligations under the Anti-Discrimination Act. These include:

- three sets of guidelines for employers: an overview of the Anti-Discrimination Act, sexual harassment and staff selection
- three information sheets on people's rights: *What is discrimination?*, *sexual harassment* and *disability and discrimination*.
- five wallet-sized rights cards for various groups: Aboriginal and Torres Strait Islander people; people with disabilities; gay men and lesbians; people from non-English-speaking backgrounds; and victims of sexual harassment.
- a general brochure on the Commission
- two model policies for private sector employers: anti-discrimination policy and sexual harassment policy
- eight posters on various issues: general discrimination in employment, disability and discrimination, discriminatory advertising, sexual harassment, age discrimination in employment, general discrimination, two employer messages to staff and clients.

The general brochure, general poster and the rights card for people from non-English-speaking backgrounds was published in seven community languages (Spanish, Filipino, Vietnamese, Chinese, Arabic, Serbian and Croatian) as well as in English:

Because of the large volume of requests for information from students, the Commission sent a library kit to all secondary schools, TAFE colleges, universities and municipal libraries and students are now referred to this kit. This kit will be updated on a yearly basis.

The Commission published its first newsletter, entitled **Under One Sun**, and 5,000 copies were distributed to community organisations, employers, Commonwealth and State Government agencies, trade unions and other groups. The newsletter will be produced on a quarterly basis.

Radio campaign

The Commission undertook an extensive radio campaign during May and June to inform people about the new Act. Radio stations around Queensland were generous in playing pre-recorded community service announcements and interviews or in reading hard copy announcements and media releases. Radio **4RPH** for print-handicapped people was particularly helpful.

LOOKING AHEAD

With the new legislation, there seems no doubt that the number of complaints made to the Commission will increase substantially. The Commission will continue to attempt to settle these complaints as quickly and efficiently as possible.

In the next twelve months, the Commission will contact all State Government agencies who have not yet requested training to offer this service to them, as well as continuing to conduct training for the private sector and community groups, on request.

Joint education projects with peak employer organisations are planned to promote anti-discrimination and equal opportunity principles as good business practices.

The reference group meetings with target groups will continue, with a focus on peak organisations, as these meetings provide valuable links between the Commission and the groups it services.

New publications planned for the next twelve months include guidelines for advertisers, guidelines for real estate agents, guidelines for educational authorities, and rights information for various groups. An anti-discrimination calendar for 1993 is underway and will be launched in December, 1992.

APPENDICES

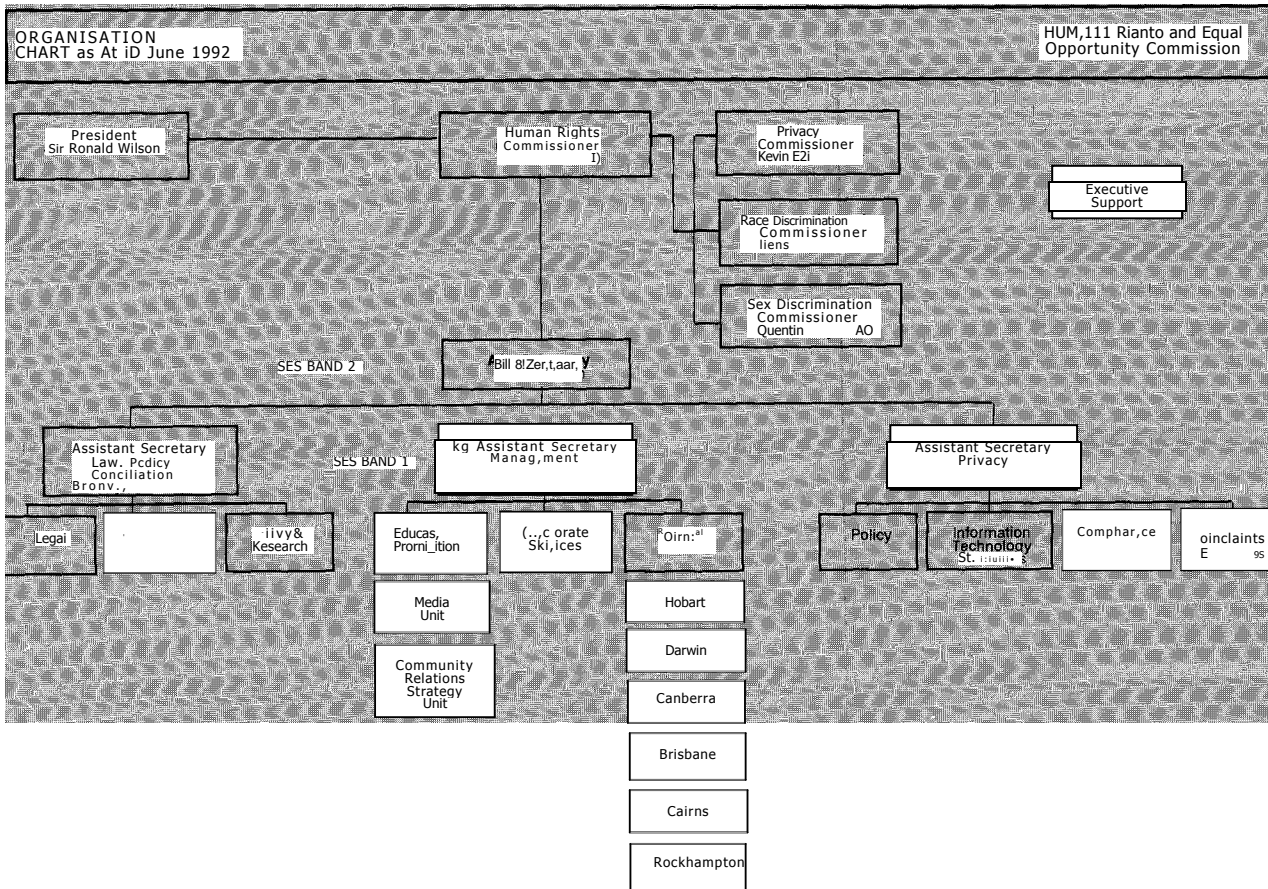


Table 1

New complaints within jurisdiction received 1 July 1991 to 30 June 1992

	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
SDA	110	177	15	20		189	268	16	800
RD	60	67		5		80	96	17	336
IIREOCA	109	83		7					209
Privacy Act	220								220
ACT Discrimination Act					15				15
Total	499	327	21		31	269	364	33	1580

Table 2

Complaints closed 1 July 1991 to 30 June 1992

	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
SDA	82	125	6	21	1	93	233	15	576
RDA	58	53	11			41	80	12	260
IIRLOCA	131			14					206
Privacy Act	80								80
ACT Discrimination Act									
Total	351	233	22	39		134	313	27	1123

