

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

ANNUAL REPORT

1992-1993

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Human Rights Australia

;

President

15 December 1993

The Hon Michael Lavarch 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 1992-93, 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



Ronald Wilson
President

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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, QC, a former justice 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

The public debate on the High Court decision in relation to native title has been marked by the expression of some extreme views. One view, insisted upon by at least one political leader, is that the principle "All Australians should be treated equally" should determine the nation's response to the decision. With all respect, such a view is misconceived. If one section of the Australian community is disadvantaged, no amount of equal treatment will overcome that disadvantage. On the contrary, it will entrench it. If one section of the Australian community has been dispossessed of their land without compensation, no amount of equal treatment thereafter will overcome that injustice. On the contrary, it will entrench it.

Existing inequality will often require special measures to overcome it before equality can become a realisable goal.

The High Court's decision is to be welcomed because it challenges the nation to remove the cancer of injustice that otherwise will continue to poison its life.

In last year's Annual Report, I wrote that "Australia is not just for winners. It belongs also to the disadvantaged, the defenceless and the powerless." The Commission is in the business of responding to the needs of those in the community who are

disadvantaged, defenceless and powerless. It is an inspiring, challenging and rewarding task. Australia's advancement in well-being must not leave any of its citizens behind.

The capacity of the Commission to increase the understanding and observance of human rights in Australia, and thereby to promote equality, has been enhanced by the appointment of two additional Commissioners during the year. I welcome Ms Elizabeth Hastings as Disability Discrimination Commissioner and Mr Mick Dodson as the Aboriginal and Torres Strait Islander Social Justice Commissioner.

During the year, the Commission farewelled the former Sex Discrimination Commissioner, Ms Quentin Bryce AO, and welcomed her successor; Ms Sue Walpole. Over the five years of her appointment, Ms Bryce's untiring advocacy of equal opportunity for women led to significant improvement in the status and respect accorded to women in the community. On behalf of the women of Australia, and of the Commission, I thank Ms Bryce for her distinguished service.

A highlight of the year has been the involvement of the Commission in two international meetings of independent national human rights institutions. The first was the Racism Conference held in Sydney in April; it was hosted by the Race Discrimination Commissioner Ms Irene Moss, in association with the UN Centre for Human Rights.

The second was a meeting of national institutions held in Vienna in June in conjunction with the World Conference on Human Rights.

The experience of these meetings has left me in no doubt that the Commission has an important role to play in responding to requests from other countries for help in establishing their own national institution. There is also a growing prospect of some form of regional liaison developing in the foreseeable future. It is pleasing to note that the Commission and the legislation it administers are highly regarded abroad as role models. Developments in this important area are due almost entirely to the enthusiasm and persuasive advocacy of the Human Rights Commissioner, Mr Brian Burdekin.

The Sydney and Vienna conferences demonstrated afresh the key role that voluntary agencies - non-government organisations - perform, both in Australia and throughout the world, in promoting the understanding and observance of human rights and equal opportunity within a framework of freedom, justice

and peace. I hope the coming year will see the Commission working more closely with such organisations.

The rapid growth of the Commission's responsibilities has led to a review of its structure, resulting in plans to streamline its managerial and corporate functions. I welcome the appointment of Ms Sema Verrova to the new position of Executive Director. She has come from the Office of Multicultural Affairs and her fresh approach and variety of skills have already been appreciated by the Commissioners and staff alike.

I am proud of the record of achievement outlined in this report. I thank and commend the Commissioners and the Commission's extraordinarily gifted, hard-working and loyal staff for all they have done.

All that remains is to commend to the Parliament and to all interested readers the Commission's Annual Report.

OVERVIEW

The following is an overview of the major activities undertaken by the Human Rights and Equal Opportunity Commission (HREOC) during the twelve months beginning 1 July 1992. A more detailed description of these activities and the role of the Commission follows in the body of the Report.

Public Inquiries

During 1992/93, the Commission was involved in three public Inquiries: the National Inquiry concerning the Human Rights of People with Mental Illness; the Inquiry into Race Discrimination, Human Rights and Distribution of Alcohol in the Northern Territory; and the Inquiry into Sex Discrimination and Over-award Payments.

The Mental Illness Inquiry concluded its public hearings in July 1992. The Inquiry's report will be released in late 1993.

The Report on the Inquiry into Race Discrimination, Human Rights and the Distribution of Alcohol in the Northern Territory is in its final stages and will be released early in the 1993/94 financial year.

The Report of the Inquiry into Sex Discrimination and Over-award Payments *Just Rewards*, was tabled in December 1992.

Further details of these Inquiries are included in the chapters 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 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 incorporated a prohibition of discrimination based on actual or imputed HIV/AIDS status. Other projects undertaken by the human rights policy unit related to migration and refugee issues, the Convention on the Rights of the Child, the removal of the Australian Defence Force ban on homosexuality, and issues relating to federal prisoners.

The disability discrimination policy unit prepared draft guidelines on the avoidance of disability discrimination in employment which will be released for consultation early in 1993/94.

The race discrimination policy unit completed a research project concerning Aboriginal-police relations on Mornington Island. The report was released to the Mornington Island community and state and federal governments in late April 1993. The research project into the supply of clean water to remote Aboriginal and Torres Strait Islander communities will be finished during this calendar year. The report on the situation of Australian South Sea Islanders, *The Call for Recognition*, was tabled in May 1993. The first NESB State of the Nation Report will be tabled later in 1993. Other research projects related to non-racist reporting in the media, and the rights of retrenched workers of non-English speaking background.

The first Aboriginal and Torres Strait Islander State of the Nation Report will be tabled later in 1993. In view of the High Court decision on Native Title, the report will examine the question of land holding, compensation and Native Title, and the possible implications of the decision for Aboriginal and Torres Strait Islander people.

Other projects undertaken by the Aboriginal and Torres Strait Islander Social Justice Unit included development of a program of training for Aboriginal Legal Service Field Officers and paralegal workers, the development and implementation of programs to inform Aboriginal and Torres Strait Islander people about their human rights and anti-discrimination legislation, and

involvement in discussions relating to the High Court Decision on Native Title.

The sex discrimination policy unit completed the Guidelines on the provisions of the Sex Discrimination Act and Sport. These guidelines were launched by the Minister for Sport in September 1992. The guidelines for the avoidance of sex discrimination in superannuation were completed. The Report on the Review of Permanent Exemptions was tabled in September 1992.

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

Complaint Handling

During 1992/93 there was an 18.8% increase in written inquiries and complaints. Complaints accepted as within jurisdiction rose by 28%.

From 1 March 1993, the Commission has been able to receive complaints of discrimination on the ground of disability under the Federal Disability Discrimination Act (DDA). The alleged discrimination has to have occurred on or after 1 March 1993. The Commission's central office is handling all complaints made under the DDA during the initial period of the introduction of the legislation. In this way the Disability Discrimination Commissioner is in a better position to identify issues in complaint handling which provide direction for policy and educational activities in this exciting new area of discrimination law.

Amendments in January 1993 to the Sex Discrimination Act (SDA), Racial Discrimination Act (RDA) and Human Rights and Equal Opportunity Commission Act (HREOCA) have increased the grounds and areas for complaints, and removed certain exemptions. In particular, complaints can now be lodged on the ground of victimisation under SDA, RDA and HREOCA. Under the SDA, complaints involving alleged sexual harassment cover a broader range of areas, including the provision of goods, services and facilities, provision of accommodation and the acquisition and disposal of land. In addition, complaints can be received under the SDA on the ground of family responsibilities.

The removal, under the SDA and the RDA, of the automatic right of referral to public hearing on certain grounds, has had implications for complaint handling. Comprehensive guidelines

are being developed to ensure that procedures for declining complaints are in accordance with the principles of natural justice and administrative law.

Public Hearings and Litigation

Although the percentage of complaints referred for public hearing remains small, this nevertheless amounted to a total of 54 in 1992/93. As the Disability Discrimination Act has only been in force for a short time, there were no referrals of complaints under that Act. Hearings into complaints of discrimination experienced in connection with employment continue to be the most common.

Inquiries into complaints with long and complex histories are becoming more frequent. One such hearing, under the Racial Discrimination Act, occupied in excess of 10 sitting days. The extra pressure placed on hearing Commissioners by this class of inquiry is one of the reasons which led to the appointment by the Attorney-General on 3 December 1992 of a further six part time hearing Commissioners: Susan Crennan QC and Ronald Merkel QC of the Victorian Bar; Stanley Jones QC and Patricia Wolfe of the Queensland Bar; the Hon Alkin Robert Wallace AO, a retired judge of the Supreme Court of Western Australia; and Margaret Beazley QC of the New South Wales Bar. Shortly afterwards, Margaret Beazley QC was elevated to the bench and hence unable to continue her appointment.

External litigation involving judicial review and interventions saw the Commission making submissions to the High Court in connection with a special leave application, the Full Court of the Federal Court, the Supreme Court of New South Wales and the Administrative Appeals Tribunal. The recent increase in the jurisdiction of the Commission is expected to contribute to an escalation in the number of challenges mounted in the courts to the Commission's decisions and determinations.

Cooperative Arrangements

During 1992/93, 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 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 inquiries 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.

During the past year, the Education and Promotion Section has conducted, or been involved with the conduct of a large number of activities and projects related to the portfolio responsibilities of each Commissioner.

These activities ranged from the presentation of an award to Edna Ryan for services to women in the workplace, by the Sex Discrimination Commissioner, to the organisation of the United Nations Conference on Racism for the Race Discrimination Commissioner. Details of activities are shown in the chapter relating to each Commissioner.

The organisation and promotion of the 1992 Human Rights Awards consumed the time and effort of staff members for the three months preceding the November presentation. A Report on this activity is in the Across the Commission chapter.

In regard to training, concentration has been on the development and implementation of the five programs which form part of the Human Rights Commission Continuing Education program and funded by the Education Training Foundation. Four of the five training programs have been completed with the fifth expected to be finalised by September 1993.

Staff have also conducted a number of training sessions and presentations to a range of private and public sector groups.

The demand for Commission publications remains constant, with publications related to the Disability Discrimination Act being added to the list. A review of all publications has been undertaken following amendments to the various acts administered by the Commission. A complete list of Commission publications is at Appendix 4.

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 1992 Human Rights Medal was awarded to the Murray Islanders who were the plaintiffs before the High Court in the Mabo case. Ms Barbara Hocking was named co-winner of the Human Rights Medal in recognition of her work with the Mabo case and other work she had been involved with to gain legal recognition for indigenous people's rights. A complete list of the award winners can be found in the Across the Commission chapter.

Privacy

The Privacy Commissioner is required, under the provisions of the Privacy 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

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LEGISLATION

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

- *Human Rights and Equal Opportunity Commission Act 1986*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Disability Discrimination Act 1992*

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

- a *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
 - a equality before the law
 - a humane treatment if deprived of liberty
 - freedom of thought, conscience and religion
 - peaceful assembly
 - a 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
 - sex
 - political opinion
 - social origin
 - medical record
 - sexual preference
 - marital status
 - disability (whether physical, intellectual, psychiatric or mental)
 - impairment (including HIV/AIDS status)
 - colour
 - religion
 - national extraction
 - age
 - criminal record
 - trade union activity
 - nationality

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 and, with respect to dismissals, family responsibilities

- to eliminate sexual harassment at work, in educational institutions, in the provision of goods and services, in the provision of accommodation and the delivery of Commonwealth programs.

The Act gives effect to Australian obligations under the **Convention on the Elimination of All Forms of Discrimination Against Women** and certain aspects of **ILO 156**.

Disability Discrimination Act

The *Disability Discrimination Act 1992* has as its major objectives the following:

- to eliminate discrimination against people with disabilities
- to promote community acceptance of the principle that people with disabilities have the same fundamental rights as other members of the community.

Privacy Act

The *Privacy Act 1988* gives effect to 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. The Act has three spheres of operation in which the OECD Guidelines are given specific effect in the form of legally binding standards:

- Information Privacy Principles - to protect personal information which is collected by Federal Government departments or agencies. There are strict privacy safeguards which agencies must observe in collecting, storing and using information.
- 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)
- ci National Health Act 1953 (Medicare and Pharmaceutical Benefit Scheme Guidelines).

THE MINISTER

The Attorney-General, the Honourable Michael Lavarch, 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, the Sex Discrimination Act, and the Disability 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.

Under the Disability Discrimination Act the Minister may make "disability standards" which subject to approval or amendment by the Parliament, it is unlawful to contravene.

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.

The Minister 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 six 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 Privacy Commissioner was appointed for five years with the introduction of the Privacy Act on 1 January 1989. The Disability Discrimination Commissioner was appointed on 8 February 1993 for a five-year term. The current Sex

Discrimination Commissioner was appointed on 23 February 1993 for a five-year term. The Aboriginal and Torres Strait Islander Social Justice Commissioner commenced his appointment on 26 April 1993 for a five-year term. 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, FUNCTIONS 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 six 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, the Sex Discrimination Act and the Disability Discrimination Act (from 1 March 1993), the Commission has further power to inquire into any alleged unlawful act of discrimination on the basis of race, sex, marital status, pregnancy or disability 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).

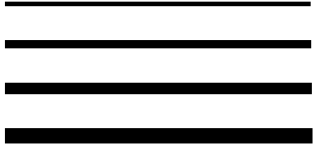
He can investigate complaints of breaches of the IPPs and can award compensation if damage results. He can also issue Public Interest Determinations where the acts or practices of agencies breach the IPPs but the public interest in the agencies so doing outweighs the public interest in adhering to the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

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**ACROSS
THE
COMMISSION**

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COMPLAINT HANDLING

The overall complaint handling workload of the Commission has increased significantly during 1992/93. The Commission received over 31,000 approaches for assistance, including nearly 26,000 telephone inquiries and 1,000 personal interviews.

During 1992/93, complaints under federal legislation continued to be handled in one of two ways: by the Commission's central office in Sydney or by one of its regional offices in Brisbane, Cairns, Rockhampton, Hobart, Darwin and Canberra; or by the State Equal Opportunity agencies in Victoria, South Australia and Western Australia under cooperative arrangements with the Commonwealth. With the cessation of the cooperative arrangement with the New South Wales Anti-Discrimination Board in June 1991, complaints under federal legislation originating in New South Wales are handled by the Commission's central office.

The Privacy Complaints and Enquiries Unit (PCEU) was established by the Privacy Commissioner in 1991/92. The staff of this unit handle complaints under the Privacy Act 1988. More comprehensive details on privacy complaints are provided in the Privacy Commissioner's annual report.

In the period 1 July 1992 to 30 June 1993, the Commission received 4432 written inquiries and complaints - an increase of 702, or 18.8%, over last year's figure of 3730. Of these, 2024 were found to be within jurisdiction of one of the seven Acts administered by the Commission (See Table 1). This represents a 28.1% per cent increase on the previous year's total of 1580. The remainder were considered to be outside jurisdiction. It should be noted, however, that inquiries which are subsequently found to be outside jurisdiction can be quite resource-intensive, as considerable investigation is often required to determine whether a matter falls within the Commission's jurisdiction.

It is clear that the conciliation process remains an effective means of resolving complaints. Table 2 shows that a total of 1453 complaints were finalised during the year. Of the cases closed under federal legislation, 632 or 47.4%, were successfully conciliated with a mutually agreed settlement, while 408 or 30.6%, 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, and substantial financial settlements - some in excess of \$30,000.

Complainants may decide not to pursue a matter for a number of reasons, including obtaining another job, re-locating or other personal reasons. In many instances, complainants decide that, whilst the matter has not been resolved, they have pursued it to a level that is satisfactory to them.

Discontinued complaints may have been closed on the basis that the issues involved in the complaint are to be pursued at a policy level rather than as an individual complaint. Some matters were discontinued as they were resolved elsewhere, and 130 were deemed withdrawn as the complainants repeatedly failed to respond to correspondence from the Commission. Procedures for dealing with these cases are currently being considered.

131 complaints were declined by the Commission on the basis that they could not be substantiated. 59 or 4.4% of complaints, were referred for a formal hearing before the Commission as the relevant Commissioner considered that they could not be conciliated, or because the complainant had otherwise requested that the matter be so referred. The outcomes are shown in Table 3.

During the year, 2408 written complaints received by the Commission were found to be outside jurisdiction. Table 4 shows a breakdown of the NUA (Not Under the Act) complaints and illustrates the range of issues being brought before the Commission.

The chapters of this report which deal with the various Acts administered by the Commission contain details of some of the matters dealt with in the complaint handling area, including case studies of conciliated complaints and matters referred to hearing.

With the cessation of the cooperative arrangement with the New South Wales Anti-Discrimination Board, the Commission's central office continues to deal with all complaints under federal legislation in New South Wales. Accordingly the numbers of complaints dealt with under the *Su Discrimination Act 1984* and the *Racial Discrimination Act 1975* have continued to increase. However, in spite of the increased workload, complaint processing times have been maintained.

Staff in the Commission's offices in Queensland and Australian Capital Territory, along with dealing with complaints under federal legislation, handle complaints lodged under the *Queensland Anti-Discrimination Act 1991* and the *ACT Discrimi-*

mination Act 1991 respectively. Over the past year matters dealt with in these offices have been increasingly dealt with under the local legislation and not under the federal legislation.

REFERRALS AND INTERVENTIONS

During the previous reporting year, the Commission intervened in a case concerning a draft code of practice prepared by Worksafe Australia on employment in the lead industry. The appeal to the full Federal Court from the decision of Justice Davies at first instance was heard in September 1992. Also during September, the Commission sought to intervene in a criminal case in which certain rights, derived from an international convention by which Australia is bound, were in issue. These are described below.

Interventions

R -v- Cheung

On 7 September 1992 the Commission sought leave to intervene in a criminal trial in the NSW Supreme Court.

Mr Cheung, a Hong Kong national, was arrested and charged in May 1989 with being knowingly concerned in the importation of a prohibited drug (heroin). The arrest of Mr Cheung followed a joint investigation by the Hong Kong Police and the Australian Federal Police. At the time of his arrest Mr Cheung was a senior investigator in the Narcotics Division of the Hong Kong Customs and Excise Service.

Mr Cheung entered a plea of not guilty and sought a stay of proceedings on the basis that he would be unable to obtain a fair trial because he had been refused access to documentation in Hong Kong, witness for his defence resided in Hong Kong and would be unable to come to Australia, and the meaning of certain telephone conversations in Cantonese which were to be relied upon by the crown could be misinterpreted by an Australian jury. After the stay application was made, the Court and representatives for the Crown and the defence travelled to Hong Kong to take evidence.

The Commission sought to intervene on the basis that it wished to draw the Court's attention to paragraph 3, Article 14 of the International Covenant on Civil and Political Rights, which contains certain legal safeguards which it sought to argue were relevant to the decision on the stay application. Those safeguards include the right of an accused person to have adequate time and facilities for trial preparation and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

His Honour Mr Badgery Parker, granted the Commission leave to intervene on the basis that it was proper that submissions be received on the relevance of the Covenant to the common law of Australia. His Honour stated that the principles enunciated in the Covenant were relevant to the extent that they put the Court on notice as to whether the trial of an accused person was fair within the meaning of common law authorities. However, he ultimately refused the stay application as he was satisfied that the trial of the accused would be a fair one, noting that the accused had been given the same access to documents as the Crown and that expert evidence as to the meaning of the conversations held in Cantonese would be given. His honour thanked the Commission for its helpful and clear submissions.

HREOC v Mount Isa Mines Pty Ltd and Ors

On 13 March 1992, His Honour Mr Justice Davies of the Federal Court declared that the National Occupational Health and Safety Commission (Worksafe) should reconsider certain paragraphs of a proposed code and standard of practice relating to the employment of women in the lead industry on the basis that those paragraphs were not dictated by health and safety considerations as they should have been but by sex discrimination considerations. Furthermore, His Honour suggested that it would not be discriminatory to prevent women being employed in certain areas if there was a health risk to foetuses that females employees might be carrying. The Commission had earlier been joined to the litigation, at its request, which had originally been between Mount Isa Mines and Worksafe.

The Commission appealed Justice Davies' decision. The appeal was heard by the full Federal Court on 29 September 1992. The Public Interest Advocacy Centre also appeared and was granted leave to make submissions on that day.

The Commission argued that Worksafe was bound to take into account the provisions of the *Sex Discrimination Act 1984* and that, pursuant to the definition of sex discrimination contained

in that Act, Worksafe could not include in the code and standard of practice, restrictions on the employment of women in the lead industry. The Commission also argued that Justice Davies had erred in his interpretation of the definition of sex discrimination.

The decision of the Full Court was reserved.

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.

During the year, 54 matters referred for hearing under the Sex Discrimination Act and the Racial Discrimination Act (39 and 15 respectively) were either heard, settled or discontinued. This represents a slight decrease from the previous year. As at the end of June 1993 there were 47 matters on hand. Of these, 11 were awaiting the decision of the hearing Commissioner, 3 were part heard and the remainder were awaiting a hearing date.

The HREOC Act does not provide for the referral of unconciliated complaints. There is, however, an option for the Human Rights Commissioner to report to the Attorney-General where conciliation has failed or where due to the nature of the complaint, conciliation was not thought appropriate.

EXTERNAL LITIGATION

Commonwealth of Australia (Department of Defence) -v- HREOC, Michael Dopking and Lance Thomas

On 16 September the Full Bench of the Federal Court heard an application brought by the Department of Defence under the *Administrative Decisions (Judicial Review) Act 1977* for a review of a decision of the President handed down on 13 March 1992. The President's decision was that the Department of Defence had breached the marital status provisions of the Sex Discrimination Act by denying certain relocation benefits to two single members - Messrs. Dopking and Thomas. The relocation provisions in question (which applied when a member purchased private accommodation off-base) were available to a member accompanied by a spouse, a child, a housekeeper/guardian to a

child or an "approved" person. At the hearing before the President, the Department of Defence argued that entitlement to the benefits was not based on marital status but rather, on whether the member was part of a household. The President found that not being part of a household was a characteristic that appertains generally to persons of single status, thereby as a matter of generality rendering single persons ineligible to receive the allowance.

The President rejected the respondent's argument that as there is no comparison between a member living on his own and one who is part of a household, the circumstances cannot be "the same or are not materially different". The President said that -

". . . it would fatally frustrate the purposes of the Act if the matters which it expressly identifies as constituting unacceptable bases for differential treatment could be seized upon as rendering the overall circumstances materially different, with the result that the treatment could never be discriminatory within the meaning of the Act".