Table 3

Outcomes of complaints closed
1 July 1991 to 30 June 1992

	Central	Old	NT	Tas	ACT	Vic	SA	WA	Total
Conciliated	129	165		29		38	157		530
Discontinued	140	31	13			77	109		382
Declined	60	14				7	16		104
Outside Jurisdiction							17		23
Referred elsewhere									16
Referred fur i n by Commission- er									
Referred for hearing	13	13				12			50
Report to Minister									
Other		10							12
Total	351	233	22	39		134	313	27	1123

Table 4

Breakdown of NUA complaints

Employment	326
IIREOC related	270
Misconceived	257
Se. related	367
Family law legal system/justice	68
Race related	226
Violence related	110
Privacy related	21
Referred to other agency	90
State/Local government	91
Immigration	59
Prisons	60
Police	22
Housing	17
Social Security	25
Disability	18
Age	39
Advertising	12
Education	21
Workplaces places/facilities	58
Overseas matters	
Sexual experience	
	2165

Table 5

Complaints lodged under the HREOC Act July 1, 1991 to June 30, 1992

	CE NI RAL	QLD	NT	TAS	ACT	TOTAL
<i>Relevant International Instrument</i>						
international Co\enant on Civil and l't)litical RiMus						
Internmional Labour Organkation Convention 111	97	82				195
Declitrinion ot 111,2 Rights of the Child						
Declaration on the Rights of Disahled Per 'on'						
Det.ilmation on the Rights of Mentally Retarded Pet 'sons						
<i>l/al</i>	109	83				209
to <i>Complaint</i> mplounent	97	81				194
l iii HI IH1HL iii in		-	-	-	-	2
Access to good, and 'ervices		-	-	-	-	3
I ducation		-	-	1	-	2
(ghts ceiteral						
	109	83				209
<i>(dingo,y of Complainant</i>						
Mal						
Female	71	49				133
Group organisation	27	34				65
Other						
<i>Total</i>						
<i>(of L; o ly of Ropondent</i>	109	83				209
anthority						
	48	13				67
State Other	19	18				41
Not recorded	42					100
<i>Total</i>						
	109	83				209

Table 6

Grounds of complaint under ILO 111

	CENTRI11.	OLD	NT	TAS	ACT	TOTAL
Age	26	10			1	40
Victim of racial discrimination	3	12	2	-	-	17
Criminal record	14		-	1	-	21
Impairment	13		-	-	1	19
Marital status						
Mental						
Physical						
Physical disability						
Political opinion						
Race						10
Sex		3				26
Physical disability						
Total	106*	82				204

Several complaints covered more than one ground.

Table 7

Complaints lodged under the Racial Discrimination Act 1975 by area of complaint
1 Jul. 1901 to 30 June 1992

	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
Land/housing accommodation							11		23
Access to goods & services	17	24				26	42		115
Employment	40	34				43	39		179
Advertising /media									
Incitement to racial acts									
Education									6
Other									11
Total	60	67				80	96	17	336

Table 8

Complaints lodged under the Racial Discrimination Act by ethnicity of complainant
1 July 1991 to 30 June 1992

	Central	Qld	NT	ACT	Vic	SA	WA	Total
Aboriginal		21			18	53		109
Non-English speaking background	33	13			43	29		130
IT English speaking background Association	15				19	14		55
Not recorded		29						40
	60	67			80	96	17	336

Table 9

Complaints lodged under the Racial Discrimination Act by category
complainant respondent

1 July 1991 to 30 June 1992

Category (Complainant)

	Western Australia	Qld	NSW	Tas	ACT	Vic	SA	WA	Total
Female	27	25	1		3	23	45	4	128
Male	26	35				50	51		180
Group/organisation	7					7			21
Not recorded									
Total	60	67				80	96	17	336

Category or Respondent

	Central	Qld	NSW	ACT	SA	Vic	WA	Total
Commonwealth	30					11		58
State		10						29
Other	24	50				69	11	249
Total	60	67				80	17	336

Table 10

Complaints lodged under the Sex Discrimination Act 1984 by category of complaint 1 July 1991 to 30 June 1992

									Total
									268
									181
									185
									65
									101
									800
	Central	Qld	NT	Tas	ACT	Vic	SA	WA	
Sex	27	67	4	8		97	55	10	
Sexual Harassment	33	45				54	35		
Sex and Sexual Harassment		23					149		
Marital Status	21	14				15	10		
Employment	27	28				17	19		
Other									
Total	110	177	15	20		189	268	16	

Table 11

Complaints lodged under the Sex Discrimination Act by area of complaint 1 July 1991 to 30 June 1992

Central	Qld	NT	Tas	ACT	Vic	S\	WA	Total	Employment	98	142
			14	16	177	249		13	714		
Accommodation	1011										13
Land/Housing											
Goods/services				14							41
/Facilities											
Clubs				11							18
Commonwealth Law, Programs											
Educate ion											
Other											
Total			110	177	15	20		189	268	16	800

Table 12

Complaints lodged under the Sex Discrimination Act by category complainant/respondent

1 July 1991 to 30 June 1992

Category of complainant

	Central	Qld		Tas	ACT	Vic	SA	WA	Total
Male	16	18		1		11	2	13	63
Female	88	159	13	19		176	266		729
Husband and wife						2			2
Group Organisation									
Total	110	177	15	20		189	268	16	800

Category of respondent

	Central	Old	NT	Tas	ACT	Vic	SA	WA	Total
Commonwealth	30	10				44	7	4	95
Other	80	167	15	20		145	261	12	705
Total	110	177		20		189	268	16	800

Table 13

Complaints lodged under the ACT Discrimination Act 1991 by area and ground of complaint

1 July 1991 to 30 June 1992

Employment	Education	Access to premises	Goods/services to facilities	Total
Sex				
Sexuality				
Marital Status				
Status as parent carer				
Pregnancy				
Race				
Religious				
political conviction				
Impairment				
Association				
Sexual Harassment				
Racial vilification				
Total				

15

Table 14

Complaints lodged under the ACT Discrimination Act 1991 by category
complainant / respondent

1 July 1991 to 30 June 1992

Category of complainant

Male	
Female	12
Group/ Organisation	15
Other	

Category of respondent

ACT Government	
Private Enterprise	
Total	15

[illegible]

NOTE: Included:

2 pennan:nr r,ari4irnr ASO1 Female "Fas
1 pern,w, ; I ,male NSW
SES ng 1992

Staffing profile with regard to permanent/temporary employment

Table 16

Classification	NSW	Old	ACT	NSW	Old	Las	ACT	Total
	PERMANENT			TEMPORARY				NI
Commissioners								
SRS Band 2								
SES Band 1								
Legal 2								
Legal 1								
Senior Officer								
Lirade B								
Senior Officer								
Grade C								
Senior	essoinal							
	C							
ASOI:6	AS005	ASOC4						
A S O C 3 1 4								
			ASOC2					
			ASOC1					
"10TAL	95							39
NOT F.: Included:								
2 perm. O, j l								
(as								
pt1111,111,111, 1), 1, -111, ..., Aer 111 croak NSW								
SES Band 1 increased by 1 during 1992								

TABLE 17

REPRESENTATION OF EEO GROUPS WITHIN CLASSIFICATION LEVELS
AS AT 30 JUNE 1992

ASO Classification	Staff	Women	NESB1	NESB2	ATSI	PWD
ASOC 1-4	51	43 (84.3%)	40 (78%)	6 (11.8%)	6 (11.8%)	1 (1.7%)
ASOC 5-6	45	39 (86.6%)	33 (73.3%)	2 (4.4%)	2 (4.4%)	2 (4.4%)
SOGB erialmg prole—tonal	9	26 (89.6%)	18 (62%)	2 (6.9%)	3 (3.4%)	1 (3.4%)
LS BANDS 1,V2		2 (40%)	2 (40%)			
SES BAND 3 Sc. ABOVE		1 (25%)	2 (50%)	1 (25%)		
TOTAL	134	111 (82.8%)	95 (70.9%)	10 (7.5%)	10 (7.5%)	3 (2.2%) 4 (3%)
AVERAGE SERVICE WIDE % as at DECEMBER 1991			46.54%	4.59%	7.67%	1.27% 4.19%

NOTES: "1:81; ins born overseas
 1, rn 0[11 p.,rcnt, Horn overseas
 As) merl Jrid I 1:1 1c, - Llander
 PWD Persons with a disability
 Percentages based on total staff

TABLE 18

REPRESENTATION OF EEO GROUPS WITHIN OCCUPATIONAL
GROUPS AS AT 30 JUNE 1992

Occupational Group	Number or Skill	Status With Data	Women	NESB1	NESB2	ATSI	FWD
SES and Commissioners							
ASO and related	96	82	75				
Administrative	23		14				
Professional							
TOTAL	134	111	95	10	10		

NOTES: NESB1 Persons born overseas
 NISB2 ALKInili00 born v,ith p0rcnt, horn overseas
 ATSI AboriOn;11 and Torrc:s Suoti 1,1urider
 PWD per,()1, with a disability

Figure 1 Expenditure by Program Element 1991-92

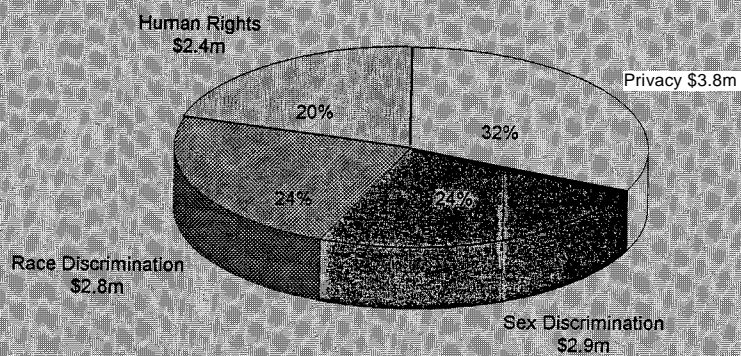
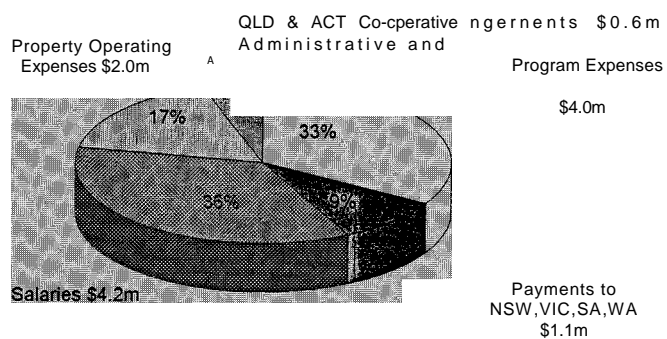


Figure 2 Expenditure by Classification 1991-92



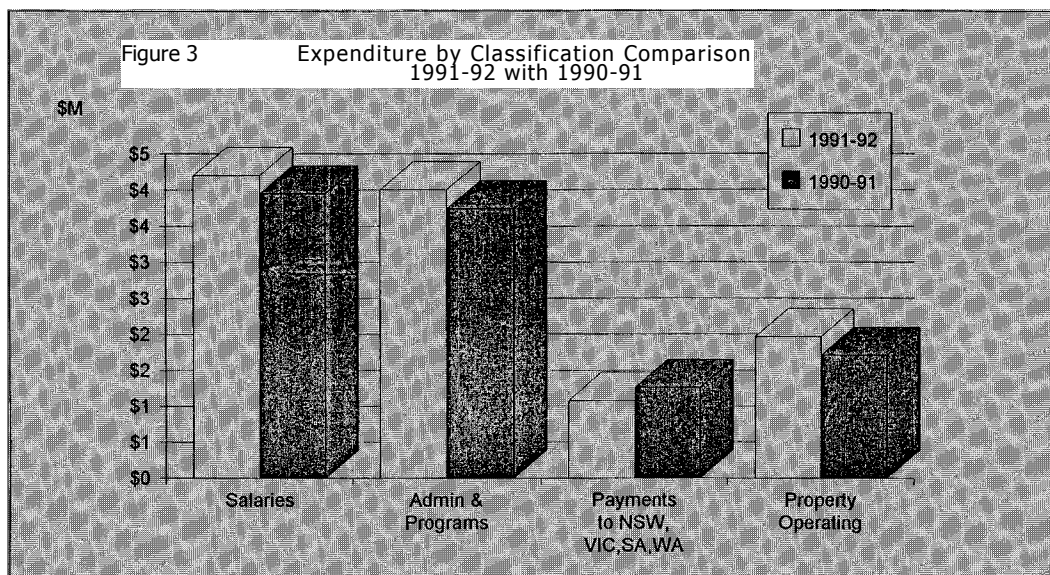


Figure 4 Estimate of Expenditure by Program Element 1992-93

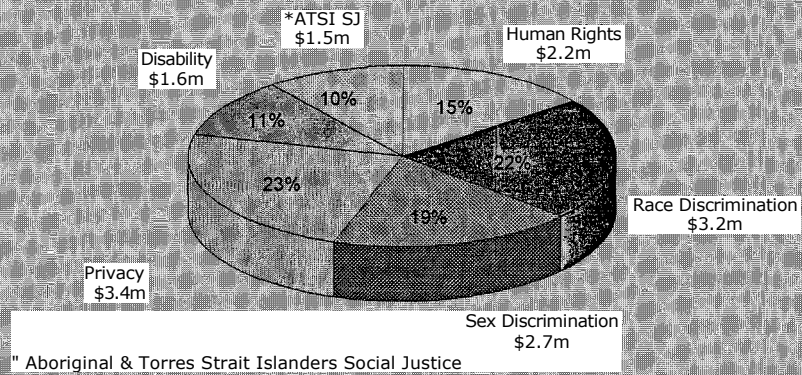
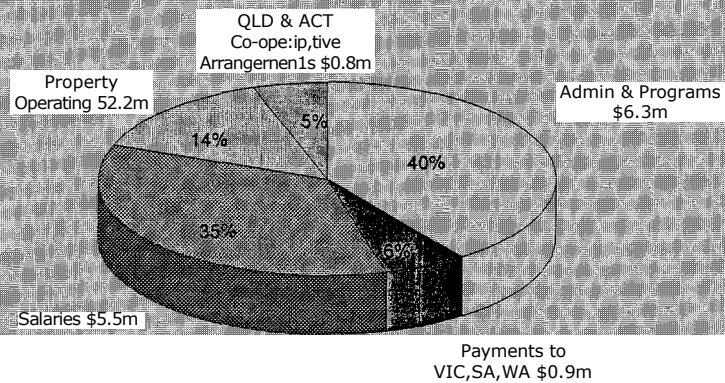