He also found that, despite the provision of subsidised on-base accommodation for single members, Mr Dopking suffered less favourable treatment as he preferred to live off-base but was denied eligibility for the relocation allowance.

The Department of Defence submitted to the Federal Court that the President erred as:

- (a) there was no discrimination "on the ground of a characteristic which appertains generally to persons of the marital status of Messrs. Dopking and Thomas;
- (b) the circumstances were materially different; and
- (c) Messrs. Dopking and Thomas were not accorded less favourable treatment.

The decision of the Full Court was reserved.

**Mathews -v- Sheedy and Ora
HREOC -v- Mathews and AAH-REM Pty Ltd**

On 24 January 1991 Commissioner O'Connor conducted an inquiry into a sexual harassment complaint made against Mr Russell Mathews and his employer company AAH-REM Pty Ltd. A direction was made during the inquiry that the name of the complainant not be publicised. After hearing the matter Commissioner O'Connor upheld the complaint and declared that

the respondent should pay to the complainant the sum of \$6,000 by way of compensation for stress, humiliation, embarrassment and financial loss.

Pursuant to the provisions of the *Administrative Decisions (Judicial Review) Act 1997* Mr Mathews sought judicial review in the Federal Court of the decisions of Commissioner O'Connor to award financial compensation and to suppress the name of the complainant. He argued in that regard that the principles of natural justice had not been adhered to during the inquiry.

The Commission sought enforcement in the Federal Court of the decision to award compensation. The applications were heard by The Honourable Justice Spender in April 1992.

On 21 April 1993 Spender J delivered his decision in the two matters. In relation to the application for judicial review, he found that there had been no breach of the rules of natural justice, although he expressed some reservations about the practice of suppressing the names of parties to a public inquiry. Accordingly, he dismissed Mr Mathews' applications with no order as to costs.

In relation to the enforcement application he ordered Mr Mathews to pay the sum of \$6,000 to the complainant, but made no order against the company on the basis that it had not been properly served with the notice of the inquiry. He found in his decision that the fact that the complainant was subjected to constant questioning by Mr Mathews about her personal life and had to work in close proximity to his sleeping quarters and washing facilities amounted to sexual harassment.

Harris -v- Bryce

Mr Harris was one of four respondents to a complaint of discrimination in connection with employment. The complaint alleged that she had been discriminated against due to her sex in the selection process for a co-ordinator position established as a result of an agreement between the States and the Commonwealth to create a temporary body to improve the delivery of education services to a target group of Aboriginal people.

Before the conciliation process had concluded, Mr Harris launched an application for review in the Federal Court. For technical reasons, the complainant had relied on s.26 of the Act, which concerns discrimination in connection with

Commonwealth laws and programs. It was argued that as the complainant's employer was a creature of both the Commonwealth and three States, it could not be a Commonwealth program.

Morling J held that "Commonwealth program" as defined in the Act is not confined to programs of a purely Commonwealth nature: it can extend to programs in which the Commonwealth participates with other parties. The Court noted that "program" should be interpreted broadly.

His Honour also held that the *Administrative Decisions (Judicial Review) Act 1977* did not enable Mr Harris to challenge the Commission's acceptance of the complaint in the first place, nor any future decision of the Commissioner to refer the complaint for hearing.

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 the 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. The Disability Discrimination Act is not covered under existing cooperative arrangements.

Payments to the participating States under cooperative arrangements in 1992/93 were as follows:

○ Victorian EOC	\$349,500
○ South Australian EOC	\$271,300
○ Western Australian EOC	\$243,200

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 1992/93 was as follows:

• Queensland	\$785,862
○ Australian Capital Territory	\$123,000

HUMAN RIGHTS AWARDS

The Human Rights Medal and 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 media. They are awarded annually and their presentation is the major activity organised by the Commission in Human Rights Week.

The presentation of the 1992 Human Rights Medal and Awards was held at the Powerhouse Museum on 22 November 1992. Over 300 people attended the ceremony.

Sir Ronald Wilson, the Master of Ceremonies, introduced the Minister for Consumer Affairs Jeanette McHugh, who was representing the Attorney General. The Literature and Other Writings Awards were presented by Stepan Kerkyasharian, the TV and Radio Documentary and Current Affairs Awards by Jaslyn Hall. Dame Margaret Guilfoyle presented the Print and Corporate Awards, and John Morris the Songwriting and Film Awards.

Human Rights Medal

The winners of the Human Rights Medal were the five Murray Islanders who mounted the historic Mabo case before the High Court.

The Medal winners were Eddie Mabo (deceased), Rev Dave Passi, Sam Passi,(deceased) James Rice, Celuia Mapo Salee (deceased) and Melbourne barrister Barbara Hocking. The Murray Islanders were awarded the Medal in recognition of their long and determined battle to gain justice for their people. Barbara Hocking was awarded the Medal in recognition of her contribution to the Mabo case and for her work over many years to gain legal recognition for indigenous people's rights.

This was the first time the Medal, Australia's most prestigious human rights award, was awarded to more than one person. It was also the first time the Medal was awarded posthumously. (Eddie Mabo, Sam Passi, and Celuia Salee died before the High Court decision was handed down. The case ran for 10 years.)

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.

217 entries were received for the Medal and Awards. Thirty one judges who were drawn from around Australia worked very hard in a voluntary capacity to choose winners in the fifteen Award categories, and for the Human Rights Medal. The Commission extends its thanks to the judges who gave of their time and expertise so willingly.

Awards for Literature and Other Writing

This category was divided from the Prose Fiction and Non Fiction category because of the large volume of books that had been presented in some of the categories.

There was no award made in the fiction category because of the small number of books nominated, and the judges felt there was not one of a sufficiently high standard to warrant an award in 1992.

Non Fiction

Katherine's Dairy. A painfully honest account of the life of a transsexual growing up in Australia. Written by Katherine Cummings. Publishers William Heinemann Australia.

○ **Children's Fiction**

The %if. Picture story book about families and the fears that can threaten young or old. Written by Margaret Barbalet. Illustrated by Jane Tanner. Publishers Viking, Penguin Books Australia.

○ **P o e t r y**

From the Republic of Conscience. International anthology dealing with human rights issues. Edited by Kerry Flattley and Chris Wallace - Crabbe. Published by Aird Books in association with Amnesty International.

○ **D r a m a**

Highest Mountain, Fastest River. A play for children about the escape of the Hmong Hill people from the Vietnamese invasion of Laos and their eventual settlement in Tasmania. Salamanca Theatre Company.

○ **Songwriting**

Do You Blame Yourself. A song by Donna Reynolds dealing with domestic violence against women.

Awards for Film

○ **Feature film**

Day of the Dog. A yet to be released film which tells the story of a group of Nyoongars (Aboriginal people from the Perth Area) from inside their world. Starring John Moore and David Ngoombujarro. Producer David Rapsey. Writer/Director James Ricketson. Barron Films.

▪ **Documentary film**

Maria. The widely acclaimed personal biography set in Australia and Czechoslovakia. Director/Writer/Producer Barbara Chobocky. Produced by Documentary Films in association with the Australian Film Commission and the ABC.

Awards for Media

Metropolitan Newspapers

Margo Kingston (The Age). For a body of work which has consistently and effectively promoted human rights as a mainstream political issue.

○ Magazines

Mark Mordue (Rolling Stone) *Lust for Life*. An article portraying the lives of people living with the discrimination and ignorance surrounding AIDS.

▪ TV Documentary

Cop it Sweet. Controversial documentary about police in Redfern in Sydney's inner city. ABC-TV. Producer/Director Jenny Brockie.

▪ Radio Documentary Joint Winners

Tribute to Louis Johnson. The story of the death of 19 year old Aboriginal youth Louis Johnson in January this year. Janelle Green and Adrian Shaw - West Australian Aboriginal Media Association.

Exactly Howard. Examines the politics behind the controversial new juvenile justice laws in Western Australia. Background briefing. ABC Radio National. Producer Elizabeth Jackson.

• TV Drama

GP. For the consistent and valuable contribution made by this series to human rights issues. ABC-TV. Producer Bruce Best.

Corporate Award

The 1992 Corporate Award was given to a community organisation's journal which provides a unique service to Australians with disabilities.

The LINK Disability Journal is published by the South Australian Branch of Disabled Peoples' International (DPI). Established in 1980, the Journal provides local news and information on resources and the latest technology for people with a disability.

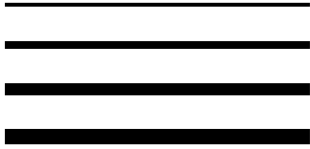
MEDIA ACTIVITIES

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 interests. A list of press releases issued in 1992/93 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 on achieving media coverage of external conferences and functions which involve some participation by the Commission.

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HUMAN RIGHTS

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**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
Human
Rights
Commissioner**

In the past year, the Commission has worked hard to ensure the effective protection and promotion of human rights - both at the National and International level - and I believe our sustained efforts have produced a number of significant achievements.

Nationally, the major focus of my work has been the National Inquiry Concerning the Human Rights of People with Mental Illness and the development of national disability anti-discrimination legislation.

In the last three years the National Inquiry Concerning the Human Rights of People with Mental Illness has received nearly 900 written submissions, examined over 450 witnesses at formal hearings and has consulted with approximately 300 people at forums and informal meetings. This extensive body of evidence forms the basis of the Inquiry's report, which will be released in October 1993.

Related to these activities, the Commission also made a significant contribution towards the development of Federal disability discrimination legislation, culminating in the passage of the Disability Discrimination Act on 15 October 1992.

I believe that our work in both of these areas has produced tangible results which will significantly assist in furthering the protection of the rights of people with disabilities and ensuring their full participation in society.

Internationally, the Commission participated in the United Nations World Conference on Human Rights and took a leading role in a meeting on national human rights institutions which was held in association with the World Conference.

I am proud of the achievements we have made this year - but much remains to be done. I am confident, however, that the Commission will continue to effectively and efficiently inform public opinion and alert the community to continued abuses of the rights of the most vulnerable in our society.

PUBLIC INQUIRIES

Mental Illness Inquiry

The National Inquiry concerning the Human Rights of People with Mental Illness is chaired by the Human Rights Commissioner with the assistance of hearing commissioners Dame Margaret Guilfoyle, DBE and Mr David Hall. The specialist adviser to the Inquiry is Professor Beverley Raphael.

The Inquiry concluded its public hearings in the Northern Territory in July 1992. The Inquiry sat in Darwin and Alice Springs, where the Chairman and Inquiry staff also met with key Aboriginal organisations and conducted a special mental health issues forum for Aboriginal and Torres Strait Islander people.

The completion of the public hearings marked the end of the evidence gathering phase of the Inquiry process. In the last three years the Inquiry has received nearly 900 written submissions, examined over 450 witnesses at formal hearings and has consulted with approximately 300 people at forums and informal meetings. This extensive body of evidence forms the basis of the Inquiry's report, which will be released in late 1993.

The report of the Inquiry will focus on a number of important areas, including:

- inpatient and community treatment and care of people affected by mental illness
- the rights of carers
- accommodation
- employment
- professional training and education
- community education
- research
- prevention and early intervention
- the reform of mental health and related legislation
- the special needs of particularly disadvantaged groups, including:
 - People with dual or multiple disabilities
 - Women
 - Australians from non-English speaking backgrounds
- Elderly people
- Children and adolescents
- Homeless people
- ! Forensic patients and prisoners, and
 - Australians living in rural and remote areas.

The Inquiry released a background paper in December 1992 which analysed relevant Federal and State and Territory mental health legislation in terms of the United Nations Principles for the Protection of Persons with Mental Illness. In this paper, *'Mental Health Legislation and Human Rights'*, the Inquiry concluded that the legislation in every jurisdiction breaches the standards prescribed in the UN Principles in a number of ways. In some jurisdictions these breaches constitute fundamental violations of basic human rights.

Homeless Children Inquiry

The Human Rights Commissioner has continued to spend a substantial amount of time pursuing issues raised in the Commission's Report of the National Inquiry into Homeless Children. The Commission also continues working with church,

charitable and community-based organisations attempting to assist homeless children.

One of the Inquiry's recommendations was the development of comprehensive national age anti-discrimination legislation. As noted elsewhere in this report, the Commission continued to participate in a Working Party of relevant Commonwealth Departments identifying options for Commonwealth age discrimination legislation.

Convention on the Rights of the Child

In response to the Commission's recommendation that monitoring of the standards established in the Convention on the Rights of the Child be added to the Commission's responsibilities, the Federal Attorney-General made a declaration under section 47 of the Human Rights and Equal Opportunity Commission Act (HREOC Act) in relation to the Convention. This has the effect of including the rights set out in the Convention in the definition of "human rights" for the purposes of the HREOC Act. The declaration came into effect on 13 January 1993 when it was notified in the Commonwealth Gazette.

A survey of Australian law and practice relating to children, by reference to the provisions of the Convention on the Rights of the Child, was commissioned by the Human Rights Commissioner and the Australian Council Of Social Services (ACOSS). The study was undertaken on behalf of the Commission and ACOSS by the Public Interest Advocacy Centre. The results of the study will be released in an appropriate form after further checking and analysis.

The Commission has continued to be active in public discussion of children's rights issues. In 1992/93 this included drawing attention to inconsistencies between proposed Victorian legislation and the Convention. The Commission also commented upon juvenile justice legislation proposed by the Queensland government.

The Human Rights Commissioner was closely involved in planning for the first major international congress on family and

children's law to be held in Australia in July 1993. (The Human Rights Commissioner presented the opening address to the congress.)

National Disability Discrimination Legislation

Throughout the reporting period the Commission was involved in the development of Federal disability discrimination legislation, culminating in the passage of the *Disability Discrimination Act* on 15 October 1992. (The Disability Discrimination Bill was first introduced into the House of Representatives on 26 May 1992. The complaint mechanism section of the Act took effect from 1 March 1993).

The Commission made a significant contribution towards the development of this legislation. In 1989 the Commission released a major discussion paper, *"The Rights of People with Disabilities: Areas of Need for Increased Protection"*, which was based on research commissioned in 1988 from the National Council on Intellectual Disability in consultation with Disabled People's International and ACROD.

The Commission subsequently conducted national consultations on the basis of this Discussion Paper. These consultations indicated strong support for further Federal legislation to provide enforceable protection against discrimination in a range of areas, including employment, education, accommodation and recreation.

In June 1991, the Commission welcomed the establishment by the Minister for Community Services and Health, the Hon. Brian Howe, of a Disability Anti-Discrimination Legislation Committee, consisting of representatives of the Commission, the Disability Advisory Council of Australia, the Federal Attorney-General's Department and the Department of Health, Housing and Community Services, to conduct consultations and make recommendations concerning discrimination on the grounds of disability. In the context of these activities, the Human Rights Commissioner issued a Position Paper and the Committee issued a discussion paper outlining possible legislative approaches and conducted a series of national consultations seeking the views of people with disabilities.

On 5 December 1991 the Minister announced that the Government had agreed to the drafting of legislation. The Commission worked closely with the Attorney-General's Department, the Department of Health, Housing and Community Services and with the Disability Advisory Council of Australia in drafting the Act.

Following passage of the Disability Discrimination Act, the Human Rights Commissioner initiated a number of preliminary public education activities concerning the Act, pending the appointment of the Disability Discrimination Commissioner on 8 February 1993. In particular, the Commission worked with the Australian Federation of Aids Organisations to develop an education campaign to inform people with HIV/AIDS of their rights under the legislation.

Age Discrimination

The 1991/92 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.

The Federal government subsequently established a Working Party to conduct consultations and examine options for national age anti-discrimination legislation. The Commission continues to participate in this Working Party, but believes that action to remove age discrimination in Australian Government employment should not be deferred pending the outcome of consideration of national age discrimination legislation.

HIV/AIDS

In line with the Commission's responsibilities flowing from the Federal government's National HIV/AIDS Strategy, the Commission worked to ensure that the *Disability Discrimination Act 1992* incorporated a prohibition of discrimination based on actual or imputed HIV/AIDS status.

The Human Rights Commissioner also implemented a public education campaign in association with the Australian Federation of Aids Organisations to inform the general community (as well as people with HIV/AIDS) of the provisions of the Act.

Australian Defence Forces: Sexuality Discrimination

In 1986 the Australian Defence Force (ADF) codified a policy on homosexuality (Defence Instruction 15-3) which stipulated that "... *when a member [of the ADF] admits to or is proven to be involved in homosexual conduct, consideration is to be given to the termination of that member's service*".

In December 1990, the Commission received a written complaint from a member of the ADF regarding discrimination on the basis of sexual preference. The Commission investigated the

complaint and requested the ADF to provide reasons for its policy on homosexuality, having regard to Australia's international obligations concerning human rights and discrimination in employment and occupation.

In addition to endeavouring to conciliate the individual complaint, the Commission initiated negotiations with the Department of Defence and the ADF to resolve the issue at a policy level. The outcome of these negotiations was a commitment by the ADF to develop, in consultation with the Commission, a non-discriminatory policy. In early 1992, after a series of negotiations which extended over a twelve month period, a new, non-discriminatory policy on "Unacceptable Sexual Behaviour by Members of the ADF" was agreed to and forwarded to the Minister for Defence Science and Personnel for approval.

On 15 April 1992, the Human Rights Commissioner wrote to the Secretary of the Department of Defence (with a copy to the ADF) requesting information on the implementation of the proposed new policy as soon as possible. On 22 June 1992, the Commission received formal confirmation from the Department of Defence that, following advice from the ADF Chiefs of Staff, the Minister for Defence, Senator the Hon. Robert Ray, had decided that the original policy ban on homosexuality (Defence Instruction 15-3) was to remain in force. However, the Commission was advised that the proposed new policy on "Unacceptable Sexual Behaviour by Members of the ADF" had also been approved.

In June 1992, the Human Rights Commissioner wrote to the then Attorney-General, the Hon. Michael Duffy, advising that the maintenance of Defence Instruction 15-3 was in breach of Australia's international human rights obligations. The Federal Cabinet subsequently requested the Minister for Defence and the Attorney-General to report on the issue. The Human Rights Commissioner determined that the Commission should exercise its power under section 31 of the HREOC Act and formally report on this matter to the Attorney-General. The Commission's report was lodged with the Attorney-General on 25 September 1992 and subsequently, after further Cabinet discussion, the Prime Minister, the Hon. Paul Keating, announced on 23 November 1992 the removal of the ADF ban on homosexuality. The Commission's report was tabled in Federal Parliament on 24 November 1992.

Migration and Refugee Issues

The Commission's 1991/92 Annual Report referred to several initiatives and activities concerning the detention of refugee and asylum seekers. The Commission has continued to raise issues concerning the overall policy and practice of detention, including access to information, advice, education and training, counselling and rehabilitation - and to pursue these matters with the Department of Immigration and Ethnic Affairs. The Commission welcomes the establishment of a Parliamentary Committee to investigate the policy and practice involved in the detention of asylum seekers.

Prisons

The Commission continues to pursue a number of policy issues arising from complaints and representations involving Federal prisoners. The Commission also continues to receive numerous representations from prisoners sentenced under State and Territory laws.

The Commission has continued to be active in public discussion of prisons and human rights issues. In 1992/93 this included the Human Rights Commissioner visiting prison facilities in both Tasmania and Queensland. He also drew the Victorian government's attention to inconsistencies between the proposed Victorian *Sentencing (Amendment) Bill 1993* which provides inter alia, for indefinite sentencing in certain circumstances and our international human rights treaty obligations.

ILO 111: National Advisory Committee

The Attorney-General recently established the National Advisory Committee on Discrimination in Employment and Occupation as provided for under the HREOC Act. The Committee comprises representatives of the Commission, Commonwealth and State governments, the Australian Council of Trade Unions, the Business Council of Australia, the Australia Chamber of Commerce and Industry and various community and interest groups. The first meeting of the Committee is scheduled for early in the 1993/94 Financial Year.

INTERNATIONAL INSTRUMENTS AND ACTIVITIES

Declaration under International Instruments

Our 1991/92 Annual Report referred to the fact that the Commission had recommended to the Federal Government that following the acceptance of the First Optional Protocol to the International Covenant of Civil and Political Rights (ICCPR), Australia should make the declarations required to accept optional procedures under a number of other international instruments. Since that time, Australia has made declarations or taken appropriate action to implement:

- Article 41 of the ICCPR - which provides that another State Party to the Covenant can lodge a complaint against Australia
- Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination - which permits individuals (on condition that they have exhausted all domestic remedies) to complain to the United Nations regarding violations of rights recognised under the Convention
- Articles 21 and 22 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which provides for complaints by individuals and by other nations which are parties to the Convention and have made the same declaration.

Reporting by Australia under Human Rights Treaties

The Commission provided information to the Department of Industrial Relations concerning the presentation of Australia's Report for the period 1 July 1990 to 30 June 1992 in accordance with Article 22 of the Constitution of the International Labour Organisation on measures taken to give effect to the provisions of the Discrimination (Employment and Occupation) Convention, 1958 (No 111).

The Commission also provided information to the Federal Attorney-General's Department concerning the preparation of Australia's "Core Document" to be lodged with the United

Nations and to be read in conjunction with Australia's periodic reports under our international treaty obligations.

United Nations World Conference on Human Rights

The Human Rights Commissioner was an adviser to the Australian delegation to the United Nations World Conference on Human Rights, held in Vienna in June 1993.

The Human Rights Commissioner also participated in a meeting on national human rights institutions which was held in association with the World Conference.

National Human Rights Institutions

The Human Rights Commissioner also participated in a meeting on national human rights institutions which was held in association with the World Conference. The meeting adopted four resolutions - three relating to specific issues concerning children, women and people with disabilities and the fourth concerning the importance of establishing effective national human rights institutions for the protection and promotion of human rights. The meeting resolved:

- That a protocol to the Convention on the Rights of the Child specifically strengthening measures directed at the protection of children from prostitution and other forms of abuse and sexual exploitation be urgently prepared;
- That the United Nations General Assembly adopt the draft Declaration on Violence Against Women and that a Special Rapporteur on violence against women be appointed. In addition, the meeting endorsed the preparation of an optional protocol to the Convention on the Elimination of Discrimination Against Women establishing a complaints procedure;
- That Governments and national institutions examine ways to ensure that the rights of people with disabilities are effectively implemented so that they achieve equality and full participation in society; and
- That national human rights institutions play a particularly important and constructive role in the protection and promotion of human rights and that Governments should enact legislation to create such institutions where they do not exist, or to strengthen and encourage existing institutions in line with the "Paris Principles" - which emphasise the importance of independent and effective national human rights monitoring mechanisms.