Figure 5 Estimate of Expenditure by Classification 1992-93



APPENDIX 2

EXTERNAL CONSULTANTS ENGAGED 1991-92

Research

Chris Cunneen	5,830.00
Mornington Island research project; Community Relations Strategy data project	
Isabel karpin	3,072.75
Research, Over Award Payments Inquiry	
Rebecca Peters	9,000.00
Research, Mental Illness Inquiry	
Ross and Hunt Consultancy	50,000.00
Research, Mental Illness Inquiry	
Phillippa Smith	6,000.00
Research, Mental Illness Inquiry	
The Research Team Ptv Ltd	2,550.00
Annual report preparation	
Dr Greg Tillett	2,700.00
Conduct workshop at National Conciliators' Conference; research on NIRV	
Sue Tongue	7,000.00
Research and report drafting of review of permanent exemptions under the SDA	
Total	86,152.75

Policy

Craze Lateral Solutions	
Provide secretariat support to Mental Illness Inquiry	45,103.06
Helen Mount Consultants Pty Ltd	2,000.00
Policy advice on disability issues	
Jocarm Pty Ltd	3,200.00
Provide policy advice to the Commission	

Mallesons Stephen Jacques	
Research and develop guidelines for HIV/AIDS strategy	14,258.75
McIver Associates Pty Ltd	
Strategic planning	4,900.00
Oxus Pty Ltd	46,550.00
General policy advice on management, superannuation and insurance issues; prepare draft superannuation guidelines	
Vonaldy Pty Ltd	
Provide advice on Terradata security; data matching	6,462.50
Warren Sinmtons	
Research, Homeless Children	48,297.14
Total	170,771.45

Media and Promotion

Brookman Media Services*	71,977.18
Provide media services to the Commission	
Q Social Research	7,980.00
Research, Over Award Payments Inquiry	
Lintas	100,151.56
Privacy advertising campaign	
The Public Practice	21,000.00
South Sea Islander research project	
Total	201,108.74

Computer Services

MC Computer Services	20,260.80
Data matching monitoring	
	117,799.29
Ferntree Computer Corporation	
Computer management support	138,060.09
Total	

Legal

Barbara Pearson	14,550.00
Provide legal advice to the Commission	
Phillip Talimindjis	21,062.50
Provide legal advice to the Commission	
John Young	6,000.00
Provide advice on racial vilification legislation options	
	41,612.50

*Total**Privacy Audit*

	40,425.83
Coopers and Lybrand*	
Conduct privacy audits	81,780.79
Duesburys*	8,417.39
Conduct privacy audits	
Price and Nel,viutin Manauc ment'	130,624.01
Conduct privacy audit	

*Total**Market Research*

Elliott & Shanahan	76,350.00
Conduct community attitude and awareness survey	

Community Relations Strategy

Australian Chamber of Manufactures	3,500.00
Develop questionnaire for Community Relations Strategy workplace project	
Centre for Workplace Communication and Culture	30,168.00
Community Relations Strategy workplace project	
Human Accent Pty Ltd	28,785.00
Develop Community Relations Strategy youth project	
Jenny Rush & Associates	12,964.50
Market rc'carch for Community Relations Strategy youth project	

JMG Consulting	
Develop Community Relations Strategy ATS1 training package	49,000.00
Social Change Media	
Community Relations Strategy youth project	46,750.00
Debbie Stothard	
Media and community liaison for Community Relations Strategy youth project	16,176.00
Total	187,343.50
<i>General</i>	
Centre for Independent Journalism	
Develop training program for journalists on reporting of multicultural and race issues	40,000.00
Fran Colbey	
Assist with privacy recruitment	2,340.00
Mark Crocker	
Artwork for QADC calendar	3,599.00
Crosstech Pty Limited	
Work and job redesign process	8,400.00
Dr Moni Storz	
Develop race relations in the workplace training package	14,000.00
Total	68,339.00
<i>GRAND TOTAL</i>	1,100,362.04

Denotes consultancies which were advertised in the press

See section of report on Consultants for further details of the selection processes used by the Commission.

FINANCIAL STATEMENTS 1991-92



AUSTRALIAN NATIONAL AUDIT OFFICE

Level 7
130 Elizabeth Street
Sydney New South Wales 2000

N92/504

our ref:

13 November 1992

The Human Rights Commissioner
Human Rights and Equal Opportunity Commission
GPO Box 5218
SYDNEY NSW 2001

Dear Sir

AUDIT REPORT ON FINANCIAL STATEMENTS
Year Ended 30 June 1992

The audit of the above statements prepared in accordance with sub-section 50(2) of the Audit Act 1901 has now been completed.

Attached is the report on the audit together with a copy of the statements comprising Certificate by the Human Rights Commissioner and Acting Secretary, Aggregate Statement of Transactions by Fund, Retained Statement of Transactions by Fund, Statement of Supplementary Financial Information, Notes to the Financial Statements and Glossary of Terms.

Yours sincerely

M.J. Gillespie
Senior Director
Audit Operations

AUSTRALIAN NATIONAL AUDIT OFFICE

Level 7
130 Elizabeth Street
Sydney New South Wales 2000

our ref:

**HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION
INDEPENDENT AUDIT REPORT**

Scope

In accordance with sub-section 50(1) of the Audit Act 1901, the Human Rights Commissioner has submitted for audit the financial statements of the Commission for the year ended 30 June 1992.

The statements comprise:

a Certificate by the Human Rights Commissioner and Acting Secretary

an Aggregate Statement of Transactions by Fund

a Detailed Statement of Transactions by Fund

a Statement of Supplementary Financial Information

Notes to the Financial Statements, and

Glossary of Terms.

The Commission's Human Rights Commissioner and Acting Secretary are responsible for the preparation and presentation of the financial statements and the information they contain. I have conducted an independent audit of the financial statements in order to express an opinion on them.