Standard Rules on the Equalisation of Opportunities for People with Disabilities

At the request of the Australian Government, the Human Rights Commissioner advised the Australian Government delegation to the third session of the United Nations Working Group developing Standard Rules on the Equalisation of Opportunities for People with Disabilities. (For resource reasons, the Commission's attendance at the third session, while requested by delegation members, was not possible.)

Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

In response to the Commission's recommendation that monitoring of the standards established in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief be added to the Commission's responsibilities, the Federal Attorney-General made a declaration under section 47 of the HREOC Act in relation to this Declaration. This has the effect of making the principles set out in the Declaration part of the definition of "human rights" for the purposes of the HREOC Act. The declaration came into effect on 24 February 1993 when it was notified in the Commonwealth Gazette. (It has been foreshadowed that there will be a Parliamentary debate in the Budget Session of Parliament in 1993 concerning this initiative.)

COMPLAINT INVESTIGATION

RESOLUTION AND INQUIRIES

During 1992/93, complaints under the HREOC Act continued to be handled by Commission central and regional offices only.

Table 5 shows that 129 complaints within jurisdiction were lodged under the HREOC Act during the year. Of the 129 complaints accepted, 97 were lodged under ILO 111. Table 6 shows the grounds of complaint under ILO 111. The greatest number of ILO 111 complaints (57) involved alleged discrimina-

tion on the ground of age. Many of the complaints raised the issue of compulsory retirement ages set out in legislation and industrial awards. These complaints are difficult to conciliate as discrimination is permitted under existing statutory or award provisions.

Respondents to complaints lodged at the Commission's central office under the HREOC Act included Commonwealth Government Departments (36), State Government Departments (23) and private sector organisations (19).

Since the introduction of the additional grounds under ILO 111, there has been a decrease in complaints lodged under the other instruments scheduled to the HREOC Act. 32 complaints were received under the International Covenant on Civil and Political Rights.

Further, the introduction of the Disability Discrimination Act has led to a marked decrease in the number of ILO 111 complaints lodged on the grounds of impairment, physical and psychiatric disability.

Conciliated agreements under the HREOC Act have included financial compensation, changes in employment practices and the introduction of training programs. Table 7 provides a breakdown of the outcomes of HREOC Act complaints finalised during the past year.

HREOC Act complaints can be difficult to conciliate as 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 following case studies illustrate the range of complaints dealt with by the Commission under the HREOC Act and the remedies available.

Case study 1: ILO 111 Medical Record

A woman was offered a clerical position with a bank. She claimed that the offer was subsequently withdrawn on the basis of her medical condition. The complainant advised that she has a thyroid condition which does not affect her ability to work. She advised that she had previously been employed in a number of clerical positions and that her work performance had always been of a high standard.

The bank agreed that the reason that the offer of employment was withdrawn was on the basis of the complainant's medical condition. The bank advised that its decision was based on its

medical guidelines for employment and stated that the guidelines were to be reviewed in the light of anti-discrimination legislation. The bank apologised for the distress caused to the complainant and agreed to pay her the sum of \$2,000 in full settlement of her complaint.

Case study 2: HREOCA - psychiatric disability and medical record

An officer in the Australian Public Service alleged that she had been discriminated against on the ground of psychiatric disability and medical record. The complainant had been hospitalised for a short period while still on probation and the Commonwealth Medical Officer (CMO) subsequently recommended that her appointment be annulled. In doing so he took into account the advice of the officer's department as to the stressful nature of her work.

The officer provided specialist medical advice which contradicted the CMO's assessment and particularly took issue with the CMO's reliance on the department's assessment of her job as stressful, or that there was a causal relationship between work, stress and the nature of her illness. Despite this conflicting medical opinion the department proceeded to annul the appointment.

Following a conciliation conference the department agreed to seek a further medical assessment, including assessment of a specialist. This resulted in a finding that the officer was fit for permanent appointment and membership of the superannuation scheme. The officer was re-appointed on probation, with all entitlements preserved.

Case study 3: HREOCA - marital status

A single mother of one child complained of discrimination on the ground of marital status. There were two aspects of her complaint which related to the compulsory superannuation scheme to which she was required to contribute. One concerned the significant differences between the benefits that would be payable to her child on her death, when compared to those received by a surviving spouse of a married contributor. The other concerned the restrictions on her ability to nominate her child as her beneficiary in the event of her death. If, in the future, she marries, her spouse automatically becomes the beneficiary, whereas she would still wish her child to benefit.

The superannuation scheme agreed to seek amendments to its Act to remove the discrepancies between the pension payable to

a single surviving child of a member, compared with that payable to a member's surviving spouse.

The other issues raised by the complaint were referred to the Sex Discrimination Commissioner for her consideration in the broader policy context.

Case study 4: HREOCA - Physical impairment

The complainant lodged a complaint with the Commission alleging that he was the subject of discrimination by his employer, a government department, on the basis of his psychiatric history and physical impairment.

The complainant, who has a disability which affects one of his arms, had a breakdown which he claimed was induced in part by the stress of the job. He was away from work for some six months. After he returned from leave, the complainant was moved from an administrative position in the office to duties in the driveway. Because he was away from the majority of other workers, the complainant felt alienated.

All positions at the respondent department were later declared vacant as part of a general restructure and the complainant had to reapply for the position he had held. The complainant did not win the position.

While the department denied that the complainant had been discriminated against, his job satisfaction improved significantly following his complaint and an Equal Employment Opportunity Audit. He was immediately moved so as to be closer to his co-workers. The respondent provided the complainant with intensive one-to-one training on the computer. The respondent, which was facing restructuring and redeployment, undertook to provide training to expand the complainant's skills and thus enhance his job prospects.

Independent of the complaint to the Commission, the complainant's claim for compensation was accepted.

Case study 5: HREOCA - Age

The complaint was lodged by a union which alleged that one of its members was forced to resign from permanent full-time employment in a retail outlet because he was over sixty years of age. The member stated that the manager had informed him on his sixtieth birthday that he had signed a written contract at the commencement of his employment which provided for the termination of his employment upon reaching the age of sixty. As instructed, he applied in writing to extend the full-time

employment on his birthday and again six months later. Almost two years after his sixtieth birthday, he was instructed to submit a letter of retirement. In the first draft of the letter, the member stated that he was retiring due to the policy of the company which required him to retire because of his age. The employee claimed that the manager told him that he would not get any casual work if he submitted that letter, so he signed another simply stating that he wished to retire.

The employee continued to work in the same outlet on a casual basis. He claimed that his real income decreased and that he did not get the benefit of any leave entitlements or job security. The respondent claimed that the employee knew of the condition that he retire upon reaching the age of sixty years of age. The complainant argued that discrimination was not excused on the basis that there was consent to the less favourable treatment.

Following conciliation, the respondent agreed to pay the employee the equivalent of seventeen weeks' pay and gave a commitment to employ him on a casual basis until he reaches sixty five years of age.

Case study 6: HREOCA - Discrimination on the basis of physical impairment

A man employed by the same Commonwealth Government department in various positions for 21 years alleged that he was discriminated against on the ground of impairment. He suffered from a degenerative eye condition and his vision was extremely limited.

In 1988 the complainant was appointed to a personnel officer's position in a new workplace. His supervisor allowed him to work with an assistant who performed the tasks he found difficult such as typing, data entry and close reading. During this time, his performance was rated as either "consistently above average" or "outstanding".

In early 1990 a new supervisor was appointed to the section. Following a review of staffing arrangements, the complainant's assistant was removed on the ground that the unit could be staffed by a single officer. The complainant explained that he would have great difficulty performing his duties without assistance due to his disability. The supervisor agreed to look into the situation but did not reinstate the assistant in the interim.

The complainant attempted to cope with the workload alone but this led to delays, backlogs and errors. He claimed that he was under a great degree of stress, which aggravated a previous back injury and caused severe eye strain. He took considerable sick leave.

Eventually it was agreed that the department would provide the complainant with special computer equipment recommended by the Royal Blind Society which would help him to perform his duties alone. The equipment was ordered late in 1990 but due to technical problems and delays was not installed until early 1992. As a result of the delays, the complainant took nearly all his accumulated sick, recreation and long service leave.

In the intervening period the complainant had lodged internal and external grievances but was not satisfied with the outcome. By the time he lodged a complaint with the Commission, he felt that the situation was intolerable and that he was being subjected to harassment and victimisation. As he believed that the relationship with his employer had broken down irreconcilably, his preferred option for the resolution of the matter was a termination package. The department agreed to this outcome and acknowledged that the issue of reasonable adjustment for officers with a disability required review.

Case study 7: HREOCA Psychiatric disability

A woman applied for a one day a week casual position with a merchandising company. The duties involved recording, reordering and stock maintenance.

Following a morning interview the woman was advised the same evening by the State Manager that she was to be employed. She was also told that the company would require her to have a medical examination.

For the purposes of this examination she was required to complete a very detailed questionnaire. She answered all questions truthfully including the fact that she had a bi-polar condition (manic depression) which was controlled by medication.

On learning of this the State Manager advised the woman that his head office had stated that she could not be employed as the job involved regular car travel and the company felt that this would be a risk to her health.

Despite the production of medical certificates which showed that the woman was perfectly capable of driving safely the company refused to change its position. A head office company represen-

tative stated that the company regretted what had occurred and provided a small amount of financial compensation for the woman for the inconvenience suffered.

EDUCATION AND PROMOTION

Publications

The ILO 111 Brochure - *Protection Against Discrimination in Employment and Occupation* was published in September 1992, and has been widely distributed.

Training

Discrimination in Employment and Occupation

A training package aimed at private sector managers and supervisors is nearing completion. The package consists of workshop material plus a video and training notes. It is expected to be launched in September 1993.

**HUMAN
RIGHTS
COMMISSIONER'S
MAJOR
SPEAKING
ENGAGEMENTS**

- 3 Jul 92 Launch of Youth Social Justice Strategy Booklet (Federal Government/Victorian State Government initiative): *The need for a planned and co-ordinated response to the problems of Homeless Youth*, Melbourne
- 9 Jul 92 Launch of Booklet: *No Fixed Abode, Homeless Mentally Ill - the Evidence*, Brisbane
- 10 Jul 92 Official Opening of McLaughlin House for the Gold Coast for Homeless Youth: *Homeless Youth - their need for appropriate support*, Gold Coast
- 14 Jul 92 Opening of Regional Office for the Human Rights and Anti-Discrimination Commission: *People with Disabilities - Protection of their rights*, Cairns
- 16 Jul 92 Keynote address at the Australian National University Conference on Human Rights in Australia: *Where to from Here: The impact of a Bill of Rights on those who need it most*, Canberra
- 16 Jul 92 Launch of Read it to Believe it - poems by young people for Short Cuts Information and Advocacy Service for young people: *Homeless Youth need more than accommodation*, Canberra
- 17 Jul 92 Address to National Conference of the Australian National Association for Mental Health: *Mental Illness - What Rights?*, Perth
- 17 Jul 92 Address to Luncheon for lawyers from Mallesons: *Human Rights and Social Justice - the Role of Legal Professionals*,

- 21 Jul 92 Opening Address to Mental Illness Inquiry Hearings: *The Evidence to Date*, Darwin
- 23 Jul 92 Opening Address to Mental Illness Inquiry Hearings: *Mental Health & Mental Illness - Aboriginal Issues*, Alice Springs."
- 29 Jul 92 Launch of Street Legal Inc. Program for the Australian Youth Foundation: *Diversionary and Prevention Programs in Juvenile Justice*, Adelaide
- 30 Jul 92 Double Launch of Mental Health Mural Project and Youth Homelessness Health Bus for St Kilda Health Centre: *Mental Health needs of disadvantaged Australians*, Melbourne
- 11 Aug 92 Address to the National Press Club: *Is There Justice for Juveniles in Australia?*, Canberra
- 13 Aug 92 Address to open the Early Psychosis Research Centre: *Mental Illness - the Need for Effective Early Intervention*, Melbourne
- 17 Aug 92 Launch of Kids Help Line in Tasmania: *Juvenile Justice - Prevention or Ongoing Abuse*, Hobart
- 20 Aug 92 Launch of Report: *Rough Justice - A Report on Sexual Assault, Homelessness and The Law for the North East Centre Against Sexual Assault: Child Abuse, Homelessness and Mental Illness - the Link*, Melbourne
- 20 Aug 92 Address City Living Conference for the Melbourne City Churches in Action: *The Fragmented Community: The Rights of Young Australians* (with particular reference to the evidence from the Mental Illness Report), Melbourne
- 15 Sep 92 Opening statement to meeting of National Institutions attending Preparatory Committee for World Conference on desirable agenda for the Conference, Geneva

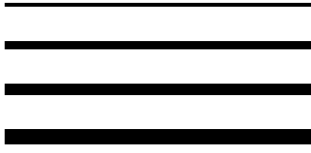
- 30 Sep 92 Keynote address to meeting of Commonwealth Human Rights Bodies (and observer States) on criteria for the establishment of independent Human Rights Institutions, Ottawa
- 5 Oct 92 Keynote address to National Conference of Australian Mental Health Nurses: *The Controversy of Change*, Ballarat
- 13 Oct 92 Opening of Art Gallery: *Aboriginal Culture - the Lessons*, Sydney
- 14 Oct 92 Opening of Youth Homelessness Service for East Preston Community Health Centre: *Early Intervention - the Road does not have to lead to Homelessness and Mental Illness*, Melbourne
- 14 Oct 92 Address to Annual General Meeting of Sutherland Child, Youth and Family Services: *The reality - Family Support or Family Breakdown*, Melbourne
- 15 Oct 92 Address to Rotary Club of Euroa: *Human Rights - a Look in our own Backyard; Abuse of Rights of the Elderly Mentally ill*, Euroa
- 16 Oct 92 Keynote Address to Eighth Annual Conference of the Australian Early Intervention Association (Victorian Chapter): *Early Intervention - Supporting Evidence from the Mental Illness Inquiry*, Melbourne
- 18 Oct 92 Launch of Mental Health Week in Victoria: *Mental Health - our Rights & Responsibilities*, Melbourne
- 19 Oct 92 Keynote address to Mind Care Conference: *Our Young People: Their Mental Health*, Brisbane
- 21 Oct 92 Guest Speaker at the Annual General Meeting of Frankston Dispute Settlement Centre: *Homelessness and Mental Illness - The Importance of Timely Intervention*, Melbourne
- 22 Oct 92 Barton Pope Lecture for the Mental Health Association and Resource Centre: *Mental Health - The Rights - Plus Where We Have Gone Wrong*, Adelaide
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- 23 Oct 92 Address to Annual Dinner of the South Australian Branch of the Royal Australian and New Zealand College of Psychiatrists: *Mental Illness - The Gaps in our System*, Adelaide
- 29 Oct 92 Keynote address to the National Conference of Guardianship Jurisdictions: *Mental Health & Guardianship Legislations - The Issues*, Melbourne
- 29 Oct 92 Guest Speaker at the Third Annual General Meeting of The Wesley Mission: *Our Homeless Mentally a* Melbourne
- 4 Nov 92 Address to the Australian Catholic Bishops Conference - Common Wealth for the Common Good: *Australia Tomorrow - Where to from Here*, Melbourne
- 6 Nov 92 Public Launch of Youth Needs: *Study of Beaudesert Shire - Identifying Need & Coordinating our Response to Disadvantaged Young People*, Beaudesert
- 27 Nov 92 Address to Visiting U.S. Young Government Leaders: *Australia's Human Rights Law and the Reality*, Sydney
- 10 Dec 92 Address to Queensland Law Society. The Human Rights Day Address: *Time for a Bill of Rights*, Brisbane
- 26 Jan 93 Address to Asia-Pacific Workshop on Human Rights Issues - National Institutions and Regional Arrangements: *Activities of National Institutions for Protection and Promotion of Human Rights*, Jakarta
- 27 Jan 93 Address to Asia-Pacific Workshop on Human Rights Issues - National Institutions and Regional Arrangements: *Relations between National Institutions and the State: Issues of Autonomy and Independence: Relations between National Institutions and other Partners*, Jakarta
- 27 Jan 93 Issues of jurisdiction and Competence: *Which Rights to Protect and How?*, Jakarta

- 28 Jan 93 Address to Asia-Pacific Workshop on Human Rights Issues - National Institutions and Regional Arrangements: *World Conference on Human Rights: Identification and Assessment of Progress made in the Field of Human Rights*, Jakarta
- 16 Feb 93 Address to Group of Private Businessmen and others concerning programs for Homeless Children: *Our Homeless Children - the response we must make*, Sydney
- 19 Feb 93 Address to U.N. Meeting of Executive Heads of National Human Rights Institutions on Program for the 1993 World Human Rights Conference, Geneva
- 25 Feb 93 Address to the United Nations Human Rights Commission Meeting: *National Human Rights Institutions*, Geneva
- 2 Mar 93 Address to meeting of Commonwealth countries on the need for Independent National Human Rights Institutions, Geneva
- 3 Mar 93 Address to meeting of Commonwealth countries on the establishment of Human Rights machinery in "Mini-States", Geneva
- 5 Mar 93 Address to United Nations Human Rights Commission Meeting: *The Convention on the Rights of the Child*, Geneva
- 17 Mar 93 Address to HOME, (Holding on to My Environment) *Self Esteem and Education*, Melbourne
- 17 Mar 93 Barwon Psychiatric Resources Council Lecture: *Our Responsibility for the Rights of People with Psychiatric Disabilities in the current Economic Climate*, Geelong
- 18 Mar 93 Keynote speaker, Smorgon Consolidated Industries Fund-raising luncheon for crisis accommodation for homeless young people. *Homeless, disadvantaged youth - who pays the costs?*, Melbourne
- 26 Mar 93 Launch of ARAFMI School Education Program at Northmead High School: *Mental Illness - the Myths and the Reality*, Sydney

- Guest speaker at St Vincent de Paul Society Dinner: *Mental Illness - asking more of the non-government sector*, Sydney
- 27 Mar 93 Address to Victorian Conference organised by the Salvation Army: *Unemployment - Rights and Wrongs*, Melbourne
- 15 Apr 93 United Nations Conference on Racism and Racial Tolerance - presentation of paper: *Independent Human Rights Machinery*, Sydney
- 19 Apr 93 United Nations Conference on Racism and Racial Tolerance - presentation of background paper: *Regional Developments for %rid Human Rights Conference*, Sydney
- 21 Apr 93 Australian National University - Address to graduates in the Faculties of Asian Studies/Law and Research School of Pacific Studies: *Social Justice - your role in Australia's future*, Canberra
- 22 Apr 93 National Launch of Kids Help Line (Keynote address - in conjunction with Mrs Annita Keating, Mrs Kathryn Greiner and Brother Paul Smith): *Child Abuse, homelessness, mental illness - the rights of our young people*, Sydney
- 10 May 93 United Nations Association of Australia (NSW) workshop on human rights as a preliminary to the World Conference: *Human Rights - the desired outcomes*, Sydney
- 12 May 93 Press Launch, First World Congress on Family and Children's Law: *The Importance of the Convention on the Rights of the Child for Australian Children*, Sydney
- 13 May 93 Public Meeting - Hunter Branch NSW Association of Mental Health: *Mental Health In Your Community - Rights & Obligations*, Newcastle
- 26 May 93 Guest Speaker - Orange Evening View Club 12th Birthday Dinner: *Mental illness - Developing community understanding and support*, Orange
- 27 May 93

- 1 Jun 93 Statement to the Joint Committee on Foreign Affairs, Defence & Trade (Human Rights Sub-Committee): *Australia's International Efforts to Promote and Protect Human Rights*, Canberra
- 14-25 Jun 93 Various statements to international meetings of National Human Rights Institutions held in conjunction with the World Conference on Human Rights, Vienna



DISABILITY DISCRIMINATION

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**DISABILITY
DISCRIMINATION
COMMISSIONER**

Ms Elizabeth Hastings was appointed as the first Disability Discrimination Commissioner on 17 December 1992 and commenced duty on 8 February 1993.

Ms Hastings was a Commissioner with the original Human Rights Commission from 1981 to 1986. She has practised as a psychologist and psychotherapist, and was senior Counsellor at La Trobe University from 1977 until her appointment as Disability Discrimination Commissioner. She holds a Bachelor of Arts with Honours from Melbourne University.

Ms Hastings was a founding member of the Victorian Consultative Committee on Disability and the Victorian branch of Disabled People's International. She was a member of the Victorian Executive Committee for the International Year of Disabled Persons and a delegate to the inaugural Disabled People's International Congress in Singapore.

The Disability Discrimination Commissioner exercises certain statutory powers and functions of inquiry, investigation and conciliation for the Commission.

**Statement
from
Disability
Discrimination
Commissioner**

*The proclamation in October 1992 and enactment on March 1st 1993 of the **Disability Discrimination Act** has created a great deal of interest in those who are protected by the Act, and in the wide range of business and community groups who are now required to adjust their acts and practices in order to create a discrimination-free environment for people who have a disability, and for their families, friends and associates.*

I am heartened by the co-operative and involved response of these groups, and look forward to an exciting period as people with a disability are included in ordinary Australian life in every State and Territory: in employment, education, access to goods,

services and facilities, transport, entertainment, clubs, sport and to Commonwealth activities and programs. There will be a period of learning for all as the terms and provisions of the Act are fleshed in policy, practice and precedent.

In these first years I plan to take a consultative, assisting role as organisations work towards compliance with the Disability Discrimination Act. It is my hope that, in the main, there will be a wish to further the spirit of the law, not merely to obey the letter. the staff of the Disability Discrimination Unit and I are working to support this aim.

People with a disability, be it physical, intellectual, psychiatric, neurological, sensory or a learning disability, or one caused by disfigurement or disease have for too long been required to live on the margin of our society; they have for too long been required to be grateful for moments of inclusion and patient about years of exclusion; they have for too long been denied physical, informational and attitudinal access to the mainstream of life. This Act recognises the right of this 16 per cent of Australians to expect the same rewards and responsibilities as the community in which they are embedded, and creates the strength necessary for them to assert this right through a complaints process, as well as in the development of future policy and practice.

The work of this first year is to promote the Act as widely as possible, to answer the inevitable questions about compliance, particularly in the areas of "reasonable adjustment", and "unjustifiable hardship", to develop consultative mechanisms and "best practice" guides, to review legislation, to challenge erroneous assumptions about people with disabilities, to create disability standards, and to engage business and community enterprises in imaginative and appropriate responses in their own fields where possible. There will also be extensive discussions with those who have the disabilities, and with their associates and carers, who are well placed to contribute to these activities. The Inquiries and Conciliation staff of the Commission are already handling complaints, the conciliation of which wherever possible is another form of community education.