The audit has been conducted in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the accounts, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial statements are in agreement with the accounts and records of the Court and have been presented in accordance with the guidelines made by the Minister for Finance so as to present a view of the Commission which is consistent with my understanding of its financial position and the results of its operations.

The audit opinion expressed in this report has been formed on the above basis.

Audit Opinion

In accordance with sub-section 51(1) of the Audit Act, now report that the financial statements are, in my opinion:

in agreement with the accounts and records kept in accordance with section 40 of the Act, and

in accordance with the financial statements guidelines made by the Minister for Finance.

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P.A. Farrelly
Group Director
Australian National Audit Office
Sydney

13 November 1992

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION
FINANCIAL STATEMENTS
1991-92

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Transactions by Fund Statement of Supplementary Financial	4-5
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	7-10
Glossary of Terms	
	11-14

STATEMENT BY THE HUMAN RIGHTS COMMISSIONER

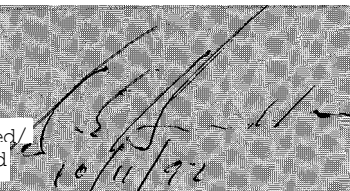
AND

PRINCIPAL ACCOUNTING OFFICER

CERTIFICATION

We certify that the financial statements for the year ended 30 June 1992
are in our opinion:

in agreement with the Commission's accounts and records and,
have been prepared in accordance with the disclosure requirements of
the Financial Statements Guidelines For Departmental Secretaries last
amended 28 July 1992.

Signed/
Dated  10/11/92
Brian
Human Rights Commissioner

Signed
Dated


10 November 1992

Bill Chappan
Acting Secretary

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

AGGREGATE STATEMENT OF TRANSACTIONS BY FUND
FOR THE YEAR ENDED 30 JUNE 1992

This Statement shows aggregate cash transactions, for which the Commission is responsible, for each of the three funds comprising the Commonwealth Puhla Account (CPA).

19U-91 ACTUAL		1991-92 BUDGET	1991-92 ACTUAL
<hr/> CONSOLIDATED REVENUE FUND (CRF)			
84,062	RECEIPTS	328,000	905,163
Nil	Expenditure from Special Appropriations	Nil	N'1
10,652,773	Expenditure Fe'Dla Annu.il Arriations	12,555,000	12,639,071
10,652,773	Total Expenditure from CRF	12,555,000	12,639,071
 LO			
Nil	Receipts	Nil	Nil
 TRUST FUND			
Nil	Notional Balance 1 July 1991	Nil	Nil
Nil	Plus Receipts	Nil	1,002
Nil	Less: Expenditure	Nil	1,002
Nil	Balance 30 June 1992	Nil	Nil

DETAILED STATEMENT OF TRANSACTIONS BY FUND
FOR THE YEAR ENDED 30 JUNE 1992

CONSOLIDATED REVENUE FUND CURE): This statement shows details of cash transactions for which the Commission is responsible in respect of Consolidated Revenue.

1990-91 ACTUAL \$	SUB- PROGRAM 3.1	1991-92 APPROPRIATION \$	1991-92 ACTUAL \$
EXPENDITURE FROM CRF			
9,390,773	Appropriation Act No 1	12,034,163	11,560,571
	Appropriation Act No 3	311,000	
1,262,000	Appropriation Act No 2	1,079,000	1,077,500
NIL	Appropriation Act No 4	NIL	NIL
<u>10,652,773</u>	Total Annual Appropriations	<u>13,424,163</u>	<u>12,638,071</u>
	Running Costs (174.1)		
713	Refinancing and Reciprocity Expenses	4,944,025	5,161,531
3,761,882	Administrative Expenses	4,837,138	4,201,213
	POE. (174.2)		
1,707,282	Operating Expenses	2,014,000	1,967,533
4,896	Other Services (174.3)		
	Police Operations Strategy	550,000	286,294
	Payment to or for the States and the Territories (819.03)		
	Permitted under		<u>1,078,500</u>
1,267,000	operative arrangements with the States	<u>1,079,000</u>	<u>12,639,071</u>
<u>10,652,773</u>	Total Expenditure from CRF	<u>13,424,163</u>	
REVENUE TO CRF			
		BUDGET	ACTUAL
OUTLAYS			
10,652,773	Total Expenditure from CRF	12,555,000	12,639,071
84,062	Less Receipts to be Offset Within Outlays	<u>328,000</u>	<u>905,163</u>
<u>10,568,711</u>	Total Outlays From CRF		<u>11,733,908</u>
RECEIPTS TO CRF			
84,062	Section 35 Receipts	328,000	886,163
<u>Nil</u>	Miscellaneous	<u>Nil</u>	<u>19,000</u>
<u>84,062</u>	Total Receipts to CRF	<u>328,000</u>	<u>905,163</u>

DETAILED STATEMENT OF TRANSACTIONS BY FUND
FOR THE YEAR ENDED 30 JUNE 1992

TRUST FUND

Trust Fund and Other Trust Moneys

Legal Authority - Section 60, Audit Act 1901.

Purpose - For the receipt of moneys held in trust for others.

1990-91	S U B - N o t e s		1991-92
ACTUAL	PROGRAM	APPROPRIATION	ACTUAL
	3.1	14	
NIL	Balance 1 July 1991	NIL	NIL
NIL	Receipts	NIL	1,002
NIL	Expenditure	NIL	1,002
<u>NIL</u>	Balance 30 June 1992	<u>NIL</u>	<u>Nil,</u>
	Represented by:		
NIL	Cash	NIL	NIL
<u>NIL</u>	Investments	<u>NIL</u>	<u>NIL</u>

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION
STATEMENT OF SUPPLEMENTARY FINANCIAL INFORMATION
AS AT 30 JUNE 1992

1990-91 \$'000		Notes	1991-92 \$'000
CURRENT ASSETS			
2	Cash on Hand and at Bank	3	2
NIL	Prepayments	5	139
NON-CURRENT ASSETS			
449	Computer & Office Equipment	4	803
290	PlH&L & Equipment		206
411	Furniture and Fittings		48
CURRENT LIABILITIES			
339	Creditors	7	273

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 1992

NOTE 1

STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

- (a) The Financial Statements have been prepared in accordance with the 'Financial Statements Guidelines for Departmental Secretaries' last amended by the Treasurer for Finance on 28 July 1992.
- (b) The Financial Statements have been prepared:
- on a cash basis with the exception of the Statement of Supplementary Financial Information which includes certain accrual-type information; and
 - in accordance with the historical cost convention.
- They do not account of changing money values or, except where stated, current values of non-current assets.
- (c) Amounts shown in the Aggregate Statement of Transactions By Fund and Statement of Transactions by Fund have been rounded to lower, the next higher dollar. Amounts in the Statement of Supplementary Financial Information have been rounded to the nearest \$1000.
- (d) Intangible assets are valued at cost of acquisition. Minor assets have cost less than \$2000 have not been accounted for in the Supplementary Financial Information.
- (e) Intangible assets or supplementary financial information brought to account in the Financial Information: on if the individual value exceeds \$1000 and include goods and other property which as at 30 June 1992 are held for sale, other property or services for sale, or held consumable stores.
- (f) Salaries, and related benefits payable to officers and employees of the Commission have not been accounted for in the balance of creditors in the Statement of Supplementary Financial Information.

NOTE 2

RUNNING COSTS

The Commission was annotated pursuant to Section 19 of the Audit Act 1991 to disclose the receipt of certain receipts from Queensland and ACT C under the cooperative arrangements. The nature of the cooperative arrangements were that receipts were fully retained and directly offset expenditure incurred. The total amount under the Queensland and ACT cooperative arrangements in 1991-92 was \$617,014.

NOTE 3

CASH ON HAND AND AT BANK

These sums were unbanked collections and collections not transferred from Collector's Receipts accounts to the Consolidated Revenues as at 30 June 1992.

Cash on hand	\$1,630.99
Cash at bank	<u>N I L</u>

Total Cash on Hand and at Bank	<u>\$1,630.99</u>
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NOTE 4

NON-CURRENT ASSETS

The Commission's Non-Current Assets have been accounted for on an historical cost basis. All assets have been valued at the purchase price. Minor assets having a unit value, of less than \$2000 have not been included.

A reconciliation of the balance of assets at 30 June 1992 follows:

Asset Balance as at 1 July 1991		\$1,150,000
Add		
Purchases 1991-92	<u>\$191,859</u>	
Sub-total		\$1,341,859
Subtract		
Stocktake Adjustments 1991-92	<u>\$285,857</u>	
Asset Balance as at 30 June 1992		<u>\$1,056,002</u>

Category Totals		
Furniture and Fittings	\$ 47,637	
Computer Equipment	\$802,625	
Office Equipment	\$205,740	
Asset Balance as at 30 June 1992		<u>\$1,056,002</u>

NOTE 5

PREPAYMENTS

As at the 30 June 1992, the Commission had prepaid accounts to the value of \$138,946. This amount was comprised as follows:

Prepayments	1991-92
Rent	\$129,157
Library Subscriptions	<u>\$ 9,789</u>
Total Prepayments	<u>\$138,946</u>

NOTE 6

STANDING ADVANCES

Standing advances are established and maintained in the Central and Regional Offices for payments such as Petty Cash and Travel expenses. The balance of these advances at 30 June 1992 was \$13,500.

NOTE 7

CREDITORS

As at 30 June 1992, an amount of \$273,380 was owed to creditors. This did not contain any overdue amounts.

NOTE 8

FORWARD OBLIGATIONS

The Commission has entered into the following commitments as at 30 June 1992 which are payable as follows:

Item	Not later than 1 year	1 year to 2 years	Later than 2 years	Total
POE Capital	288	84		372
POE Current	1,645	907	427	2979
	<u>1933</u>	<u>991</u>	<u>427</u>	<u>,3351</u>

NOTE 9

ACT OF GRACE PAYMENTS

No payments were made during the financial year 1991-92 pursuant to authorisation given under section 34A of the Audit Act 1901.

NOTE 10

WAIVER OF RIGHTS TO PAYMENT OF MONEYS

No pavmc'ns dere waived during the financial year 1991-92 under subsection 70C(2 of frc Audit Act 1901.

NOTE 11

AMOUNTS WRITTEN OFF

No amounts were written off during the financial year 1991-92 under subsection 70C(1) of the Audit Act 1901.

NOTE 12

LOSSES AND DEFICIENCIES, IN PUBLIC MONEYS AND PROPERTY

There were no losses or deficiencies recorded during the financial year 1991-92 under Part XII of the Audit Act 1901.

NOTE 13

RESOURCES RECEIVED FREE OF CHARGE

10 ,92 financial rthe C)mmision recei_veJ services free of cLnra from same Comp,1'l',:ead'h Deparments and Agricie,;. IL was not otimate tho cost of the servics provided. The expenditure for sr.-.ic(.s was met from the appropriations of the departments and agencies concerned. The major services received include the following:

Attorney-General's Department

The arrangement and processing of payment of salaries and related expenses to the Commission staff including the final processing of claims for general administrative expenses.

Department of Finance

The provision of accounting and budgetary services in the form of the computerised finance ledger and payroll services.

NOTE 14

ESTABLISHMENT OF COMCARE TRUST ACCOUNT

The Comcare Trust Account was established during the 1991-92 financial year. Prior to 1 July 1991, the Commission made compensation payments by direct debit against the Comcare ledger in the Department of Finance pay System.

APPENDIX: GLOSSARY OF TERMS

Above the Line/Below the Line transactions. The 'line' is the Budget balance (i.e. surplus or deficit). The levels of revenue and outlays determine the level of the budget balance and are therefore referred to as the 'line' transactions. Financing transactions involve the investment of Budget surpluses or the financing of Budget deficits and are therefore referred to as 'below the line' transactions.

Act of Grace Payments: Section 34A of the Audit Act 1901 provides that, in special circumstances, the Commonwealth may pay an amount to a person notwithstanding that the Commonwealth is not under any legal liability to do so.

Administrative Expenses: Includes not just expenditure on office based activities but all operational expenditure (excluding salaries). The item includes both direct costs and overhead expenditure: it includes, inter alia, minor capital expenditure (i.e. less than \$250,000) which is considered part of ordinary annual services; it does not include, inter alia, major expenditure, grants, loans or subsidies.

Annual Appropriations: Acts which appropriate moneys for expenditure in relation to the Government's activities during the financial year. Such appropriations lapse on 30 June. They are the Appropriation Acts.

Appropriation: Authority by Parliament to expend public moneys from the Consolidated Revenue Fund for a particular purpose, or for a particular class of expenditure (is outliers etc. moneys from the Commonwealth Public Account must be appropriated in accordance with the Appropriation Act 1901 or an Act containing a line, the trust its account and specifying purposes. See also 'Annual Appropriations' and 'Special Appropriation').

Appropriation Act No 1): An act to appropriate moneys from the Consolidated Revenue Fund for the ordinary annual services of Government,

Act No 2): An Act to appropriate moneys from the Consolidated Revenue Fund for other than ordinary annual services. Under the two Houses of Parliament this Act of new policies (apart from those relating to capital works and plant and equipment and payments to the States and the Northern Territory).

Appropriation Act (Nos 3 and 4): Where an amount provided in an Appropriation Act (No 1 or 2) is insufficient to meet approved obligations in a financial year additional appropriation may be provided in a further Appropriation Act (Nos 3 or No 4). Appropriations may also be provided in these Acts for new expenditure proposals.

Appropriation (Parliamentary Departments) Acts Nos 1 and 2: Acts to appropriate moneys from the Consolidated Revenue Fund for the Parliamentary Departments.