This Statement is of necessity oriented to the future: I trust that by this time next year there will be significant matters to report and comment on as Australians with disabilities continue to move out of the margins and on to the page, into the text and texture of our society.

DISABILITY DISCRIMINATION ACT

Applications for Exemption

Section 55 of the DDA allows the Commission to grant temporary exemptions from the operation of the provisions of the DDA which make discrimination unlawful (except those relating to disability standards). This power is exercisable only when an application for an exemption is made by one or more persons. No such applications under the DDA have been received to date.

Development of Disability Standards

Section 31 of the DDA empowers the Attorney-General to formulate "disability standards" (which take effect subject to Parliamentary approval or amendment, and which it is unlawful to contravene) in relation to:

- employment
 - education

- accommodation
 - public transport services and facilities
 - the administration of Commonwealth laws and programs.

Disability standards are intended to specify requirements for equal opportunity and access for people with a disability in greater detail and with more certainty than is provided by the prohibition of discrimination by other provisions of the DDA. (A model referred to by community organisations, by HREOC and by Government officers in the drafting of the DDA was the standards specified in the United States under the *Americans with Disabilities Act 1990*.)

The Commission has the function under the DDA of reporting to the Attorney-General on matters related to the development of disability standards. The Commission has not made such a report

to date, but has initiated discussions with the Attorney-General on the most appropriate means of advancing consideration of disability standards.

Consultations by the Commission to date have indicated strong support by representatives of people with a disability for development of disability standards, as well as some interest by representatives of the business community in standards as a means of achieving greater certainty and uniformity in their obligations. The Commission intends to make issues relating to standards a major focus of its consultative activity and policy work for 1993/94.

Action Plans

The DDA gives the Commission the function of receiving voluntary "action plans" which providers of services (including Commonwealth or State government departments or authorities) may prepare and implement. The Commission is required to consider the provisions of an action plan lodged by a provider of services in dealing with any complaint which may be made under the DDA against that provider.

Action plans are to include provisions on:

- the devising of policies and programs to achieve the objects of the DDA
- communication of these policies and programs to personnel
- review of practices with a view to elimination of discriminatory practices
- setting of goals and targets, where appropriate, and other means of evaluating the success of the plan.

The Commission considers that the action plan concept offers an important means for providers of services to structure their efforts towards compliance with the DDA, and for publicising examples of "best practice". In particular, action plans may also be effectively complementary to and co-ordinated with existing policies and programs of Commonwealth authorities directed towards greater access and equity.

To date no action plans have been lodged, although a number of organisations have expressed interest in developing action plans. The Commission is considering means of further promoting use of this mechanism.

LEGISLATIVE REVIEW

The Commission has functions under the DDA of reporting to the Attorney-General on laws that should be made by the Parliament, or action taken by the Commonwealth, on matters relating to disability discrimination.

The Commission's principal focus in exercising this function in the early period of operation of the DDA will be in monitoring and reviewing the effectiveness and appropriateness of the DDA itself, including in the light of complaint handling experience and with particular reference to the exemptions provided for by the DDA.

The Commission has written to the Attorney-General noting that the general exemption under the DDA for actions in compliance with other laws expires after three years, and suggesting that review of laws for inconsistency with the DDA should be put on the agenda of the Standing Committee of Attorneys General (with a view to amendment of any inconsistent laws, or, where necessary, further exemption by regulation).

The Commission also contributed to the process of review of the NSW *AntiDiscrimination Act 1977*, and welcomes proposals to amend the relevant provisions of that Act to follow more closely the provisions of the DDA.

Guidelines

The Commission has the function of preparing and publishing guidelines for the avoidance of disability discrimination. Draft guidelines on employment have been prepared and will be released for consultation early in 1993/94, to be followed by guidelines on other significant areas and issues under the DDA.

Intervention

The Commission has the function under the DDA of intervening in court proceedings involving disability discrimination issues, with the leave of the court and where the Commission thinks it appropriate. To date no interventions pursuant to this function have been undertaken.

COMPLAINT INVESTIGATION

RESOLUTION AND INQUIRIES

Complaints under the DDA have been able to be received by the Commission since 1 March 1993. The alleged discrimination has to have occurred on or after 1 March 1993. The Commission's central office is handling all complaints made under the DDA during the initial period of the legislation.

Table 16 shows that 26 complaints were accepted as within the jurisdiction of the DDA during the period 1 March 1993 to 30 June 1993. As the number of complaints received during this period is not large, it is not possible to ascertain trends or patterns in the complaints received.

To date 14, (54%) complaints of discrimination involve physical disability. The area of discrimination includes employment (10), education (4), access to premises (5) and the provision of goods, services and facilities (5).

More complaints have been received from females (11) than males (8), and 7 complaints involved 2 or more individuals.

Case Studies

The following case studies illustrate some of the different types of complaints received under the DDA.

Case study 1: DDA .Access to premises

The complainant, who uses a wheelchair, alleged that the site chosen by a government Department was not accessible to people with a mobility problem and that she was forced to do

her business in a car park. The complainant claimed that when she spoke about the experience to a senior department employee, he was most unhelpful.

The department advised in its response that it was recognised that the facility was inferior and referred to the difficulties of finding suitable premises at short notice given that the department's need for the premises was temporary. The respondent employee denied that he was unhelpful and undertook to make every effort to ensure that a more suitable location is used in future.

The complainant requested that the Commission contact the respondent to advise that, as far as she is concerned, this matter had been satisfactorily resolved so long as there is now an added awareness about the needs of the people with disabilities.

Case study 2: DDA - Access to education

A mother of a young student with a mental disability alleged that he was discriminated against on the ground of the disability by being refused full attendance at a school camp.

The student was an integrated student at a secondary school and had committed himself to the full time course. He had participated in all school activities which were required of him and his disability had never been raised as an issue.

The school informed the student that he would only be allowed to attend the camp for two days instead of the full term as other students were allowed. The student was to be put into another class until his class returned from the camp.

An integration aide had been employed to assist the student for the full school term. The school explained to the student and his parents that there was no funding of an integration aide to attend the camp with the student. The school could accommodate the student for the two days nominated but not for the entire camp.

It was alleged that the school discriminated against the student by excluding him from the extra-curricular activities that the rest of the students at the school enjoyed.

The complaint was resolved when the school discussed the alleged discrimination with the student and his parents. The school agreed to allow the student to attend the camp for the entire period with the assistance of a volunteer. The school gave an assurance that an integration aide would be employed to accompany the student to the camp the following year.

REFERRALS

The Commission may inquire into, and make determinations on, matters referred to it by the Attorney-General or the Disability Discrimination Commissioner. The Commissioner is required to refer matters which:

- she thinks cannot be settled by conciliation; or
- she has unsuccessfully attempted to settle by conciliation; or
- she thinks should be referred.

No matters under the DDA have been referred to the Commission by the Attorney-General to date. No matters have yet been referred, or required to be referred, by the Disability Discrimination Commissioner at the date of writing.

EDUCATION AND PROMOTION

Publications

A pamphlet and poster *Act Against Disability Discrimination, guide to the Federal Disability Discrimination Act* has been produced and distributed nationally. A plain English pamphlet is being developed.

Braille and audio versions of the Disability Discrimination Act have also been produced.

Promotional Activities

As at June 1993 the Commission's major activities to promote understanding and awareness of the DDA remained the subject of planning and consultation.

Activity to date, however, has included the following:

- distribution of an information paper on the DDA to peak organisations representing people with a disability
- input to the production of a manual on the DDA for families and carers
- co-operation with the Australian Federation of AIDS Organisations (AFAO) in a campaign by AFAO to inform people living with HIV/AIDS of the relevance of the DDA to them
- advice to a number of Commonwealth Departments on their own education and information strategies regarding the DDA.

The Commission has co-operated with the Office of Legal Aid and Family Services within the Attorney-General's Department in the development of a strategy for community legal education and advocacy support services regarding the DDA, involving Community Legal Centres, which will be implemented during 1993/94.

The Commission has also responded to numerous requests for advice on the effect of the DDA in particular areas and the consistency with the DDA of particular actions. Significant examples include:

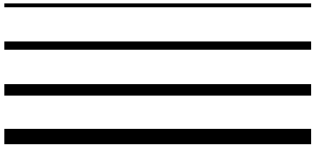
- advice to the Australian Uniform Building Regulations Co-ordinating Council on the impact of the DDA on access requirements
- advice to the Department of Employment, Education and Training on strategies to comply with the DDA
- advice to the Office of Disability within the Department of Health, Housing and Community Services regarding the relevance of the DDA to the apparent impact of digital telephone technology on hearing aid users
- participation in the National Accessible Transport Committee
- advice to Worksafe Australia on the operation of the DDA regarding health and safety issues.

**DISABILITY
DISCRIMINATION
COMMISSIONER'S
MAJOR
SPEAKING
ENGAGEMENTS**

- 22 Feb 93 Council for Equal Opportunity in Employment forum, Melbourne
- 25 Feb 93 Disability Attendant Support Services Conference, Melbourne
- 10 Mar 93 University of Technology, International Women's Day Lunch, Melbourne
- 10 Mar 93 Paraplegic & Quadriplegic Association, Melbourne
- 31 Mar 93 *Hidden discrimination in counselling people with disabilities*, Western Region Ethnic Disability Services, Melbourne
- 3 Apr 93 National Women's Consultative Council, Women with Disabilities Group, Melbourne
- 14 Apr 93 Community consultation on Disability Discrimination Act, Brisbane
- 17 Apr 93 Community Disability Alliance Conference, Maroochydore, Qld
- 27 Apr 93 Community consultation on the DDA, Adelaide
- 29 Apr 93 Launch of *The U Book: Self-Help Guide to University Services for Students with Disabilities*, University of New South Wales, Sydney
- 29 Apr 93 Launch of *Handbook for Students with Disabilities*, University of Technology, Sydney
- 30 Apr 93 Launch *Disabilities Guidelines*, Catholic Archdiocese of Canberra-Goulburn, Canberra
- 1 May 93 National Deafness Conference, Melbourne
- 6 May 93 LaTrobe University Legal Studies Department, Melbourne
- 8 May 93 HIV/AIDS Public Forum, Sydney

- 18 May 93 Catholic Education Office Inter - Diocesan Conference, Sydney
- 19 May 93 Australian Association of Special Education dinner meeting, Melbourne
- 27 May 93 Community consultation on the DDA, Launceston
- 28 May 93 Community consultation, Hobart
- 29 May 93 Girl Guides Association, Melbourne
- 3 Jun 93 Council for Equal Opportunity in Employment forum, Sydney
- 5 Jun 93 *Working together, now and future: implications of the DDA for Deaf people*: Deaf Society of NSW State Conference, Sydney
- 12 Jun 93 *The DDA and visually impaired people*, National Federation of Blind Citizens of Australia National Conference, Canberra
- 16 Jun 93 Community consultation on the DDA, Darwin
- 21 Jun 93 Victoria Council of Social Service forum, Melbourne
- 23 Jun 93 *Ensuring a DiscriminationFree Human Services Environment*, Annual Public Lecture, Griffith University, Brisbane
- 25 Jun 93 Royal Children's Hospital, Australian Early Intervention Association Annual Conference, Melbourne

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**RACE
DISCRIMINATION**

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**RACE
DISCRIMINATION
COMMISSIONER**

Irene Moss, an arts and law graduate from Sydney and Harvard, was appointed as the first Race Discrimination Commissioner in December 1986 for a seven-year term. On behalf of the Commission, Ms Moss exercises certain statutory powers of inquiry, conciliation and settlement of racial discrimination complaints.

Her commitment to anti-discrimination strategies and social justice issues was evident before her appointment as Race Discrimination Commissioner, during her years with the NSW Anti-Discrimination Board where she was involved with a number of landmark legal cases in support of human rights.

As part of her wide multicultural interests, Ms Moss is a director of the Board of the Special Broadcasting Service (SBS) and a member of the management committee of the Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS).

**Statement
from
Race
Discrimination
Commissioner**

The last financial year has been one of consolidation: of building solid and lasting structures upon the new grounds gained previously.

The heightened awareness of systemic racism towards Aboriginal and Torres Strait Islander peoples following the publication of the report of the National Inquiry into Racist Violence and the report of the Royal Commission into Aboriginal Deaths in Custody has paved the way for some reform measures. The Federal Government has funded a new Aboriginal and Torres Strait Islander Social Justice Unit within the Commission, headed by a newly-appointed Commissioner. I welcome Commissioner Mick Dodson as a colleague and look forward to cooperative arrangements with him and his Unit whereby we can

most efficiently serve the interests of Aboriginal and Torres Strait Islander communities in redressing abuses of human rights.

The rights of indigenous people are currently under particular consideration, as 1993 is the International Year of the World's Indigenous Peoples. In Australia, the landmark High Court decision in the case brought by Eddie Mabo and others on behalf of the Meriam People has focussed attention on the rights of indigenous people to their land. There are many important implications of the Mabo case, decisions that need to be made after thoughtful and considered debate. Unfortunately, there have already been instances of the debate being shifted from the real issues to an emotional plane where the accusations and counter-accusations make it difficult to focus on an acceptable outcome. The Mabo case is an important milestone in Australia's history and I appeal for a rational and germane consideration of its consequences.

Another challenge to Australian society is the changing face of the population. At the celebration of Federation's centenary, Australia will be a very different society to the monolingual, Anglo-Australian outpost of the Empire which welcomed Federation in 1901. The Australian people facing the new century will be a culturally diverse group drawn from 150 different cultural backgrounds. There will be many more links with countries in the Asian-Pacific region.

Australia has been very advanced in its formal acceptance of multiculturalism and in offering legislative protection to minority groups. The real test is in seeing whether the practical and social acceptance of different groups of people matches the rhetoric.

An opportunity to examine global efforts in combating racism was presented in April 1993 at an international meeting which I co-hosted in conjunction with the United Nations Centre for Human Rights. Although the national institutions and legislative measures dedicated to the protection of human rights in Australia were considered praiseworthy, the overall picture - particularly the difficulties faced by indigenous peoples here and elsewhere - showed that much still needed to be done.

Two major studies focussing on human rights issues and indigenous communities are drawing to a close within the Race Discrimination Unit. The first concerns the distribution of alcohol in the Northern Territory and whether limitations on distribution could contravene domestic or international human rights instruments. The original Inquiry and subsequent consultations have been extensively reviewed and the report will be

released early in the new financial year. The second study is a practical one involving the application of appropriate technology to the problem of accessing clean water in remote communities. The project's commitment to 'grass-roots' community involvement and Aboriginal or Torres Strait Islander 'ownership' of every phase of the study has made it a tangible analogy for self-determination, and possibly a model for future projects with indigenous communities. This report, too, will soon be released.

The investigation of conditions on Mornington Island, brought to my attention by a petition from a number of Aboriginal residents, was completed this year. It also made a number of recommendations for change, especially within State Government departments, and I have made a commitment to the Mornington Island community that I will return next year to assess any changes.

Another community whose entrenched disadvantages were reported on this year was the South Sea Islander community, those descendants of the indentured labourers brought to the Queensland sugar plantations in the mid-to-late 19th century. The report entitled **The Call for Recognition** was tabled in Federal Parliament in May. The Commission looks forward to the Government's response.

One of the major tasks undertaken this year was the preparation of the **State of the Nation Report regarding People of Non-English Speaking Background**. When the Federal Government requested such a report, it was a further acknowledgment of the fact that there may be areas of disadvantage suffered by people of non-English speaking background simply on account of their cultural, linguistic or ethnic differences to Anglo-Australians. The Government has previously commissioned reports from a variety of sources on particular groups of immigrants or issues of concern within a multicultural context, but this is the first time that it has requested such a sweeping overview of this substantial section of Australia's population. It was a timely request, given that depressed economic activity and major industry restructuring have contributed towards significant unemployment across Australia, in which some groups of people of non-English speaking background may be over-represented. This situation can provide fertile ground for discrimination.

The current year has not been a good one around the world for racial tolerance. This grim fact, so omnipresent on our television screens, reminds us of the need to actively promote racial harmony even in such a comparatively peaceful setting as Australia. Situations can change, and tolerance can turn to

intolerance under certain conditions. It is imperative that groups of people, especially those who are visibly different, do not become disempowered or disenfranchised, or otherwise put at risk. The resources currently being channelled by the Australian Government to redress obvious imbalances in society should never be seen as a drain on the public purse, but rather as an investment in a secure and peaceful future.

**ABORIGINAL
AND
TORRES
STRAIT
ISLANDER
ISSUES**

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

This Inquiry was initiated by the Commission in August 1990 to ascertain the nature and extent of alcohol distribution in the Northern Territory, 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.

Since its inception, this Inquiry has involved extensive consultations with Aboriginal communities, field trips, a substantial literature review, submissions from interested parties and expert opinions. Its timeframe was extended from the anticipated finishing date in December 1992 in order to include a further review of the material. The final report will go beyond the Inquiry's frame of reference inasmuch as it will also consider strategies to address alcohol abuse in the community and for greater community participation by Aboriginal communities in the decision-making process. A report is in its final stages and will be released early in the 1993/94 financial year.

Mornington Island Report

This Report came about as a result of representation from Aboriginal community groups resident on Mornington Island in the Gulf of Carpentaria. This representation took the form of a petition signed by 163 Aboriginal residents, which reached the Race Discrimination Commissioner in November 1990, and a number of letters from individuals.

Although the petition called for the investigation of a specific incident involving police-Aboriginal relations, the report had to broaden to include a range of social issues (such as drunkenness, juvenile justice and lack of employment options) which had an indirect bearing on the incident. The Race Discrimination Commissioner and/or her staff made three separate visits to the Island over a period of eighteen months and intend to make a follow-up visit in late 1993.

This report, entitled *Mornington*, was released to the Mornington Island community and to relevant State and Federal Government Departments in late April 1993.

Remote Communities' Water Supply Project

This research project into the supply of clean water to remote Aboriginal and Torres Strait Islander communities was initiated by the Race Discrimination Commissioner as part of her commitment to offer practical assistance to those communities whose disadvantages were so clearly delineated in the *Report of the National Inquiry into Racist Violence*.

The aim of this project was to determine how cost-effective, efficient and appropriate technology can be used by remote communities to gain access to an adequate, reliable and safe water supply. Every stage of the project has been canvassed with the ten communities involved, in keeping with the Commission's respect for Aboriginal and Torres Strait Islander self-determination.

The report will be finished during this calendar year, and apart from its technical outcomes, should also provide a model for a community consultative process.

South Sea Islander Report

In August 1991, the then Attorney-General, the Hon Michael Duffy MP, requested a report on the situation of Australian South Sea Islanders, the descendants of those brought to Australia in the latter half of the 19th century as indentured labour for the Queensland sugar plantations.

A consultant was commissioned to work extensively with the South Sea Islander communities, locating and counting the community groups and then preparing, distributing and analysing a census. A discussion paper based on the census data was circulated amongst the South Sea Islander community for comment before the final report was written.

The Attorney-General, Michael Lavarch MP, tabled the final report, entitled *The Call for Recognition*, on 6 May 1993. The recommendations called for the Government to acknowledge the Australian South Sea Islanders as a unique minority group severely disadvantaged as a consequence of racial discrimination, and suggested the need for special programs. The Commission, and the South Sea Islander community in particular, is currently awaiting the Government response to the report.

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

One of the Government's responses to the National Inquiry into Racist Violence and the Royal Commission was to appoint an Aboriginal and Torres Strait Islander Social Justice Commissioner to HREOC to produce an annual State of the Nation Report on the situation of Aborigines and Torres Strait Islanders. A similar report relating to the human rights status of people of non-English speaking background (NESB) has been requested from the Race Discrimination Commissioner. Separate funding was provided by the Attorney-General to enable HREOC to maintain a full-time officer whose specific role is to service this Report as an annual publication.

One of the tasks of the first NESB State of the Nation Report is to investigate any major areas of disadvantage facing a significant proportion of the Australian population, simply because they are of non-English speaking background. Five target groups which together cover all Australians of non-English speaking background have been selected:

- post-war immigrants (predominantly European)
- post-1976 immigrants (predominantly non-European)
- refugees and asylum-seekers
- women of non-English speaking background
- young people of non-English speaking background (including Australian-born).

Within each target group, discussion concentrates on two or three major areas of disadvantage, which can be argued as relevant to the full enjoyment of human rights, which are not experienced by Anglo-Australians as a whole.

The proposed 'State of the Nation' Report has been warmly welcomed by ethnic communities who are providing substantial information for inclusion. This process has increased the level and frequency of interaction between the Race Discrimination Commissioner's office and ethnic communities across Australia. The first NESB State of the Nation Report will be presented to the Attorney-General for tabling later in 1993.

Community Outreach

The Race Discrimination Unit undertook an outreach project with the aim of providing human rights and anti-discrimination information to two communities who were named in the National Inquiry into Racist Violence Report as suffering particular disadvantages. These were the Arabic-speaking communities (embracing a range of nationalities from North African and Middle Eastern countries) and the Muslim community, also embracing considerable ethnic diversity. Community opinions were sought before any projects were decided.

For the first group, an information campaign was conducted in five Arabic dialects using the medium of radio on community and public radio stations across Australia. Real-life experiences were recounted to illustrate circumstances which may be covered by legislation relating to human rights, racial or sex discrimination, and sexual harassment. Communities were advised how to find out about their rights.

For the Muslim community, the Race Discrimination Commissioner (acting on community advice) concentrated initially on Muslim women. To this end, she helped fund the first National Muslim Women's Conference and was the keynote speaker.

Media Reporting on Issues of Race and Ethnicity

One of the major problems aired during the National Inquiry into Racist Violence was the poor or inaccurate reporting of issues concerning Aboriginal or Torres Strait Islander peoples or those from ethnic communities. Submissions to the Inquiry indicated that media reporting often contributed to the stereotyping and vilifying of minority groups.

To address this issue, the Commission (amongst others) offered funding and resources to the Centre for Independent Journalism at the University of Technology, Sydney. It produced a handbook designed for journalists in all sections of the media, outlining sensitive and culturally appropriate ways of approaching, describing and reporting on Aboriginal and Torres Strait Islander communities or those of people of non-English speaking background. The handbook was launched during National Aborigines' Week.