Audit Act 1901: The principal legislation governing the collection, payment and reporting of public moneys, the audit of the public accounts and the protection and recovery of public property. Financial relations and Directions are made pursuant to the Act.

Below the Line Transactions: See 'Above the Line' Transactions.

Commonwealth Public Account (CPA): The main bank account of the Commonwealth, maintained at the Reserve Bank in which are held the moneys of the Consolidated Revenue Fund, Loan Fund and Trust Fund (other than the National Debt Sinking Fund).

The principal working fund of the Commonwealth mainly financed by taxation, fees and other current receipts. The Constitution requires an appropriation of moneys by the Parliament before any expenditure can be made from the CRF. These follow two forms:

- (i) annual appropriations consisting of Supply Acts (nos 1 and 2), the Supply (Parliamentary Departments) Act, the Appropriation Acts (Nos and the Appropriation Parliamentary Departments) Acts Nos 1 and 21 (the Supply Acts relate to the first five months of the financial year and are subsumed by the corresponding Appropriation Acts and
- (ii) special or standing appropriations.

Loan Fund - Authority for its establishment comes from the Act 1901. All moneys raised by loan on the public credit of the Commonwealth are credited to the Loan Fund. Expenditures from the Loan Fund require an appropriation by Parliament and are limited to the purpose(s) for which moneys were originally raised as specified.

Trust Fund - Essentially comprises trustee funds (termed 'Heads of Trust') established under the provisions of the Audit Act (ie money held in trust for the benefit of person; or bodies other than the Commonwealth); trusts established under the provisions of the Audit Act (is involving accounts with, or, in relation to; and certain other accounts in relation to, the public account).

and trust accounts established under other Acts

rutuie „pe it:’ I comIc.

Payments into the Trust Fund may be by way of appropriation from the CRF or To:rn Fund or direct credit of private moneys. Expenditure from the Trust: Fund is appropriated for (and limited to) the special purposes of each trust. :ct, :nt, or head of trust, by the Audit Act or the Act establishing Cite Trust account or head of trust. Unlike the used portion of annual app“pzi,tions, trust account billTnces - as with 'special' or 'standing' appropriations - do not lapse at the end of the financial year.

Legal [171]:e the orfect tah investments, and the liquid:it: of
those l nve. tiicnte, involve 'exandt I 'receipts' for the pultpoes
of :;ub5:uuTion of the tanM th the ' the Trust
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June. f the ,:t:s of iul o J'l: HL statemehts
have i to ' rmation. In
particut comic end has been split
betteh tt and m taeivities so as to provide
notionti' mking into ac'-o'. :alue of the investments, and a
'cash' Lid. lee iTL account is taken or invstment transactions.

Expenditure: The total or gross amount of money, property, or services expended by the Government on any one or all of its activities (is the total amount of money from the Comptroller's Public Account including both the 'Hovoc' and 'Hovoc' if the 'Hovoc' is the 'Hovoc' (...f. mmtItys').

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expenailanot iHttl is classiiiae to one of the econcTit'te t,pt_s of outlTys,
revenue (ie offset within revenue) or financial transactions.

Expenditures From Appropriations Classified As Financing Transactions: Refers to expenditures which are classified as financing transactions rather than outlays because they are considered to be closely or one fully related to the repayment of loans or comprise transactions involving financial assets or liabilities. They are also referred to as 'Capital Transactions'. They mainly comprise retirement of principal on loans (the in repayments on loans are 'above Mile line' and are classified as outlays). See also 'Financing Transactions'.

Financing Transactions: Relate to the raising and repayment of loan principal or transactions involving financial assets or liabilities (eg changes in investments or holding of cash). They help to settle the difference between outlays and revenue and hence involve the investment of Budget surpluses of the financing of Budget deficits. As such they are referred to as 'below the line' transactions. See also 'Expenditure from appropriations classified as financing transactions'.

Expenditure From Appropriation Classified as Revenue: Refers to expenditures which are netted against receipts. They do not form part of outlays because they are considered to be closely or functionally related to certain revenue items or relate to refunds of receipts and are therefore shown as offsets to receipts e.g. refunds or PAYE tax instalments, working capital advance to the Government Printer.

Forward Obligations: Obligations existing at 30 June which create or are intended to create a legal liability on the Commonwealth to provide funds in future years and which have not been exempted from the forward obligation system. In special circumstances, arrangements which do not create a legal liability but which require forward obligations cover for effective program management. may also be included in the forward obligations system, eg memorandum of understanding with other Governments and foreign aid arrangements. The following items are exempted from the forward obligations systems:

- all items classified in Appropriation Acts as Running Costs (ie salaries, administrative and operating expenses);
- those items for which payment is authorised by special legislation where the amount and timing of payments are specified or clearly dictated by eligibility criteria (ie most, but not all, Special Appropriations); and
- those items which have been exempted by the Minister for Finance as result of specific case-by-case requests from departments.

Loan Fund: See 'Consolidated Revenue Fund'

Ordinary Annual Services: See 'Appropriation Act (No 1)' and 'Appropriation Act (No 2)'.
 Outlays are direct: in the net extent to which the Government is involved in other sectors of the economy after offsetting expenditure relevant to the net of associated receipt items. Items are classified as outlays (ie deficit). See 'Appropriation Act (No 1)' and 'Appropriation Act (No 2)'.
 Expenditures are classified as outlays (ie deficit). See 'Appropriation Act (No 1)' and 'Appropriation Act (No 2)'.
 Receipts are classified as revenue (ie surplus). See 'Appropriation Act (No 1)' and 'Appropriation Act (No 2)'.

Receipts: The total or gross amount of moneys received by the Commonwealth (ie the Commonwealth Public Account). Every receipt item is classified to one of the following concepts of revenue, outlays (ie offset within outlays) or financing transactions. See also 'Revenue'.

Receipts not offset within outlays: Receipts classified as 'revenue'. See also 'Revenue'.

Receipts offset within outlays: Refers to receipts which are netted against certain expenditure items because they are considered to be closely or functionally related to those items.

Revenue: Items classified as revenue are receipts which have not been offset within outlays or classified as financial transactions. The term

'revenue' is an economic concept which comprises the net amounts received from taxation interest, regulatory functions, investment holdings and government business undertakings. It excludes amounts received from the sale of government services or assets (these are offset within outlays) and amounts received from loan raised (these are classified as financing transactions). Some expenditure is offset within revenue eg refunds of PAYE instalments and the operating expenditure of budget sector business undertakings, See also 'Receipts

Special (Standing) Appropriation: Moneys appropriated by a specific Act of Parliament for a specific purpose is unemployment benefits, grants to States for schools). They may or may not be for a specific amount of money or particular period of time. Special Appropriations do not require annual spending authorisation by the parliament as they do not lapse at the end of each financial year. (c.f. Annual Appropriations).

A distinction is sometimes made between Standing and Special Appropriations. Standing Appropriations refer to an open-ended appropriation of the Consolidated Revenue Fund by the enabling Act of a particular year. A demand-based program: the amount appropriated will depend on the demand for payments by claimants satisfying program eligibility criteria specified in the legislation. Special Appropriations can be regarded as between Standing and Annual Appropriations: while a specified purpose is provided, it is included in a separate Bill authorising the particular program and can be specified for any number of years.

Trust Account Transactions Affecting Outlays: Refers to the movement in the consolidated revenue fund. measure the net extent to which resources are drawn from the Consolidated Revenue Fund (i.e. through the Budget). For the purposes of the consolidated revenue fund, the transactions of the CRF, Trust, Fund and Loan Fund are consolidated and inter-fund transfers are accounted for. [bus expenditure from the CRF (CRP under an appropriation to a particular account would not in itself contribute to outlays, but the expenditure undertaken from the trust account to outlays, but the expenditure under the CRF from the trust account would. Consequently, in the level of outlays to the level of expenditure, it is necessary to adjust the latter for the movements in trust account balances which are classified to outlays.

Trust Fund: See 'Consolidated Revenue Fund'.

COMMISSION PUBLICATIONS

* HUMAN RIGHTS *

Pamphlets

A Guide to 'Our Homeless Children'
Convention on the Rights of the Child (text only)
National Inquiry concerning the Rights of People with Mental Illness

Reports

Our Homeless Children
Our Homeless Children: Their Experiences
The UN Children's Convention and Australia

Occasional Papers

No. 1 - Papers on Schizophrenia and Human Rights

Posters

Declaration on Elimination of Discrimination based on Religion or Belief
Declaration on the Rights of the Child
Declaration on the Rights of Disabled Persons

* RACE DISCRIMINATION *

Pamphlets

Racial Discrimination Act 1975
Aboriginal Rights

Reports

Aboriginal juveniles and Police Violence
Aboriginal -Police Relations in Redfern
The Experience of Overseas Medical Practitioners in Australia
National Inquiry into Racist Violence in Australia

Provision of Health and Medical Services for Aboriginal Communities of Cooktown,
Hopevale and Wujal Wujal
Toomelah Report
Race Relations in the Workplace

Posters

Racial Discrimination Act
Aboriginal Rights: 'You Don't Have to Put Up with Racism!'

* SEX DISCRIMINATION *

Pamphlets

Sex Discrimination Act No. 1 - A Guide to the Law
SEA No. 2 - Sex Discrimination in the Workplace
SPA No. 3 - Sexual Harassment in the Workplace
SD ..1 No. 4 - The Rights and Responsibilities of Pregnant Workers

Booklets

The Rights and Responsibilities of Pregnant Workers - A guide for Employers
Sexual Harassment - SHOUT Kit

Reports

Insurance and the Sex Discrimination Act

Occasional Papers

No. 4 - Ten Years of the Convention on the Elimination of All Forms of
Discrimination against Women
No. 6 - Indirect Discrimination and the SDA
No. 8 - Her Story: Images of Women's Work
No. 9 - Sexual Harassment at Work in Australia

Poster

SHOUT! Sexual Harassment is OUT!

*** PRIVACY ***

Pamphlets

Privacy No. 1 - Guide to the Federal Privacy Act (available in English, Vietnamese, Chinese, Arabic and Spanish)

Privacy No. 2 - Can You Forget Your Old Convictions?

Privacy No. 3 - New Protection for Consumer Credit Information

Privacy No. 4 - Consumer Credit Information. What are My Rights?

Privacy No. 5 - Consumer Credit Information. What Industry Needs to Know.

Kits

Privacy Training Pack (including videotapes)

Videos

Information Privacy and Your Rights

Information Privacy: Managing Your Responsibilities

Reports

Personal Information Digest

Posters

The Federal Privacy Act: Protecting Your Privacy (available in two sizes)

*** GENERAL ***

Pamphlets

Conciliation and Complaint Procedures

What Are Human Rights?

HREOC: Summary of Responsibilities and Functions

Reports

HREOC Annual Report

Posters

What Are Human Rights?

APPENDIX 5

PRESS RELEASES ISSUED IN 1991-92

HUMAN RIGHTS COMMISSIONER

July 1991	One Step Closer to Equality (Federal Disability legislation
July 1991	NSW Hearings - National Mental Illness Inquiry
August 1991	Queensland Hearings - Mental Illness Inquiry
August 1991	NSW Mental Health Phone In
October 1991	South Australian Hearings - Mental Illness Inquiry
November 1991	Tasmanian Hearings - Mental Illness Inquiry
December 1991	Human Rights Commissioner welcomes Queensland's new Anti - Discrimination legislation
February 1992	Western Australian Hearings - Mental Illness Inquiry
February 1992	Release of Advice to Western Australian Premier on Proposed Juvenile Justice Legislation
March 1992	Statement on allegations of police harassment of juveniles in Western Australia
March 1992	ACT Hearings - Mental Illness Inquiry
May 1992	Statement on refugee detention legislation.
June 1992	Statement on ADF policy on homosexuals
June 1992	Queensland Ahead on Anti Discrimination Services

RACE DISCRIMINATION COMMISSIONER

	Decision on Townsville Race Complaint
August 1991	Racist comments in Queensland Parliament
August 1991	
September 1991	Release of Report on Health Services to Queensland Aboriginal Communities

November 1991	Leading US Civil Rights Lawyer visits Sydney and Brisbane
March 1992	Commissioner calls for urgent action on Aboriginal - Police relations
March 1992	Aboriginal Social Justice Commissioner Welcomed
May 1992	Race complaint dismissed
May 1992	Commissioner Appeals to public on racist leaflet

SEX DISCRIMINATION COMMISSIONER

August 1991	Call for Change to Sex Discrimination Act Parental Status
August 1991	Can Women Afford to Grow Old? - Superannuation Conference
March 1992	Decision on Proudfoot Complaint
April 1992	Commissioner Welcomes Lavarch Report
June 1992	Telecom ordered to pay \$1300() in Sex DiscriminatiOri eas6

PRIVACY COMMISSIONER

August 1991	Release of Privacy Digest
September 1992	New Privacy Code on Credit Reporting
December 1991	Tabling of Privacy Commissioner's Annual Report
January 1992	Privacy "Watchdog" Committee
May 1992	Privacy Commissioner reports on mail out errors
June 1992	AIDEX report released

GENERAL PRESS RELEASES

November 1991	Michael Kirby wins Human Rights Medal
November 1991	Human Rights Awards for Media and the Arts
November 1991	Queensland Prison wins Human Rights Award

APPENDIX 6

SUMMARY OF REPORTING REQUIREMENTS

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ANNUAL REPORT ENQUIRIES

The Contact Officer to whom enquiries or comments about this report may be made is:

Assistant Secretary, Management
Human Rights and Equal Opportunity Commission
GPO Box 52 IS
SYDNEY NSW 2001

This officer also receives suggestions or complaints about the operations of the Commission.