Retrenched Workers' Rights Project

The aim of this project was to provide recommendations about the design, development and delivery of labour market programs and labour adjustment measures, based on an assessment of the appropriateness and accessibility of programs offered to retrenched workers of non-English speaking background. The project was carried out by the Ethnic Affairs Commission of NSW with funding from HREOC.

A report of the project was released by the Ethnic Affairs Commission in February 1993. It contained a number of recommendations directed principally towards Federal and State departments of employment and training.

COMMUNITY RELATIONS STRATEGY

The Community Relations Strategy (CRS) was designed to promote tolerance of, and respect for, cultural diversity within Australia. Its objectives included the reduction of systemic as well as direct discrimination against people of different race, ethnicity, religion, culture or language. The carriage of this campaign was shared by the Office of Multicultural Affairs, the Aboriginal and Torres Strait Islander Commission, the Office of Local Government, and the Human Rights and Equal Opportunity Commission.

The Commission established a Community Relations Strategy (CRS) Unit in January 1991 to carry out the seven projects detailed below. The CRS Unit was wound up in December 1992, and the Commission's Community Education and Promotion Unit will be finalising these projects.

Different Colours, One People

This anti-racism campaign directed specifically at young people has been widely acclaimed for its lively and effective style. Advocates - 'stars' of the music, television or sporting worlds, admired by young people - were recruited to provide role models in action and words to actively combat racism. Youth-oriented media and materials (T-shirts, stickers etc) helped to carry the message.

Feedback from youth groups and ethnic communities alike has prompted the Race Discrimination Commissioner to continue this campaign in 1993/94 and possibly beyond.

Real Estate Code of Practice

This project aimed to develop a national code of practice for real estate agents and landlords to reduce discrimination in the private rental market.

A draft code of practice was developed by the Commission and taken up, after negotiation, by the Real Estate Institute of Australia as the basis for its national guidelines. These were launched in November 1992 and have been endorsed and

adopted by all State members of the Institute as guidelines binding on their members.

Tracking Your Rights

This is an information resource package designed specifically for community workers in Aboriginal and Torres Strait Islander communities, to enable them to give advice on strategies for resolving human rights problems at a local level. The resource package deals with a number of topics, but consistently uses a problem-solving approach.

Unlocking the System

Another community information resource package similar to the one above, but designed specifically for use with people of non-English speaking background. A problem-solving approach is applied to a series of commonly-experienced situations to empower the client in 'knowing how the system works'.

Workplace Project

This program - a continuation of an earlier Race Discrimination Unit project on Racism in the Workplace - provided training and information on managing cultural diversity in a variety of workplaces, both public and private sector. The Commission worked closely with the trade union movement and with private companies to demonstrate to employers the advantages to be gained from effectively managing a culturally diverse work-force, both in terms of compliance with anti-discrimination legislation and in terms of improved industrial relations and productivity.

During the last stage of the project, a training package was trialled and refined. The final result will be a 'user-friendly' training module designed to assist workplaces in operating more harmoniously, efficiently and fairly with a culturally diverse work-force. The package containing a video, training manual and project report, will be launched early in the new financial year and marketed with trainer-familiarisation sessions.

Data Collection on Racist Motivation for Crimes

Police cooperation in two States was obtained for this project, which attempted to establish uniform national procedures for the collection, analysis and reporting of statistics on racist violence, intimidation and harassment.

It was anticipated that in addition to developing a data model, the application of the data into police intelligence systems would sensitise police to the issues pertaining to 'hate crimes' and assist them in the development of preventative community policing strategies. Discussions with state agencies and the Commonwealth Ombudsman have indicated a number of areas in which the data model could be further developed and provide input to other programs. The report will be available for distribution after feedback from the relevant State Police Ministers has been received.

Training Package for Counsellors

This project involved the development of a training package to assist those who work with victims of racist violence.

The counsellors targeted are those who see victims of racist violence: the 'front-line' people like Migrant Resource Centre staff, ESL teachers, police or hospital workers who may be the first point of contact for victims, and the professional counsellors who need to appreciate the emotional and cultural issues in order to be able to provide an effective counselling service.

The package which includes a half-day workshop for the front-line counsellors and a two day one for the professionals has been trialled in Sydney and will be launched in August 1993

**UNITED
NATIONS
CONFERENCE
ON THE ROLE
OF NATIONAL
INSTITUTIONS
IN
COMBATING
RACISM**

The Race Discrimination Commissioner was approached by the UN Centre for Human Rights at the end of 1992 with the proposition to co-host an important international conference, which was to be one of the lead-up events to the World Conference on Human Rights, scheduled to take place in Vienna in June.

The conference took place in Sydney from 19 to 23 April 1993, with representatives of thirteen national institutions, twenty-two member states, a dozen non-government organisations (NGOS) with ECOSOC status, and a bevy of local NGOs whose interests embraced human rights, indigenous peoples, ethnic communities, or academic studies. The keynote speakers made significant contributions to the general store of knowledge about racism, strategies to combat racism, and the survival of indigenous peoples.

The Commissioner intends to publish a monograph encompassing concepts of racism and multiculturalism in present day Australia and the role of HREOC in combating racism, as reported by various speakers at the Conference, and including the four keynote speeches. This should prove to be a valuable resource in the literature.

LEGISLATIVE REVIEW

The proposed Federal Racial Vilification legislation was widely discussed during the last financial year. A draft Bill was circulated by the Attorney-General's Department at the end of 1992, followed by a series of community consultations with officers from that department to canvass a broad range of views. The Commission has submitted its views on the Draft Bill to the Attorney-General and awaits the passing of the legislation.

COMPLAINT INVESTIGATION

RESOLUTION AND INQUIRIES

Table 8 shows that 370 complaints were accepted as within the jurisdiction of the Racial Discrimination Act during the year.

While employment-related complaints constituted the largest percentage (55.4%) of matters dealt with under the Act, there were also a significant number of complaints relating to the provision of goods and services, with 126 being received, representing 34.1% of complaints overall.

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

Table 9 shows the available information indicating the ethnicity of complainants. The number of complaints from Aboriginal and Torres Strait Islander people represents 22.4% of the total number of complaints received. 61.6% of complaints were lodged by complainants from non English speaking backgrounds.

As has been the case in previous years, men were more likely than women to lodge complaints under the Racial Discrimination Act. Of the 370 complaints received under the Act, 222 (or 60%) were from men and 140 (or 38%) were from women, with the remainder being lodged by organisations.

The majority of RDA complaints are made against respondents from the private sector. Table 10 indicates that 238 or 64.3% of complaints are against non government and private organisations.

Table 11 provides a breakdown of the outcomes of complaints finalised during 1992/93. 115 or 39% of complaints were resolved through conciliation and a similar number (116) were discontinued because the complainant withdrew or lost contact with the Commission.

21 complaints (7%) were referred to the Commission for a formal inquiry.

Case studies

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

Case study 1: RDA Racial Harassment

The complainant, an Indian/Muslim woman, was employed by the respondent company as a process worker. The woman alleges that her supervisor used sexist language and sexual innuendo when speaking to her, stroked her hair and touched her body against her wishes.

The woman complained to management who allegedly blamed her race and religion for making her "over sensitive" and urged her to change. She complained to her union but this action further alienated management and her employment was terminated due to poor work performance.

The respondent company had difficulty refuting the allegations because the employees allegedly involved had left the company. The complaint was settled for a payment of \$10,000 and a reference.

Case study 2: RDA Racial harassment

The complainant was a male Fijian who alleges he was experiencing racial discrimination at work. His co-workers continually made jokes about, and reference to, the colour of his dark skin. He complained to management, but felt that he was victimised

when he was assigned menial tasks which were regarded as the least popular jobs amongst the employees in the area.

Contact was made with the respondent company and the matter was resolved internally to the complainant's satisfaction. The company agreed to post a notice about racial harassment where all staff would be able to see it.

Case study 3: RDA Employment

A woman was employed by the Personnel Section of a large organisation. She wrote to the Commission alleging that she was discriminated against in employment on the ground of race.

The woman alleged that she was treated less favourably than other employees in the Personnel Section of the organisation because she is an Aboriginal person. Following investigation of her complaint, which revealed there was substance to the allegations, a conciliation conference was held.

At the conference the respondent agreed to pay the woman \$6,500 to settle her complaint. The woman also requested that her two supervisors, who were primarily responsible for the derogatory remarks and behaviour, be given cultural awareness training. This was agreed to and in fact commenced.

Additionally, action had already been taken against those two supervisors. Both had received counselling regarding their work performance and further training in communication and management.

Case study 4: RDA Race/ethnic origin

A man complained that he had been denied membership of a soccer club on the ground that he was not a member of a particular ethnic group.

The club provided a copy of its Constitution and denied that anyone could be excluded from membership on the basis of ethnic origin. The club was able to show that its office bearers came from a variety of ethnic backgrounds.

The complainant accepted the club's assurance that no person would be excluded on the basis of their ethnic background.

Case study 5: RDA Overseas qualifications

An overseas - qualified professional complained that the requirements for professional accreditation discriminated against her on the ground of national origin. The complainant, with 10 years professional experience in her country of origin, had twice failed

the relevant examination and had been excluded from further attempts. This meant that she was excluded from membership of the professional association and therefore unable to practice.

The complainant alleged that the examination operated unfairly to restrict entry to the profession, discriminated against those from non English speaking backgrounds, and that the failure to provide bridging courses to assist those with foreign qualifications was also discriminatory.

At the conciliation conference, a member of the professional association provided detailed feedback on the complainant's examination performance and a suggested remedial training program. It was agreed that, if this program of professional study was successfully completed, the association would give sympathetic consideration to allowing the complainant a third attempt at the examination.

Case study 6: RDA - Ethnicity

A woman wrote to the Commission because her aunt had died during an attempt to obtain admission to a large public hospital. She alleged her aunt could not speak English and doctors and staff had made no attempt to communicate with her by use of an interpreter service. She alleged that had they done so, a correct diagnosis could have been made and emergency surgery could have been performed.

The Commission advised the niece that other legal action may be appropriate in these circumstances. She stated that she sought action only under the Racial Discrimination Act so as to prevent the hospital from continuing to neglect its non English speaking patients by failing to provide adequate medical and hospital services.

Investigation of the complaint subsequently established that the facts were as described by the complainant. The aunt had arrived in Casualty by ambulance one night where she remained for nine hours without proper treatment. Finally on the arrival of the niece at dawn the next day, doctors discovered that she had required emergency surgery. By this time it was too late to operate. The aunt died later that day.

The hospital cooperated with the conciliation processes and stated its embarrassment by the case. It believed the doctors and staff had failed to act in accordance with hospital policy. However the complainant argued the hospital was notorious for neglecting non English speaking persons who sought treatment.

In a conciliation conference the hospital agreed to pay compensation to the niece, it apologised for the harm it had caused and agreed to amend hospital and medical services and training to improve conditions for non English speaking persons.

Case study 7: RDA - Provision of goods and services

The complainants, all of non English speaking background, alleged that they were discriminated against on the ground of their race in that they were refused entry to a new disco. They all alleged that on 3 separate occasions they were waiting in queue to go into the disco when they were refused entry. The reasons given to them in all cases related to their style of dress. The complainants however held the view that they were appropriately dressed and that people from Anglo-Celtic backgrounds were given more favourable treatment, even though they were comparably dressed.

The respondent stated that they found it difficult to answer the allegations because of the large number of people that they turn away. They stated however that at no stage has race (or any other discriminatory reason) been a ground for refusal. They were most concerned about the allegations, particularly because they were a new establishment. They stated that at no stage in their many years of business in the hotel industry had they ever had a complaint of discrimination.

They put forward a resolution proposal to all 3 complainants which included the following:

- (i) a letter of apology
- (ii) the mobile telephone number of their main security manager in the event that anything similar occurred again - he is available at night and can mediate disputes
- (iii) a card entitling them to honorary membership of the hotel industry - this gives them discount at certain venues and discount on drinks etc
- (iv) an agreement that they and the security firm who they engage would undertake a consultation with the Commission.

All 3 complainants agreed to consider the matter finalised. Only one of the complainants accepted the card for honorary membership, but all other aspects were agreed to.

Case study 8: RDA - Goods and services

The female complainant identifies herself as Aboriginal. She approached a Commonwealth Agency to ascertain her rights and eligibilities for various course inclusion. The complainant alleged she was left waiting for considerable time and that eventually on being seen by an officer she was informed she would find it difficult to get employment in areas other than predominantly Aboriginal places. She further stated she felt humiliated and treated as a statistic, not a person.

The respondent acknowledged the sequence of events could have led the complainant to believe she had not been treated the same as a person of non-Aboriginal descent. The respondent convened a meeting at the complainant's country town to allow her to outline her feelings to the staff involved. A senior staff member from the Central area also attended as a facilitator. The complainant accepted a written apology and letter of introduction for her future inquiries at the Local Area Office. The complainant was extremely satisfied with the outcome.

REFERRALS

Surti -v- State of Queensland

The complainant claimed that during the course of his employment within the Queensland Public Service from 1978 to 1987 he had been subjected to continuing racial discrimination in the form of racial abuse and adverse employment decisions. In particular, he alleged that he was denied a salary raise, clerical assistance and equivalent conditions of work, and that he was effectively demoted and given menial tasks on account of his race. He also claimed that as a result of this treatment he became severely depressed and was forced to retire.

The respondent admitted that the work environment was one in which banter with reference to ethnic origins was commonplace, but denied that such banter was of a racist character. The respondent also denied that the employment decisions were racially based, claiming instead that they were as a result of structural changes within the workplace and the competence of the complainant.

The Inquiry was conducted by Commissioner Bryce AO, who heard from over thirty witnesses. After hearing all the evidence, the Commissioner was not satisfied that the complainant had been the subject of discrimination on account of his race and dismissed his complaint.

Nevertheless, in her Reasons for Decision, the Commissioner pointed out the dangers of condoning an environment where racial references are constantly made, as what some may find harmless and humorous, others may find insulting and hurtful, yet feel inhibited about raising their concerns.

Zollschan -v- Deakin University

Dr Zollschan had been an academic at the Deakin University in Victoria since 1979. In 1990 he complained to the Commission that he had, since the early 1980s, been denied opportunities for promotion due to his ethnic origin. Dr Zollschan is a Jewish academic originally from Vienna. He claimed to be the only academic in the University suffering from an anomalous ranking - between 1979 and 1981 he had held a position with the rank, Head of School, but at the time of lodgement of the complaint, his ranking was two levels below. Dr Zollschan alleged that an academic review committee established by the University failed to rectify the situation, despite its obligations.

After considering a large amount of documentary evidence and listening to the oral evidence and submissions presented to the Inquiry, Commissioner Nettlefold dismissed the complaint on the basis that the evidence did not disclose unlawful conduct under the Act.

Coffey -v- Brewarrina Sub-branch RSL Club Limited

The complainant, an Aboriginal person, alleged that she had been excluded from membership of the respondent club on the basis of her race. Her application for membership had been considered by a committee and then voted upon anonymously, without the requisite number of votes in favour of membership being cast.

On the day set down for the Inquiry, and before the hearing commenced, the parties reached a settlement.

EDUCATION AND PROMOTION

Poster and Pamphlet

National Aborigines' Week saw the launch of a pamphlet and poster designed by and for Aborigines and Torres Strait Islanders to explain how the Racial Discrimination Act can help them. The theme of both publications was 'You Don't Have to Put Up with Racism!' The launch was one of a series of events sponsored by the Redfern Aboriginal Corporation.

Publications

A Poster and Pamphlet *You Don't Have To Put Up With Racism* for Aboriginal and Torres Strait Islander People was launched in September 1992. They were distributed to Aboriginal Communities throughout Australia.

Promotion

United Nations Seminar on the Role of National Institutions in Combating Racism hosted by the Race Discrimination Commissioner was held in Sydney in April 1993. Over 150 participants attended the Seminar, representing some 35 countries.

Training

Diversity Makes Good Business- A Small Business Management Training Strategy for a Multicultural Workplace.

A video for small business managers "Diversity Makes Good Business Sense" has been produced. The video presents scenarios which show the positive impact of employing people from culturally diverse backgrounds. The video together with training material is to be distributed through small business organisations, community and service clubs and through trade and industry group publications.

Diversity Makes Good Business - Managing a Multicultural Workplace

The training package has been piloted in five work-sites in Sydney and Melbourne by the University of Technology as part of the Community Relations Strategy. The aim of the pilots was to demonstrate to employers the advantages to be gained from

effectively managing culturally diverse work-forces both in terms of compliance with anti-discrimination legislation and in terms of improved industrial relations and productivity.

The report of these pilots will be included in the Training Package together with a video and training notes. This package should be available in August 1993.

Community Relations Strategy

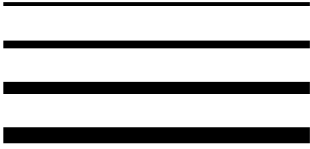
The very successful anti-racist campaign which was aimed at young people *Different Colours One People* is to be continued in 1993. Different Colours One People week will be held from 23 to 29 August 1993.

**RACE
DISCRIMINATION
COMMISSIONER'S
MAJOR
SPEAKING
ENGAGEMENTS**

- 12 Jul 92 Launch of *Different Colours, One People* campaign, Sydney
- 21 Jul 92 *Race Relations*, EARC Human Rights Seminar, Brisbane
- 27 Jul 92 Address to the Committee of Arab Australians at a launch of *The Gulf in Australia* (by proxy)
- 28 Jul 92 Keynote speech to the Ethnic Communities Council Seminar for Law Week on the law and people of non-English speaking background
- 29 Jul 92 Launch of a Resource Kit on Domestic Violence and Women of non-English-speaking background at CASA House in Melbourne
- 31 Jul 92 Launch of Strategic Plan about Needs of Youth of non-English speaking background in Blacktown/Parramatta area
- 1 Aug 92 Address to workshop for Gays and Lesbians Against Racism
- 10 Aug 92 Launch of Policy Paper for the Australian Institute of Interpreters and Translators in Melbourne
- 11 Aug 92 Launch of *Different Colours, One People Tikek* in Melbourne
- 14 Aug 92 Address at *Different Colours, One People Week* seminar at Canterbury
- 21 Aug 92 Vote of thanks to Pat O'Shane at the Mitchell Oration, Adelaide

- 29 Aug 92 Keynote address to Social Justice Conference, Queensland Department of Education in Townsville
- 10 Sep 92 Launch of *Face to Face* Exhibition (Young People and Racism), Liverpool
- 22 Sep 92 National NIC Conference, Opening address on Racial Intolerance, Canberra
- 9 Oct 92 Keynote address, First National Muslim Women's Conference
- 28 Oct 92 *Australia. An Identity Crisis?*, speech delivered to Freedom and Independence Conference, ANU, Canberra
- 13 Nov 92 Session chair at BIR Conference, Sydney
- 18 Nov 92 *Multiculturalism and the Media*, keynote speech at OMA/SAEAC Seminar, Adelaide
- 19 Nov 92 Arabic-speaking communities' radio project launch, Sydney
- 26 Nov 92 Keynote Speech, ADEC Conference, Melbourne
- 1 Dec 92 CRS Launch, *Unlocking the System*, Melbourne
- 2 Dec 92 Launch of *Child's Dreaming* by Kevin Gilbert, Canberra
- 5 Dec 92 Keynote address, FECCA Congress, Canberra
- 10 Dec 92 HR Day Presentation of Scroll, Sydney
- 11 Dec 92 Chair AGM, Canterbury-Bankstown MRC, Campsie
- 14 Dec 92 End of Year Presentations, Wiley Park Girls High
- 23 Jan 93 Opening of Multicultural Video Festival, Carnivale, Sydney
- 13 Feb 93 Anti-racism rally, Adelaide
- 19 Feb 93 Speech about Older immigrants, COTA Conference, Sydney (by proxy)
- 7 Mar 93 Citizenship ceremony, Powerhouse Museum, Sydney

- 27 Mar 93 Keynote address at Asian Women's Forum, South Australia: *Barriers to economic participation facing Asian women*
- 2 Apr 93 Breakfast Speech at TAFE Conference: *The effect of Award Restructuring on People facing Cultural and Linguistic Barriers*
- 19 Apr 93 Opening address, UN Racism Meeting: *The Role of the International Community in Combating Racism*
- 21 May 93 Police Authority, Police Responsiveness and the Rights of Individual, panel session: *What is the Right Balance*
- 25 May 93 Keynote speech, Action for Children, Adelaide
- 26 May 93 *Cultural Diversity*, Cobham Juvenile Justice Centre, Sydney (by proxy)
- 27 May 93 Royal North Shore Hospital and Community Health Services: *Combating racism in young people*, Sydney
- 31 May 93 Communication Law Centre: *Racial Vilification*, Sydney



**ABORIGINAL
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JUSTICE**

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**ABORIGINAL
AND
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SOCIAL
JUSTICE
COMMISSIONER**

Mick Dodson is Australia's first Aboriginal and Torres Strait Islander Social Justice Commissioner appointed under the provisions of the Human Rights and Equal Opportunity Legislation Amendment Act (No 2) 1992. The Federal Government's funding of this position is a result of the findings of the Royal Commission into Aboriginal Deaths in Custody and the National Inquiry into Racist Violence. Commissioner Dodson was most recently Director of the Northern Land Council and has been a prominent advocate on land rights and other issues affecting Aboriginal and Torres Strait Islander people.

Born in the Northern Territory township of Katherine, Commissioner Dodson was educated in Katherine, Darwin and Victoria. He completed a Bachelor of Jurisprudence and a Bachelor of Laws at Monash University. He worked with the Victorian Aboriginal Legal Service from 1979 to 1981, when he became a barrister at the Victorian Bar. He joined the Northern Land Council as Senior Legal Adviser in 1984 and became Director of the Council in 1990.

From August 1988 to October 1990 Commissioner Dodson was Counsel assisting the Royal Commission into Aboriginal Deaths in Custody. He has been a member of the Victorian Equal Opportunity Advisory Council, Treasurer of the North Australian Legal Aid Service and a member of the Australian Institute of Aboriginal and Torres Strait Islander Studies.

In recent years Commissioner Dodson has been extensively involved in the Working Group on Indigenous Populations which meets yearly in Geneva and is preparing a Draft Declaration on

the Rights of Indigenous Populations, as well as pursuing the human rights concerns of indigenous peoples internationally.

Commissioner Dodson took up his appointment as the first Aboriginal and Torres Strait Islander Social Justice Commissioner on 26 April 1993.

**Statement
from
Aboriginal
and
Torres
Strait
Islander
Social
Justice
Commissioner**

This last year has marked a very significant time in terms of furthering the recognition of human rights of Aboriginal and Torres Strait Islander people in Australia. The beginning of the International Year of the world's Indigenous Peoples, the High Court decision on Native Title, and the establishment of an Aboriginal and Torres Strait Islander Social Justice Commissioner with wide ranging powers to look into the human rights situation of indigenous people in Australia, have opened up possibilities for real structural change and significant advancement for Aboriginal and Torres Strait Islander people throughout Australia.

The Human Rights and Equal Opportunity Commission is the key agency in Australia with the aim of promoting the acceptance and observance of human rights. The appointment of a Commissioner to focus exclusively on the human rights of indigenous peoples in Australia is an overdue and rightful recognition of the urgent need to attend to an area which remains the greatest scar on Australia's human rights record. I am very pleased to have been able to take up the position as the first Aboriginal and Torres Strait Islander Social Justice Commissioner, and to be working as part of the Commission.

My major objective will be to attain social justice in broad and sweeping terms for all Aboriginal and Torres Strait Islander people, and to ensure that structures are put into place which will secure the continued recognition of their human rights in all respects. This is an ambitious aim, and I will be working closely with the other major national bodies, the Council for Aboriginal

Reconciliation and the Aboriginal and Torres Strait Islander Commission to develop a co-ordinated approach. I will also be working in with other Aboriginal and Torres Strait Islander organisations to get input from as wide a base as possible.

In order to meet the range of tasks with which I have been conferred, my Unit is completing a structured review and developing an establishment proposal which will recommend essential staff and resource levels to meet workload requirements comprehensively.

I are now at a point where many of the key issues have been extensively studied and documented. The Royal Commission Into Aboriginal Deaths In Custody comprehensively set out the extent of the problems facing Aboriginal and Torres Strait Islander people, and made wide ranging recommendations for action at a number of levels, and in a number of areas of Federal and State Governments. It is now necessary to ensure the full and appropriate implementation of those recommendations, and that they actually have the effect of achieving the full recognition of the human rights of Aboriginal people. This will be a crucial part of our work.*

In order to do this, I will be working closely with Federal and State Government Departments which have the responsibility for providing services for Aboriginal and Torres Strait Islander people, and ensuring that this takes place in a way which does not breach the proper human rights standards.

One of my first tasks will be to set about informing Aboriginal Torres Strait Islander people what their rights are, and how best to attain them. At a broader level, I will be working closely with the Council for Aboriginal Reconciliation to bring communities together by providing factual information and encouraging a co-operative approach.

My major responsibility for this coming year will be producing an Annual Report - the first of many. With our current resources and the short time available it will not be possible for us to provide a full assessment of the human rights of Aboriginal and Torres Strait Islander people for this first report. Rather it will be largely aspirational in nature, and lay the groundwork for future reports and action.

One specific project which I see as a priority, and will be commencing shortly is the examination of State legislation which may discriminate against Aboriginal and Torres Strait Islander people. This will lead into a wider review of all relevant State

and Federal legislation as it impacts upon Aboriginal and Torres Strait Islander people.

The legislation allows me to have regard to a number of key international human rights instruments, including the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, as well as other instruments which I consider relevant to the human rights of indigenous peoples. This reference to international standards will be an important tool in ensuring that Australia meets its international obligations, and that Aboriginal and Torres Strait Islander people enjoy the human rights which have been established by the international community.

Recognising that indigenous peoples all over the world share common problems as oppressed and disenfranchised peoples seeking recognition of their status as first peoples, I will continue to maintain contact at an international level, both through the Working Group on Indigenous Populations, Indigenous non-Government organisations and other specialist United Nations bodies or agencies.

The work of my Unit is clearly going to be affected by the changes which are taking place in relation to the rights and position of Aboriginal and Torres Strait Islander people in other contexts. During this last year since the High Court decision on Native Title the debate has been particularly intense. Attention must be paid to ensuring that the decision is used to maximise recognition of the human rights of Aboriginal and Torres Strait Islander people, and that it not be permitted to provide an opportunity for further abuse or division between different communities.

Both in Australia and internationally, the importance of the human rights of Indigenous peoples, which have been abused, overlooked or marginalised are at last beginning to receive attention and recognition. It is therefore crucial that a strong commitment and maximum support be given to achieving concrete change while the political will is there, and ensuring that these issues remain at the forefront, not only of Australia's human rights agenda, but of the national agenda full stop.

FUNCTIONS

The first recommendation of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) specifies that the Federal Government, in consultation with the Aboriginal and Torres Strait Islander Commission (ATSIC), agree on a process of regular public reporting on the adoption and implementation of Royal Commission recommendations. The Aboriginal and Torres Strait Islander Social Justice Unit will assist the Commissioner in the processes relevant to the production of the Annual Report.

The major function of the Annual Report is to assess the current human rights status of Aboriginal and Torres Strait Islander people in Australia. It is anticipated that the Report will constitute the central instrument to monitor, both nationally and internationally, Australia's human rights performance in relation to indigenous peoples. The assessment of the enjoyment and exercise of the human rights of Aboriginal and Torres Strait Islander peoples will have regard to the recommendations of the RCIADIC and the international instruments to which Australia is party.

In the process of compiling the Annual Report the Commissioner may:

- consult Aboriginal and Torres Strait Islander people to identify and report on issues of concern
- scrutinise and report on the extent to which the Royal Commission Into Aboriginal Deaths in Custody (RCIADIC) recommendations have been effectively implemented alongside, and independent to, the Aboriginal and Torres Strait Islander Commission (ATSIC)
- promote respect for the human rights of Aboriginal and Torres Strait Islander people through undertaking research and education programs
- examine enactments and proposed enactments to see whether they recognise and protect the human rights of Aboriginal and Torres Strait Islander people, and to report to the Minister the results of any such examination

- be a contact point for handling Aboriginal and Torres Strait Islander issues generally within HREOC, however, the complaint handling function will still remain with the Race Discrimination Commissioner.

In the performance of those functions mentioned the Commissioner will, when appropriate, consult ATSIC and may also consult organisations established by Aboriginal and Torres Strait Islander communities, organisations of indigenous peoples established in other countries, international organisations and agencies, and other organisations, agencies or persons as considered appropriate.

POWERS

The powers of the Commissioner enable him to:

- consider any matters relating to the implementation of Royal Commission recommendations and any other matters relevant to the achievement of Aboriginal and Torres Strait Islander social justice generally
- obtain documents and information from government agencies if there is reason to believe the agency has information or a document relevant to the functions of the Commission

The government agency in response must not give information in a manner that reveals the identity of a particular individual or would reveal such identity unless consent has been given by that person.

If it is possible for the agency to delete from the document those aspects that identify the non-consenting person, the agency must produce a copy with that information deleted.

REPORTING RESPONSIBILITY

The reporting responsibility of the Commissioner revolves around the Annual Report. This document will aim to provide a detailed annual assessment of progress in the implementation of Royal Commission recommendations with a specific focus on

changes in the status of human rights for Aboriginal and Torres Strait Islander Australians. This is an important part of maintaining pressure on governments to address the special measures relating to indigenous human rights and provide adequate and appropriate programs and services.

The Annual Report would be made to the Attorney-General, for tabling in Parliament, then sent to all States and Territories as a public document available to all.

OBJECTIVES AND STRATEGIES

The Annual Report

Initial planning for the contents and structure of the first Annual Report has commenced. As outlined in the legislation the report should involve, where appropriate, consultation with ATSIC and Aboriginal and Torres Strait Islander people and organisations. Accordingly, the Commission has been involved in establishing networks in the community to allow for community input and involvement in the production of the first report. It has also been examining, and has prepared a report on, appropriate consultation and negotiation processes with a view to maximising community involvement in a culturally appropriate manner.

The report is to have regard to the relevant international human rights instruments to which Australia is a party, and accordingly the Unit will be assessing which instruments are relevant.

With respect to the content of the first report, it is anticipated that it will be largely aspirational in nature, rather than constituting a full review and analysis of all relevant areas. However, it will draw attention to the major areas of concern including land, self-determination, education and criminal justice.

Certain areas are seen as particularly important to the exercise and enjoyment of the human rights of Aboriginal and Torres Strait Islander people, and will be emphasised in the report. Land rights and self-determination are considered to be the prerequisites for the fulfilment of all human rights for Aboriginal and Torres Strait Islander people, and accordingly will have a prominent place in the report.

In view of the High Court decision on Native Title, the report will be examining the question of land holding, compensation and Native Title, and the possible implications of the decision for Aboriginal and Torres Strait Islander people.

It is envisaged that the initial drafting will take place in August-September 1993, with a view to tabling the report during the budget session of Federal Parliament.

Indigenous artists will be involved in the design of the report.

National Aboriginal and Islander Legal Field Officer Training

Further to RCIADIC recommendations 106 and 212, the Unit has been involved in extensive consultations with the National Aboriginal and Islanders Legal Services Secretariat (NAILSS) to set up a professional training course for Aboriginal Legal Service Field Officers and para-legal workers in areas of federal and state law, including anti-discrimination, international and customary law. The program will also provide an educational forum for Aboriginal and Torres Strait Islander Legal workers in relation to indigenous human rights issues.

It is the aim of the project that the field officer training may lead to Aboriginal and Torres Strait Islander people obtaining further legal qualifications. Accordingly, participants should receive formal accreditation.

The Commission has been developing recommendations for the structure, content and implementation of the training program. On the basis of discussions to date, HREOC has proposed advertising for a project manager to be based in NAILSS, and appointing a steering committee comprising senior officers from HREOC, NAILSS and the Department of Employment, Education and Training to play an ongoing role in overseeing the development and implementation of the program.

The Unit has been consulting with, and will continue to involve Aboriginal and Torres Strait Islander legal services at all stages of curriculum development and delivery.

Education and Awareness of Anti-Discrimination Legislation for Aboriginal and Torres Strait Islander People

The Commission has begun planning for the development and implementation of programs to inform Aboriginal and Torres Strait Islander people in all States and Territories about their human rights and relevant anti-discrimination legislation. It is

envisaged that this program will take off from the "Tracking Your Rights" project in Queensland which was developed as part of the Community Relations Strategy, and will look to working with communities throughout Australia to produce programs which are specific to the area and the particular needs and concerns of the local communities.

High Court Decision on Native Title

The High Court decision on Native Title is seen by Commissioner Dodson as having broad implications for the human rights of Aboriginal and Torres Strait Islander people, as well as for all Australians. Commissioner Dodson and his staff have been studying the decision and its implications intensively, and have been involved in discussions with representative Aboriginal and Torres Strait Islander organisations.

Commissioner Dodson is taking a leading role in processes with the Federal Government and leaders of industry in representing the reasonable human rights and social justice aspirations and needs of Aboriginal and Torres Strait Islander people following the High Court decision on Native Title.

Commissioner Dodson was nominated by the national group of Aboriginal organisations as one of the major spokespersons for Aboriginal and Torres Strait Islander people to represent their aspirations and interests to Governments.

International Forums and Instruments

In view of the importance of international human rights instruments in the performance of the functions of the Social Justice Commissioner, Commissioner Dodson and the Commission have been studying the international instruments with a view to examining their relevance to the promotion of human rights of indigenous peoples. Commissioner Dodson attended the World Indigenous Summit in Guatemala organised by Rigoberta Menchu, the 1992 Nobel Peace Prize winner. He visited Geneva in July 1993, where he attended the United Nations Working Group on Indigenous Populations and will also be co-chairing the Technical Committee on the International Year of the World's Indigenous Peoples with Rigoberta Menchu.

EDUCATION AND PROMOTION

With a view to informing Aboriginal and Torres Strait Islander people about the Social Justice Commissioner, and involving them in the work of the Commission, as well as promoting awareness of human rights issues in relation to Aboriginal and Torres Strait Islander people in the broader community, the Unit will conduct an extensive community education and promotion campaign.

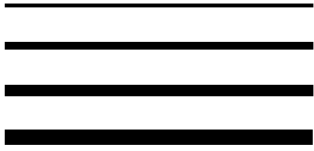
Posters, pamphlets and other publications will be produced to raise awareness of the Unit's functions. The Commission has invited submissions from Aboriginal and Torres Strait Islander artists to design a logo. Aboriginal and Torres Strait Islander media, and community networks will be used extensively to disseminate information, as well as to encourage involvement of Aboriginal and Islander communities in the Commission's work.

Commissioner Dodson has already delivered a number of addresses at major National and international conferences, including the Police, Aboriginal and Torres Strait Islander Peoples' National Conference, and the World Indigenous Summit in Guatemala.

Commissioner Dodson has received numerous invitations to address public forums on human rights issues and indigenous peoples for the coming year.

Publications

A pamphlet *Aboriginal and Torres Strait Islander Social Justice Commissioner and the State of the Nation Report* was produced prior to the appointment of the new Commissioner. This pamphlet is currently being updated.



**SEX
DISCRIMINATION**

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**SEX
DISCRIMINATION
COMMISSIONER**

Susan Walpole took up her appointment as Sex Discrimination Commissioner in February 1993. Ms Walpole has brought to the position an extensive background in employment and industrial relations. Most recently a human resources executive with the Australian Broadcasting Corporation, she has specialised in employment policy and practice, particularly in the development of equal opportunity policies for women, has worked for Government agencies at both a State and Federal level, and was a national official for a major white collar trade union.

Born in Canberra and educated in Australia and the United States, Ms Walpole has a Bachelor of Laws and a Bachelor of Jurisprudence in Industrial Relations from the University of New South Wales. She has studied industrial democracy systems overseas and has just completed a Graduate Diploma in Media Management at Macquarie University.

Ms Walpole began her career in the Industrial Democracy Unit of the South Australian Premier's Department. She spent four years as National Industrial Officer for the Administrative and Clerical Officers' Association, going on to become the Principal Executive Officer for the Women's Bureau in the then Department of Employment and Industrial Relations.

Ms Walpole was Deputy Director of the Affirmative Action Agency before joining the ABC in 1988 as a human resources manager. She was appointed Federal Head of Human Resources for ABC - TV in 1992.

**Statement
from
Sex
Discrimination
Commissioner**

The past financial year has been one of major changes and initiatives in the area of Sex Discrimination. These reflect not only on the ground breaking achievements of my two predecessors, Pamela O'Neil and Quentin Bryce, but also on the natural desire to reflect on what has still to be achieved as the tenth anniversary of the Sex Discrimination Act approaches.

Substantial changes to the Sex Discrimination Act came into effect in January 1993. These changes are a result of three major inquiries completed in 1992:

- The Report of the Inquiry into Equal Opportunity and Equal Status for Women: "Halfway to Equal" conducted by the House of Representatives Standing Committee on Legal and Constitutional Affairs (the Lavarch Report)*
- The Report of the Inquiry into Sex Discrimination and Over-award Payments: "Just Rewards" conducted by the Commission; and*
- The Report of the Review of Permanent Exemptions also conducted by the Commission.*

The changes resulting from these investigations are outlined later in this Report. The introduction of a number of new grounds for complaint and the important removal of various exemptions relating to insurance, superannuation and federal awards and enterprise bargains have set the tone for work over the coming year. In addition, extensive consultations with colleagues, clients and other government and non-government organisations including trade unions and employers, indicate that a fresh look at complaints handling processes and procedures is required to meet these new demands. This review will comprise a major focus for work in the coming year. Apart from the benefits such a review should have for both complainants and respondents, it is also expected that much better information will be available to the Commission regarding sex discrimination that will enable me to take a more proactive role in dealing with major issues.

Since the introduction of enterprise bargaining as a major theme in Australia's industrial relations environment, considerable concern has been expressed by women that they will once again be the losers particularly with respect to equal pay. This concern

has partly been addressed by the Government through the removal of the exemption for awards and bargains from the operation of the Sex Discrimination Act. A major theme of the work to be undertaken in the coming year or more will concern issues related to industrial relations and employment. This reflects not only the changes to the SDA and the recommendations of the Lavarch report, but also the pattern of complaints under the Act. Over 80% of all complaints concern employment.

Specific information and training programs will be developed for, and in conjunction with, trade unions, employers and employer organisations with the aim of encouraging best practice and avoiding discrimination. Some of this work will be done in co-operation with the Affirmative Action Agency. Particular attention needs to be paid to the needs of smaller employers in this area. The success of the recently released Sexual Harassment Training kit indicates that, provided the right tools are made available, organisations are very willing to take steps in accord with the spirit of the legislation and its objects.

An important mechanism in moving towards the objects of the SDA, is working co-operatively with other organisations. A particular focus initially will be to develop a close working relationship with the Department of Employment, Education and Training (DEET). This strategy is also driven by the complaints experience. Many complaints are referred to HREOC by the Commonwealth Employment Service. In addition, Labour Market Programs provide an important point of entry into employment for women and policy in this area needs to be carefully crafted as the Act requires that Commonwealth programs comply with its provisions both in their substance and their delivery. An examination of these issues in the normal process of program evaluation is also being explored as a mechanism of achieving the Act's objects.

Along with the work to be done in co-operation with DEET, the TAFE sector is also seen as critical. Again in co-operation with the Affirmative Action Agency, I hope to develop a range of initiatives from accredited training for EEO practitioners, through to the inclusion of anti-discrimination material in general curricula. This latter aim is particularly important given the changes to the SDA which have extended sexual harassment provisions to students over the age of 16. Guidelines are currently being developed to assist educational bodies meet these new requirements.

Since becoming the third Sex Discrimination Commissioner, it has been a source of great pleasure and excitement for me to

meet a large number of people all around Australia who are committed to achieving the Act's objects. The work and input that has been provided to assist me in developing the strategies described here has been of particular importance. Staff at the Commission and particularly staff in the Sex Discrimination Unit have ensured a smooth transition as well as a brisk "getting down to business" introduction to the important responsibilities of the Sex Discrimination Commissioner. This support from the Commission and from the community will make the next five years a very exciting period.

RESEARCH AND POLICY

Research and policy work during 1992/93 has involved the completion of major projects and inquiries, and planning for the next five years.

Major projects completed by the end of 1992 included the Report on the Review of Permanent Exemptions, the Report on the Inquiry into Sex Discrimination in Over-award Payments, *Just Rewards*, and Guidelines on Women, Sport and the Sex Discrimination Act. In the first half of 1993, a comprehensive Sexual Harassment training package was launched. The guidelines on the Superannuation amendments were completed and launched prior to the publication of this report. Further details are provided below.

Future projects target the new amendments to the Sex Discrimination Act, and have included comprehensive consultations with relevant government and non-government organisations, as well as consultation with regional and state officers from HREOC. Specific projects already formulated concentrate on using the Sex Discrimination Act to tackle structural and systemic discrimination, and raising union awareness of the potential of the Sex Discrimination Act in overcoming wage and employment discrimination. Another project will focus on assisting Commonwealth government departments identify and prevent sex discrimination in the delivery of their Commonwealth programs.

Report of the Inquiry into Sex Discrimination and Over-award Payments, *Just Rewards*

Just Rewards was tabled by the Attorney General in Federal Parliament on 16 December 1992. The Report documents historical, statistical and case study evidence of differences in over-award payments made to men and women workers. In 1991, women, on average, received just over half the over-award payments made to men.

The Report found that a number of factors contribute to the gender disparity in over-awards. The segregation of men and women at work - by industry and, in particular, by occupation, is striking. Occupational segregation generates around a quarter of the total difference between average male and female over-award rates, and industrial segregation contributes around 10% of the total difference. However, industrial and occupational segregation explains only part of the gap - nearly 90% of the gap occurs **within** industries and 76% of the gap occurs **within** the same occupations.

A critical element in the gender disparity in over-awards is the growing segregation of the labour force into full time workers, and part time and casual workers. Full time workers are five times more likely to receive over-awards than part time and casual workers, and the fact that the majority of part time and casual workers are women is a major factor in the much lower average over-awards paid to women.

The Report makes a number of recommendations to improve women's access to over-award payments. It is argued that the Act has the potential to play a much greater role in combating wage discrimination, and that it needs to be used by unions to promote women's right to equal remuneration. The Report recommends that part time and casual workers have equitable access to over-award payments, and that competency based payments rather than those based on seniority should be utilised.

The Report also recommends that pay practices should be "transparent", rather than hidden to avoid discrimination. The need for a link between anti-discrimination law and industrial relations law was recognised, and for monitoring of enterprise agreements.

The Report examines legal precedents in other jurisdictions in the area of wage discrimination. Developments in indirect discrimination law in Europe, which have extended protection to part time workers, are discussed.

The Report was written during a time when the industrial relations system was undergoing rapid change. In response to community fears about the possible impact of a decentralised system on women, the federal government amended the Industrial Relations Act and the Sex Discrimination Act to allow consideration of possible discrimination in federal awards and agreements by the Sex Discrimination Commissioner. Legal approaches to combating sex discrimination suggested in the Report can therefore be used to tackle sex discrimination in new federal awards and enterprise agreements, as well as over-award payments.

Current work which is related to the Report includes the development of a manual on equity in enterprise bargaining and a proposed information pamphlet for unions. The recommendations are under consideration by the National Labour Consultative Committee.

Sports Guidelines

Guidelines on the provisions of the Sex Discrimination Act and Sport were launched by the Minister for Sport on 2 September 1992. The guidelines were developed in co-operation with the Women and Sport Unit of the Australian Sports Commission. The guidelines promote positive measures for sportswomen, organisations and administrators in order to foster a co-operative sports environment, and assist in the prevention of discrimination and disputes.

Superannuation Guidelines

Guidelines for the avoidance of sex discrimination in superannuation were prepared in order to assist the superannuation industry comply with the amended requirements of the Sex Discrimination Act. During the development of the guidelines, extensive consultation with the superannuation industry was undertaken. The Guidelines are now available.

LEGISLATIVE REVIEW

Review of Permanent Exemptions

The Report on the Review of Permanent Exemptions was tabled by the Attorney General on 10 September 1992.

The review concerned the following sections of the Sex Discrimination Act:

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

The report recommended the removal of all exemptions under review because:

- community attitudes have changed since the Act was passed
- exemptions are contrary to the spirit of the Act and the international Convention upon which the Act is based
- sex discrimination legislation, like other human rights legislation should apply equally to all citizens
- the existence of exemptions creates a situation of unequal rights and obligations, where some women (for example, women who work in religious schools) are without the protection of anti-discrimination law, whereas other women (those who work in public education) receive protection.

The review of the exemption on the Social Security Act 1947(40(2)(h) was held over because of its complexity. It will be completed in the context of a broader review under subsections 40(A)(1) and (2) of the Sex Discrimination Act which requires the minister to review this exemption before 1996.

Shortly after the tabling of the Review, the exemption relating to awards and orders of industrial courts and tribunals was narrowed through amendment. New federal awards and workplace agreements may now be referred by the Sex Discrimination Commissioner to the Industrial Relations Commission if she considers they are discriminatory.

This amendment reflected the federal government's recognition that enterprise bargaining, if not carefully monitored, could widen inequality in wages and working conditions. It went part of the way to answering the Report's recommendation that the exemption be removed completely after two years.

The government is currently considering its response to all the recommendations in the Report.

"Half Way to Equal", recommendations of the Report of the Inquiry into Equal Opportunity and Equal Status for Women in Australia concerning the Sex Discrimination Act

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 (the Lavarch Report) made a number of recommendations concerning the operation of the Sex Discrimination Act.

The Prime Minister announced the Government's response to the recommendations on 19 September 1992 at the inaugural forum of the Coalition of Australian Participating Organisations of Women (CAPOW).

The amendments were passed in December 1992, and were effective from 13 January 1993. These amendments substantially strengthen the Sex Discrimination Act in a number of areas, and recognise:

- o that discrimination in the terms and conditions of work are a significant barrier to equality for women. Both the Industrial Relations Act 1988 and the Sex Discrimination Act have been amended to provide a mechanism for complaints to be made by unions and individuals
- o that sexual harassment may not lead to "detriment" in an obvious sense, such as dismissal from employment, but that harm may occur without dismissal or loss of employment opportunities. The amendments remove the requirement of detriment in sexual harassment complaints, and also extend the areas in which sexual harassment is to be

made unlawful to include the provision of goods and services, the provision of accommodation and the delivery of Commonwealth programs

the significance of women's "double burden" of work and family responsibilities, by making dismissal on the grounds of family responsibilities a ground for complaint under the Act, in partial response to the ILO Convention No. 156, "Workers with Family Responsibilities".

Important procedural amendments to the Sex Discrimination Act were also made:

- the process of making representative complaints has been simplified and the Sex Discrimination Act now has the same representative complaints procedure as the Federal Court
- HREOC determinations are now registered in the Federal Court
- A person involved in an action under the Sex Discrimination Act who is victimised by the respondent will be able to lodge a complaint of victimisation under the Sex Discrimination Act, rather than having to rely on the prosecution of a crime of victimisation by the federal police.

Policy work in 1993/94 will concentrate on informing the community of these amendments.

There are a number of outstanding recommendations of the Lavarch report which are still to receive a response from the government. These include the strengthening of the indirect discrimination provisions of the Sex Discrimination Act, the inclusion of all discrimination on the grounds of family responsibilities as ground for complaint under the Act, and the enhancement of the special measures section of the Act.

COMPLAINT INVESTIGATIONS

RESOLUTION AND INQUIRIES

Table 12 shows that 783 complaints within jurisdiction were lodged under the Sex Discrimination Act (SDA) during 1992/93.

Of the 783 complaints received, the largest proportion, 366 (47%) involved allegations of sexual harassment in employment. Complaints of sexual harassment include those lodged on the grounds of sexual harassment or sex and sexual harassment together.

Complaints on the ground of sex constituted the next largest category, with 278 or 35.5% of complaints, an increase of 4% over 1992/93. Complaints on the ground of pregnancy represented 11.4% of all complaints lodged under the SDA.

To date the Commission has received 3 complaints on the ground of family responsibilities.

Table 13 outlines the areas in which complaints under the SDA were lodged. As in previous years, the vast majority of complaints (666 or 85%) were in the area of employment. Access to goods, services, places and facilities represented 7% of all complaints, with 56 complaints received in this area.

The categories of complainants and respondents are set out in Table 14. The majority of complaints under the SDA were 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). Nevertheless, 59 complaints were received from men, a slight decrease on the 63 complaints received from men last year.

Table 15 provides a breakdown of the outcomes of complaints finalised over the past year. 388 or 49% of complaints were successfully concluded through the conciliation process, while 38 (5.5%) were referred for public inquiry and determination by the Commission.

189 matters were discontinued because the complainant either did not respond to the Commission's correspondence or withdrew their complaint.

Case Studies

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

Case study 1: SDA - Pregnancy

The complainant held a senior management position with the respondent company until she took maternity leave. Upon returning to work after the leave, she found that her position had changed to one that was without a career path and did not correspond with her professional ambition or capabilities.

In conciliation the respondents acknowledged that the changes made to the complainant's position while she was on leave could have been handled much better. The respondents also acknowledged that the internal processes used to handle her grievance were not very useful. In order to settle the complaint the respondent company agreed to provide a written apology, provide access to training and study leave and to pay \$10,000 in compensation.

Case study 2: SDA - Pregnancy

A woman was employed as a part-time sales assistant in a hardware retail outlet. She became pregnant, and notified her employer of that fact. Thereafter, she was informed that she could not remain at the work-site beyond the fourth month of her pregnancy. The employer cited "Workcover concerns" and "safety issues" as a rationale for wishing to terminate her employment.

Investigation revealed the accuracy of the woman's allegations.

The matter resolved when, as a consequence of this Commission's intervention, the complainant was permitted to remain at work until (approximately) six weeks prior to her confinement date. She then elected not to pursue the matter further, and the complaint was finalised.

Case study 3: SDA - Pregnancy

A woman employed in a large Government Business Enterprise took twelve months maternity leave, during which a major restructuring of the organisation took place. The area in which she had previously worked was split into two and her position

was abolished. In her absence, newly created positions were advertised and filled. She alleged that while she was on leave, no information about the restructuring had been provided. On her return from leave, with no position, she opted to accept a redundancy package.

After investigation, the organisation accepted that the complainant had not been given due consideration and agreed to pay compensation of \$27,000. They also undertook to revise their policy in relation to maternity leave, to ensure that women on extended leave were informed of relevant organisational developments and given appropriate career counselling.

Case study 4: SDA - Pregnancy

A woman who was employed on a full time, permanent basis as a bar attendant at a Club complained that, after she advised the Club of her pregnancy, her hours were reduced so she was employed part time. Subsequently her hours of work were progressively reduced until her employment was eventually terminated.

The Club claimed that the complainant had agreed to the change in her employment status to part time and alleged that problems with her work, which had been discussed with her, led to the reduced hours and eventual termination. The woman denied that any work performance problems had ever been brought to her attention.

Following a conference, the parties agreed to a settlement involving the payment of approximately \$5,000 compensation for lost earnings and the provision of a written reference.

Case study 5: SDA - Pregnancy

A psychologist was employed in a private rehabilitation service as an assessor and counsellor. She initially worked on a part time basis but as the workload increased she had become a full time employee.

Shortly after becoming pregnant she informed her supervisor, the manager of the rehabilitation service, and it was agreed that she would continue working for a further six months before taking maternity leave.

Over the next couple of months the woman felt that the manager's attitude towards her had become strained and he became much more critical of her performance. Not long after this the

manager advised her that because referrals to the business were down her position was to be terminated immediately and that he would try to arrange some part time work for her following the birth of the baby.

The complaint was conciliated. In addition to normal entitlements the company agreed to make an additional ex gratia payment of \$3,500 to the complainant and to re-employ her on a consultancy basis following the birth of her child.

Case study 6: SDA .Pregnancy

A woman was employed by the respondent company for one month before she discovered that she was pregnant. She alleged that she informed her supervisor and that she applied for maternity leave which was approved, but that the day before she was due to commence her leave, she was informed by the Managing Director that her employment was to be terminated.

The woman complained to the Commission that she was dismissed from her employment because she was pregnant. The complaint was investigated and the key issue was whether or not the complainant's maternity leave was approved. It was clear that an application had been made but the respondent claimed that it had been denied.

The complainant asked to be compensated for the period she would have been available for work prior to the delivery of her baby as well as an amount for the stress of losing her job. At a conference the respondent agreed to pay the complainant the sum of \$6,750 in recognition of the wrong she had suffered.

Case study 7: SDA .Sexual harassment

A woman complained to the Commission that while she was employed by the respondent she was continually harassed by her supervisor. Initially, the harassment was verbal but later became physical when he slapped her buttocks, hugged her, rubbed himself against her, massaged her and attempted to kiss her. The complainant alleged that she had made it clear to him that his approaches were unwelcome. She also alleged that as a result of the harassment she suffered from stress and neuro-dermatitis.

The woman also reported the incidents to the Bankstown Police. One of the detectives arranged a meeting with the Managing Director of the respondent. At that interview the Managing Director agreed to speak to the complainant's supervisor, but refused to change her work environment. The woman believed that she had no other option but to resign.

At a conciliation conference the complaint was resolved. The complainant's supervisor agreed to provide an written apology to her and the respondent agreed to pay the complainant \$3,500 to settle her complaint.

Case study 8: SDA - Sexual harassment

The complainant, a civilian, was employed through an agency as a kitchen hand at a fifteen day training camp for members of the defence force.

The complainant alleged that during the period of her employment, she was subjected to a course of sexual behaviour by the head cook at the camp. She claimed that the cook made obscene gestures and comments relating to items of food and questioned her about her sexual activities. He also related his own sexual experiences to the complainant and to other kitchen staff.

Complaints were made to senior personnel about the cook's behaviour and an inquiry was conducted. The staff requested that the cook be dismissed and were told that this was not possible. The complainant and other staff indicated that they were not prepared to work with the cook and were told that if they left the camp they would not be re-employed. The complainant and two other staff members left the camp.

The complainant alleged that she was then victimised by the respondent in that she was not offered further employment on camps.

The complainant had a long history of emotional and personality problems which were exacerbated by her experience at the camp and which required psychiatric treatment.

During investigation of the complaint, inquiries revealed that the cook had left Australia and was residing overseas. Witnesses who had been employed at the camp confirmed the complainant's account of events.

The complaint was settled upon payment by the respondent of compensation for injury to feeling in the sum of \$8,000.

Case study 9: SDA - Sexual harassment

The complainant was employed as a secretary in a large manufacturing company.

She alleged that from the first day she worked with her supervisor he subjected her to constant sexual innuendo. She alleged that much of the conversation revolved around sex, or at least

double meanings, where if she reacted he would infer she didn't have a sense of humour. The complainant alleged that he also began touching her, initially by touching her back and then touching her bottom. The complainant said that the verbal harassment which occurred on a daily basis included reference to her appearance, her body, and how she liked to have sex.

The complainant said she would often cry at work and try to "steel herself to deal with his behaviour". The complainant said that she finally broke down and left the office. She claimed Workcover and was treated for a Post Traumatic Disorder. The complainant became exceptionally ill and tried to change her physical appearance so no-one would recognise her.

The respondent denied that there was any intentional sexual behaviour or touching, yet admitted to some jokes and some double meanings. The respondent company could not show that they had taken steps to prevent the harassment.

As a consequence of the complaint, the respondent was warned.

At Conference the discrimination matter was resolved with \$15,000 injury to feeling, with some payment being made by the personal respondent.

Case study 10: SDA - Sexual harassment

A young woman obtained details of a job vacancy through the CES and applied for a position as a Secretary/Typist with the respondent company. She was interviewed by a director of the company and offered the position, commencing the following day.

During the interview the respondent paid little attention to the complainant's resume and when the complainant indicated the salary she hoped to be paid, the respondent raised it by \$100 per week.

On the complainant's first day at work she was left alone in the office until the respondent arrived at 11.00am. She was told to take lunch whenever she wanted and for as long as she wanted.

The complainant alleged that after lunch the respondent opened a bottle of champagne and when the complainant was reluctant to join him in drinking it he took her to a hotel and bought her a bottle of Jack Daniels.

The complainant claimed that during the afternoon the respondent promised to buy perfume, dinner and a car for the complainant and to take her on interstate and overseas business trips. He

indicated that she would make travel arrangements and he would make the hotel reservations. He told her that she would never have to worry about money while she worked for him, and that she could write her own pay cheques.

The complainant alleged that the respondent also discussed his relationship with his wife, saying that he had not had sexual intercourse for six months.

He asked the complainant to have a relationship with him and told her that she was beautiful and he had fallen in love with her. He attempted to put his arm around her but she indicated her unwillingness to become involved in a relationship with him, telephoned a relative to pick her up and left the office.

The respondent telephoned the complainant's home several times that night and the following day when she did not return to work. He was eventually told by the complainant's father that she would not be returning at all. Subsequently, the respondent notified the complainant that her employment was terminated.

During investigation the respondent indicated that he had endeavoured to establish a close rapport and working relationship with the complainant but had not intended to offend her. He maintained that his style of management was acceptable and common-place overseas and particularly in his country of origin.

The respondent was provided with advice and literature by the Equal Opportunity Commission regarding equal opportunity and sexual harassment legislation, and was referred to the Chamber of Commerce for advice regarding industrial legislation and requirements.

The complaint was conciliated by the respondent providing an apology to the complainant together with \$1,500 in respect of one day's pay, two weeks pay in lieu of notice and injury to feeling.

Case study 11: SDA Sexual harassment

A woman employed as an investigator with a government body alleged that one of her co-workers made offensive and sexually explicit comments to her. In addition she said that he often told lewd and degrading jokes in front of her and her colleagues. She advises that she informed him that she was upset by his behaviour and asked him to stop. The complainant said he then accused her of not having a sense of humour and began to behave in an intimidating manner towards her. The woman informed her manager of her complaint of sexual harassment and

the matter was looked into. However she had serious concerns regarding the handling of her internal complaint, claiming the investigation was not conducted in a fair and impartial fashion. The complainant felt that she was perceived as a troublemaker and that the issues were not treated seriously. She became increasingly distressed by the atmosphere at her work and eventually went off on stress leave.

The woman then lodged a complaint with the Commission. The employer did not deny the allegations of sexual harassment and advised that the internal investigation had found the matter substantiated and the person concerned was disciplined. The respondent noted the complainant's concerns about the conduct of the investigation and indicated a desire to try and resolve the matter. A conciliation conference was held and an agreement was reached. Settlement included an apology, a statement from the employer advising that the complainant continues to be held in high regard by the organisation, assistance with the complainant's return to work, references and an ex gratia payment of \$20,000.

Case study 12: SDA - Employment

The female complainant alleged that she was treated less favourably in the course of her employment by the Manager of a Company providing support services to the medical/health area, by reason of her sex.

It is alleged that the Manager had a history of less favourable treatment of the complainant and other female employees, a claim denied by the Company Management and the individual concerned. In the respondent Company's view there may have been personality differences which led to what is perceived by the complainant as sex discrimination.

The complainant was employed on a casual basis with the respondent Company, but had her services terminated after rationalisation and merger with another Company. The complainant alleged that her termination was in part related to this discrimination, however, the Company argued that it had not been a factor.

After further investigation and negotiation between the parties, the matter was resolved, without liability being admitted by the respondent Company, involving a payment of \$1,250, an apology from the Manager concerned and a formal written reference to the complainant.

The complainant accepted the above considerations in settlement of her complaint and the matter was finalised.

Case study '13: SDA - Employment

The complainant, a twenty year old young woman was employed by the respondent as a Receptionist/Sales Administrator, Customer Support Representative and then Sales Representative between March 1990 and February 1991, when she was officially dismissed.

The complainant alleged that when she requested a reference which stated the reason for her dismissal, one of the Directors of the organisation replied that they would prefer an older person and preferably a male "to suit the industry".

The complainant alleged that she was the only female sales executive or representative in South Australia, and that female staff usually only lasted a few weeks in their employment. The complainant also alleged that at a Management Conference, comments of a sexual nature were made amongst managerial staff about her in her absence.

The respondent denied the allegations made, and maintained that there were two reasons for dismissing the complainant: first, because of her poor work performance; and secondly, that the defacto relationship she had with the State Manager was having a detrimental effect on the other staff employed by the organisation.

The Adelaide office has four staff, namely the Manager, the Sales Representative (who was the complainant), a clerical officer (female) and a store-person (female). The other two female staff had complained that the complainant and the State Manager were allowing their personal relationship to interfere with their work, and that issues of preferential treatment were causing them both concern. Both women had spoken to the Director (based interstate) about their intention to resign as a result of the situation.

The respondent also alleged that the State Manager was assisting the complainant to achieve her sales targets, and that the complainant was therefore not adequately performing her duties. The State Manager resigned shortly after the complainant left and they set up a business in direct opposition to the respondent.

The two issues identified above remained in dispute. Negotiations between the parties resulted in an offer by the respondent and acceptance by the complainant of significant financial compensation as a resolution to the complaint.

The matter was considered conciliated.

Case study 14: SDA . Clubs

A complaint of sex discrimination was made by a female member of a golf club. The complainant alleged that she was refused admittance to the clubrooms after a game of golf with two men and another woman because she was wearing shorts. The complainant alleges that the shorts were "regulation" and that she was allowed to wear them on the course but not in the clubrooms. The respondent club admitted that a new rule had been put in place which prohibited females from wearing shorts in the clubrooms.

This complaint resolved in conciliation with a new policy being agreed to and implemented in relation to women wearing shorts on the premises.

Case study 15: SDA . Goods and services

The complainant together with her baby and a friend attended at a coffee shop for lunch. After ordering and paying for her meal the complainant noticed a sign on the wall of the coffee shop which stated "No breast-feeding - no nappy changing".

The complainant had intended to breast-feed her baby while she ate her lunch so she cancelled her order and asked the owners of the coffee shop about the reason for the sign. The complainant alleged that the owners told her that there was a law preventing breast-feeding in public eating places because it was unhygienic and the owners could be fined by the Health Commission if women breast-fed in their shop. The complainant was then directed to some seating outside the shop where she ate her lunch and fed her baby.

The complainant stated that when she contacted the Health Commission she was told that there was no regulation relating to breast-feeding. The complainant also referred the matter to the Environmental Health Office at the local Council who confirmed that there was a regulation relating to nappy-changing in public eating places.

The co-owners of the coffee shop gave conflicting accounts of the reason for erecting the sign and of the conversation with the complainant. They maintained the view that some women behaved in an offensive manner when breast-feeding their babies and that some customers complained.

After discussion with the Equal Opportunity Commission concerning anti-discrimination legislation and advice from their

local Member of Parliament and solicitor the respondents removed the sign relating to breast-feeding and gave an undertaking not to erect a similar sign in future.

The complainant was satisfied with the outcome of her complaint.

REFERRALS

Grimshaw -v- West and Ors

This inquiry was conducted by Commissioner O'Connor on 31 March 1993. It was into the complaint by Ms Grimshaw that she was discriminated against by her employers on the basis of her pregnancy. The employers are the proprietors of a cake shop in Atherton, North Queensland.

The respondents' original response in writing to the complaint referred to Ms Grimshaw's "departure" as being in both her and her baby's interests. In evidence to the Inquiry the respondents endeavoured to establish that was not in fact the motivation for seeking Ms Grimshaw's departure, but rather that there had been a personality conflict between Ms Grimshaw and one of her workmates.

After the conclusion of the complainant's evidence, but before the close of the respondent's evidence, the parties indicated that they would like to have the matter resolved. The parties approached the Commission with the proposed settlement. It was a novel approach in that as a part of the agreement, it was desired that the Commission would proceed to make a determination upholding the complaint. This ensured the registration and enforceability of the determination. The respondents agreed to pay the complainant \$3,500 by way of compensation.

Harris -v- Hingston and Department of Health, Housing and Community Services

Commissioner Nettlefold handed down his decision in this matter on 2 November 1992. The complaint lodged by Ms Harris was under s.14 alleging that the respondents withheld permanency and effective supervision and subjected her to other workplace detriments.

Commissioner Nettlefold found that both respondents seriously breached their duties to the complainant (the first respondent had failed to adequately supervise and manage the complainant and the second respondent had failed to make adequate inquiry into the problems which emerged). However, he also found that the complainant did not establish (to the degree of proof necessary) that the respondents treated her less favourably than they did, or would have, treated a man in similar circumstances. The complaint was therefore dismissed.

Delaney v Geelong RSL Club

Commissioner O'Connor conducted this Inquiry in Geelong on 16 and 17 November 1992. The complainant alleged that the committee of the club discriminated against her on the basis of her sex in that it did not seriously respond to a complaint she made against another member (the complaint being that another member had sexually harassed her).

The committee argued that it was not able to take action to investigate her complaint because the alleged harasser had advised that he was instituting legal proceedings against her for defamation. It said it suspended Ms Delaney because of her hostility towards the President and the Secretary.

The Inquiry was not completed on 17 November and was due to resume on 25 November. However, before any further evidence was taken that day, the parties entered into settlement negotiations. The Commission was advised shortly after that as a result of those negotiations the matter had been resolved on a confidential basis.

R . v . L

The Inquiry into this complaint of sexual harassment commenced in Brisbane on 17 March 1992 and resumed on 1 June 1992. The allegation made by the complainant was that she had been sexually harassed on a number of occasions by the owner of the factory where she worked. At 17 years of age, the factory position was the complainant's first full-time employment after leaving high school.

On 9 October 1992 Commissioner Kiefel (now a judge of the Supreme Court of Queensland) found the complaint substantiated and ordered the respondent to pay \$6,000 by way of compensation.

Lawrence and Ors -v- ATSIC

The complainants in this matter, heard in Perth in August 1992, were a group of Aboriginal women who had made an application to the Aboriginal and Torres Strait Islander Commission for legal aid to take action in relation to a dispute within the Aboriginal and Islander Women's Congress of which they were members.

The application for legal aid was refused. The complainants claimed that the basis of the refusal was their sex. In that regard they pointed to a previous instance in which a male group had been granted legal aid in relation to an internal dispute within another Aboriginal organisation.

After hearing evidence from a solicitor from the Aboriginal Legal Service who had been involved in the decision to refuse legal aid, Commissioner O'Connor, who conducted the Inquiry, concluded that the different treatment of the legal aid applications was due to a change in policy and not the sex of the persons applying for that aid. Accordingly, the matter was dismissed.

Lynne Lawrence -v- Cathie Clark, Kathleen Clark, Patrick Clark & Peter Clark trading as Clark Engineering

Ms Lawrence alleged that she had been dismissed from her employment by the respondents because she was pregnant. Ms Lawrence had been employed by the respondents as a driveway attendant at the respondent's service station in Brisbane as a "permanent casual". The respondents claimed that Ms Lawrence's employment was terminated because of poor work performance and because she was a casual employee.

Having heard the evidence, Commissioner Kiefel held that pregnancy was one reason for the dismissal. The complainant was never informed by the respondents that they were dissatisfied with the quality of her work. Commissioner Kiefel accepted that a statement giving pregnancy as a reason for dismissal was made to Ms Banks. Accordingly, the Commissioner Kiefel found the complaint substantiated and declared that the respondent should pay to the complainant the sum of \$8,000.

Klimm and Ahmat -v- Warringu Aboriginal and Torres Strait Islander Corporation

Mrs Klimm and Mrs Ahmat complained that they had been dismissed from their employment with the women's shelter run

by the Warringu ATSI Corporation Shelter Management Committee on the basis of their marital status. Their claim focused upon statements allegedly made by the husband of the former President of the Corporation. The matter was heard in Cairns on 11 August 1992 by Commissioner Carter.

The Commissioner decided that whether or not the statements were made, they had no effect on the minds of those who voted to dismiss the complainants. Accordingly, the complaint was found to be without substance and was dismissed.

EDUCATION AND PROMOTION

Publications

The pamphlet *Sexual Harassment in the Workplace* was revised and reprinted in September 1992, and has been distributed widely.

Training

Eliminating Sexual Harassment from the Workplace - A Training Package for Managers and Supervisors.

The Package aimed at private sector managers and supervisors was officially launched in June 1993. It consists of two half day workshops, a video with training notes, resource kit and trainer familiarisation, and is being marketed nationally on a cost recovery basis.

Promotion

Forum - Anniversary of Sex Discrimination Act.

In co-operation with Radio National a forum was held at the ABC studios to celebrate the Anniversary of the Sex Discrimination Act. Over 400 people attended the forum.

Presentation of Award to veteran feminist Edna Ryan.

At a ceremony held at Parliament House, the Sex Discrimination Commissioner presented an award to Edna Ryan for services to women in industry. Representatives from national, state and community women's groups attended the ceremony.

**SEX
DISCRIMINATION
COMMISSIONERS'
MAJOR
SPEAKING
ENGAGEMENTS**

Speeches given by Commissioner Bryce -

- 9 Jul 92 Guest Speaker, Rockhampton Club,
Rockhampton
- 11 Jul 92 *Equality Monday to Friday But on Sunday?*
Keynote Speaker, Movement for the Ordina-
tion of Women National Conference, Noosa
- 17 Jul 92 Guest Speaker, Book Launch: *Breaking
Through - Women, Work and Careers*, Dr
Jocelyne Scutt, Human Rights and Equal
Opportunity Commission, Sydney
Guest Speaker, Book Launch: *Life Lines*, Dr
Dale Spender, Sydney
- 20 Jul 92 Speaker and Award Presenter, 1992 Women
& Management Inc Achievement Award,
Sheraton Wentworth Hotel, Sydney
- 21 Jul 92 *Equal Opportunity for 14bmen: Will a Bill of
Rights Help?* Guest Speaker, Queensland
Electoral and Administrative Review
Commission Free Public Seminar *Bill of
Rights for Queensland?* Brisbane
- 23 Jul 92 *The Needs and Rights of Youth for Quality
Mental Health Services: Issues from Around
Australia arising from the National Inquiry*,
Opening Address, Sixth Annual Youth
Conference Adolescents In and Out of Con-
trol, Sir John Clancy Auditorium, University
of New South Wales, Sydney
- 29 Jul 92 Speaker, Valuing Diversity: EEO and Anti-
Discrimination Conference, Heritage Hotel,
Brisbane

- 1 Aug 92 *The 8th Anniversary of the SDA*, Eugene Goosens Hall, ABC Radio, Ultimo
- 5 Aug 92 *EEO and Industrial Relations*, Women Management and Industrial Relations Conference, Macquarie University Graduate School of Management, Sydney
- 7 Aug 92 Speaker, Children's Services Industry National Conference, Melbourne
- 14 Aug 92 Guest Speaker, Independent Teachers Federation of Australia (ITFA) and New South Wales Independent Teachers Association (ITA) National Women's Conference, Sydney
- 23 Aug 92 Keynote Speaker, 3rd Crest Club of Bribie Island National Convention, Bribie Island
- 27 Aug 92 Guest Speaker, Education Conference, Griffith University Student Representative Council and National Union of Students, Brisbane
- 1-2 Sep 92 Guest, LIFA Conference *Shaking off the Recession*, The Regent Hotel, Sydney
- 19 Sep 92 Guest Speaker, CAPOW (Coalition of Australian Participating Organisations of Women) Public Forum, Parliament House, Canberra
- 24 Sep 92 *Remote Area Nursing - A Human Rights Perspective*, Guest Speaker, Council of Remote Area Nurses of Australia Inc 10th National Conference, Whyalla, South Australia
- 29 Sep 92 Guest Speaker, The Lyceum Club Brisbane Inc, Brisbane
- 2 Oct 92 *Refresh - Renew - Revitalize*, Guest Speaker, National Association of Childbirth Educators Third National Biennial Conference, Bardon, Queensland
- 16 Oct 92 *Gender Equity - Does it Limit Choice?* Speaker, National Council of Independent Schools' Association, (NCISA) Ninth National Conference, Hyatt Hotel, Canberra

- 22 Oct 92 *Women and Mental Health*.• - *Achieving a Balance*, Speaker, Annual Seminar of the Queensland Association for Mental Health, New Farm
- 23 Oct 92 Guest Speaker and Sole Presenter, United Nations Association of Australia (UNAA) Annual Media Peace Awards, National Press Club, Canberra
- 26 Oct 92 *The Female Edge*, Speaker, Women Lawyers' Association of New South Wales Inc Lexpo Congress '92, Sheraton Wentworth Hotel, Sydney
- 28 Oct 92 Guest Speaker, Australian Sports Commission Women and Sport National Meeting, Australian Institute of Sport, Henley Beach, SA
- 4 Nov 92 *Moving Towards 2000 - Overcoming Issues and Concerns of Professional Women at Work*, Guest Speaker, Institution of Engineers and APESA Women in Engineering Night, Sydney
- 9-10 Nov 92 Keynote Speaker, EEO Issues in Higher Education: Good Management Practices Seminar/Workshops, University of Tasmania, Launceston and Hobart
- 11 Nov 92 Speaker, Queensland Women's Consultative Council Women's Occupational Health and Safety - The Unmet Needs Forum, Brisbane
- 21 Nov 92 *Towards a Queensland Women's Health Policy*, Guest Speaker, The Queensland Women's Health Policy Forum, Griffith University, Nathan Qld
- 26 Nov 92 Guest Speaker, Australia Society of Certified Practising Accountants Monthly Business Luncheon, Commercial Club, Wagga-Wagga
- 5 Dec 92 *Towards a Queensland Women's Health Policy*, Guest Speaker, The Queensland Women's Health Policy Forum, Townsville, Queensland

- 7 Dec 92 Speaker, Equal Employment Opportunity and Anti-Discrimination '92 Conference, Holiday Inn Coogee Beach Hotel, Coogee
- 9 Dec 92 Speaker, NSW Private Sector EEO Practitioners Association 1992 Christmas Cocktail Function, Sydney
- 17 Feb 93 Speaker, National Conference On Vocational Education and Training, Hotel Nikko, Potts Point

Speeches given by Commissioner Walpole

- 10 Jun 93 *Human Rights and Judicial Awareness* Speaker, Women and the Law: Judicial Attitudes as they Impact on Women, Australian Women's Research Centre Conference, Melbourne
- 23 Jun 93 *The Role of the Sex Discrimination Act in Public Administration - Policy Formulation and Service Delivery*, Keynote Speaker, Royal Institute of Public Administration Australia, South Australian Division Women's Forum, Adelaide
- 30 Jun 93 *The Sex Discrimination Act and Enterprise Bargaining: The New Amendments*, Women, Management and Industrial Relations Conference, Macquarie University Graduate School of Management, Sydney

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PRIVACY

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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 Privacy Commissioner

A new national law laying down controls over the collection, use and dissemination of consumer credit history information came into effect in February 1992. Consequently, by the end of the current reporting year, my office had acquired over a year's experience of the new law in action. Complaints to my office have usually arisen in circumstances where a consumer has been denied credit and feels that the credit report issued by the credit reference agency to the credit provider is inaccurate or unfair. There have been a few complaints of improper disclosure of credit history information on the part of credit providers. My audit program has examined the practices of a broad cross-section of credit providers and of the two principal credit reference agencies. Where concerns have been raised about the adequacy of internal practices, the affected organisations have promptly responded.

Privacy complaints are handled by a special unit within the Privacy Branch of the Commission, created during 1991/92. The unit has developed a good working relationship with privacy contact officers in federal government agencies and with

complaints officers in the major credit reference agencies and major credit providers. It has been possible to date to resolve almost all those complaints which have been regarded as having substance without resorting to a formal determination under the Privacy Act.

In August 1992 the New South Wales Independent Commission Against Corruption released its report on the illegal trade in personal information involving officers in government agencies, both at State and federal levels. Numerous prosecutions are expected to result from its findings. The year also saw a major inquiry on privacy completed by the industry regulator, Austel, in relation to privacy in the telecommunications area. Its principal recommendation - that privacy issues be addressed on a (basically) voluntary basis through a Telecommunications Privacy Committee - is currently under consideration by the Government.

A special highlight of the year was provided by the 14th International Data Protection and Privacy Commissioners Conference, which this office had the honour to host in October 1992. The conference brought to Australia commissioners and officials with equivalent responsibilities to Australia's Privacy Commissioner.

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

Commonwealth Agencies

The Privacy Branch continued to give regular advice to Commonwealth agencies about their obligations under the Information Privacy Principles and the Commissioner made a number of submissions to Parliamentary Inquiries. In 1992/93 significant issues included:

Law Enforcement Access Network (LEAN)

LEAN is a proposal of the Federal Attorney-General's Department for a national database of company, land and property information for use by a wide range of federal agencies with law enforcement and revenue protection responsibilities. The Privacy Commissioner continued throughout the year to be involved in discussions with the Attorney-General's Department on the LEAN proposal and its compliance with the Information Privacy Principles. By the end of the year a number of significant improvements for the proposed privacy controls on LEAN had been agreed.

In December 1992 the House of Representatives Standing Committee on Banking Finance and Public Administration produced a report on LEAN entitled "Matching and Catching". The Privacy Commissioner made a formal response to the Report in June 1993.

Inquiry into the Protection of Confidential Information

In August 1992 the House of Representatives Standing Committee on Legal and Constitutional Affairs commenced an Inquiry into the Protection of Confidential Personal and Commercial Information Held by the Commonwealth. In October 1992 the Privacy Commissioner made a submission to the Inquiry, which covered a wide range of issues relating to the Information Privacy Principles.

Review of the Financial Transaction Reports Act 1988

In April 1993 the Privacy Commissioner made a submission to the Senate Standing Committee on Legal and Constitutional Affairs, in relation to the Review of the Financial Transaction Reports Act. Issues covered in the submission included the collection of personal information, and controls on the circulation of information collected.

1996 Census

In March 1993 the Australian Bureau of Statistics (ABS) sought the Privacy Commissioner's advice in relation to proposals for the next census, due to be held in 1996. The Privacy Commissioner provided the ABS with comments in April 1993, including advice that the ABS in conducting the census must comply with the Information Privacy Principles (IPPs) and in particular IPPs 1 and 3 which require that information collected must be necessary and relevant.

Data-Matching Guidelines

Following extensive consultation with Commonwealth agencies and other relevant groups the Privacy Commissioner issued Data-Matching Guidelines under section 27(1)(e) of the Privacy Act, to assist agencies in the conduct of data-matching programs. The Guidelines were sent to agencies in July 1992. Agencies were asked to co-operate in adopting the Guidelines voluntarily from 1 October 1992 and were advised that the Privacy Commissioner proposed to monitor the operation of the Guidelines for 12 months and then report to the Attorney-General on the possibility of incorporating the Guidelines into the Privacy Act. Agencies that have agreed to adopt the Data-Matching Guidelines include the Department of Social Security, the Department of Veterans' Affairs, and the Australian Electoral Commission.

Federal Privacy Handbook

In December 1992 the Privacy Commissioner released the Federal Privacy Handbook: A Guide to Federal Privacy Law and Practice. The Handbook is a reference document which contains the federal Privacy Act plus related statutes, regula-

tions, guidelines, determinations, codes of conduct, compliance notes and case law. It also contains information on international developments in the area of privacy law. The Handbook is periodically updated to take account of future developments in privacy law.

Other Policy Activities

Credit Reporting

Amendments to Part III A of the Privacy Act concerning credit reporting came into effect in December 1992. The amendments cover a range of areas including the grant of credit by means of securitisation. The Privacy Commissioner and officers of the Privacy Branch engaged in discussions with the Attorney-General's Department on the final form of the amendments. The amendments were considered necessary to ensure that legitimate elements of business activity associated with credit granting were not unduly hampered by the effects of the credit reporting legislation.

In February 1993 the Privacy Commissioner commenced a review of the Credit Reporting Code of Conduct, which was issued by him under section 18A of the Privacy Act in September 1991.

Numerous advices were given throughout the year on the application of Part IIIA of the Privacy Act and the Credit Reporting Code of Conduct.

Tax File Number Guidelines

New Tax File Number Guidelines, which reflect the extension of the tax file number system to the administration of Commonwealth assistance programs, were issued by the Privacy Commissioner in September 1992 and became law in December 1992. The Guidelines, which were developed following wide consultation, sought to clarify a number of provisions in the earlier guidelines. The annotated version of the Guidelines, intended to assist those affected in understanding the Guidelines, was also revised and was circulated in February 1993.

Old Convictions

Part VIIC of the Crimes Act 1914 gives the Privacy Commissioner jurisdiction in relation to the use and disclosure of certain categories of old and spent criminal conviction information. During the year the Privacy Commissioner considered two requests from Commonwealth agencies for exclusions from the spent conviction legislation, and made recommendations to the Attorney-General on those requests. The Privacy Commissioner has continued to promote the spent conviction scheme and to provide educative material to the Government, private organisations, and the public generally, to assist in developing a greater understanding of the scheme.

Telecommunications

Following the release of the final report of AUSTEL's privacy inquiry in December 1992 the Privacy Commissioner sent his response to the Minister for Transport and Communications. The Privacy Commissioner also made submissions to AUSTEL inquiries on wireless personal communication services; call charge and billing systems; and the national numbering plan.

The Privacy Commissioner has provided advice and comment on a number of important telecommunications related issues including the amendments to the confidentiality provisions of the Telecommunications Act; the establishment of the Telecommunications Industry Ombudsman; the carrier pre-selection ballot; the use of emergency service numbers; and the proposed trial of calling line identification services.

Banking Code of Practice

In September 1992 the Privacy Commissioner made a submission to the Federal Government Task Force which was established to develop and implement a code of banking practice. The submission covered a range of issues relating to the protection of privacy of the customer and the confidentiality of the banker/customer relationship.

Medical and Pharmaceutical Benefit Scheme Guidelines

In early 1993, the provision in the National Health Act dealing with privacy guidelines was amended, and work then recommenced on the development of new guidelines for issue later in the year.

Health Communications Network

This is a joint initiative of the Australian Health Ministers Council to facilitate the transmission of health care data between service providers and others involved in the health care system. The Privacy Commissioner provided advice to the Commonwealth Department of Health and to a consortium of consultants which is developing the proposal.

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.

On 30 November 1992 the Council provided the Privacy Commissioner with a report on the use of the Guidelines for the period February 1990 to December 1991. No breaches of the Guidelines were reported to the Commissioner. A further report is expected from the Council, covering the period January to December 1992.

HIV/AIDS Working Party

The Report of the Working Party on HIV/AIDS (which was chaired by the Privacy Commissioner) was released in September 1992. The Report included Guidelines for the collection, storage and use of HIV/AIDS related information. The Working Party considered that the particular sensitivity of HIV/AIDS related information warrants stricter controls on its handling than is provided by the IPPs and recommended that agencies be directed to adopt the Guidelines as administrative policy. It is proposed that the Guidelines be reviewed after a period of 12 months.

International Data Protection Conference

On 27-29 October 1992 the Privacy Commissioner hosted the 14th Annual International Data Protection and Privacy Commissioners Conference in Sydney. The Conference attracted over 80 delegates from 20 countries. This was the first occasion on which the Conference has been held in the southern hemisphere. The Conference was opened by the then federal Minister for Justice, Senator Michael Tate and keynote speakers included the Privacy Commissioners of New Zealand and Canada, and the German Federal Data Protection Commissioner. Discussions at the Conference covered a wide range of topics including privacy in telecommunications, in the health-care system, and in the workplace.

OECD Guidelines on the Security of Information Systems

In November 1992 the OECD Council recommended that member countries accept the OECD Guidelines on the Security of Information Systems. The Guidelines were drafted by a group of experts chaired by Mr Justice Kirby, President of the New South Wales Court of Appeal. The Guidelines are addressed to both the public and private sectors and apply to all information systems.

COMPLIANCE ACTIVITIES

Audits

A comprehensive program of auditing compliance with the Information Privacy Principles, Tax File Number Guidelines and credit reporting provisions was undertaken throughout the year.

The audit focus during the year was primarily on credit information files held by credit providers and a credit reporting agency.

Seven Information Privacy Principle, three Tax File Number (TFN) and twenty credit information file audits were either completed or commenced. Most of the TFN and credit information file audits were conducted by consultants under the direction of Compliance Section staff.

Staff monitor conditions attached to Public Interest Determination No. 4 which addresses disclosure of Australian Federal Police reports for the purposes of pursuing insurance claims or civil litigation.

Investigations

A number of matters that attracted media coverage, mainly TFN and credit related disclosures, required a degree of investigation to ascertain the circumstances which led to the disclosures. These matters required no further action as they were either outside the Privacy Commissioner's jurisdiction, involved no breach of the Privacy legislation, or the Commissioner was satisfied with action taken or procedures implemented to prevent recurrence.

Personal Information Digest

In accordance with Information Privacy Principle 5, the Commissioner published and distributed the 1992 Commonwealth and Australian Capital Territory Digests in June 1993.

MONITORING THE DATA- MATCHING PROGRAM

The Information Technology Standards Section of the Privacy Branch is located in Canberra and monitors compliance with the privacy safeguards built into the Data-matching Program (Assistance and Tax) Act 1990. The Matching Agency which is staffed by specially designated officers of the Department of Social Security (DSS), undertook six matching cycles in 1992/93. The participating (source) agencies are the Australian Taxation Office, and the Departments of Social Security; Veterans' Affairs; Employment, Education and Training; and Health, Housing, Community Services and Local Government (First Home Owners Scheme).

The third matching cycle only involved DSS and the Australian Taxation Office and was to detect DSS clients who may have been eligible on income grounds for Family Allowance Supplement and had not applied for it. As a result of this matching

cycle DSS wrote to the clients that matched informing them about Family Allowance Supplement and inviting them to apply.

Information Technology Standards staff have conducted inspections of the procedures and practices for handling the results from matching in 27 state, regional and area offices of the participating agencies. During these visits the emphasis is on compliance with the fairness provisions of the Act and Guidelines.

Other areas of the program that have been closely monitored include: periodic checks of the computer code to ensure that it reflects the matching rules that are specified in the Technical Standards Report; checks that the program only uses data that is allowed by the Act; computer security and procedures for sampling selected cases. Proposals for changes to the legislation were closely examined and comments provided to agencies and Cabinet.

COMPLAINTS AND INQUIRIES

During the year 254 written complaints were received and assessed as potentially involving an interference with privacy. This is a significant rise on complaints received in the previous reporting period. It appears that the number of complaints received is continuing to increase. There is no indication that this increase will abate in the near future. Credit reporting complaints now comprise a substantial proportion of complaints received. The complaints can be analysed as follows:

123 Credit Reporting complaints

117 Information Privacy Principle complaints

11 Tax File Numbers complaints

3 Spent Conviction complaints.

187 complaints were resolved during the year through the complaint handling mechanism. 99 complaints were resolved by negotiation after the agency or respondent conceded that there had been a breach of the Act and undertook remedial action. In 79 complaints it was established that there had not been an interference with the privacy of the complainant. 4 complaints

were referred to other agencies, and in 5 cases the complaint was withdrawn or lapsed.

Remedial action generally consisted of an apology to the complainant together with revised procedures (including staff training) to minimise the risk of a future breach of the Act. In a number of cases specific action was taken in relation to the complainant, such as amending personal records, providing additional security in relation to those records, adjusting benefits or the payment of monetary compensation for loss or damage to the complainant (including hurt or embarrassment).

A significant proportion of credit reporting complaints related to alleged unauthorised disclosures of personal information by credit providers. A number of these complaints have been found to be substantiated, although there was no case where the Privacy Commissioner was of the view that the disclosure was made knowingly or recklessly.

Many other credit complaints are related to the contents of credit information files held by credit reporting agencies. It has been the experience of the Privacy Commissioner that a significant number of these complaints are without substance.

A further 1,000 general privacy inquiries were received in writing. The Privacy Hotline received in excess of 17,000 calls on the toll-free number in the reporting year. Approximately 65% of calls specifically related to the jurisdiction of the Privacy Commissioner. Of these calls approximately half related to credit reporting issues. It is the Privacy Commissioner's experience that a significant number of calls come from solicitors, accountants and other professional advisers. The balance of inquiries did not relate specifically to the Privacy Commissioner's jurisdiction but did raise broad privacy related issues.

EDUCATION AND PROMOTION

Publications

The pamphlet *Guide to the Federal Privacy Act* was translated into four languages - Vietnamese, Chinese, Spanish and Arabic -

and distributed nationally to government and non government migrant organisations.

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

Reports

- Report of the Commonwealth Government's Privacy and HIV/AIDS Working Party Chaired by the Privacy Commissioner, September 1992
- Report of an Investigation: Mail-out Errors: Department of Employment, Education and Training, November 1992

Instruments Issued or Approved by the Privacy Commissioner

- Data-matching Guidelines, July 1992
- Tax File Number Guidelines 1992, October 1992

Submissions

- Submission to the Government Task Force for the Implementation of a Code of Banking Practice, September 1992
- Submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs - Inquiry into Protection of Confidential Personal and Commercial Information, October 1992

Submission to the Senate Standing Committee on Legal and Constitutional Affairs - Review of the Financial Transaction Reports Act 1988, April 1993

Conference Papers and Handbooks

- 14th International Data Protection & Privacy Commissioners Conference Papers, October 1992
- Federal Privacy Handbook, December 1992

Videos

- Information Privacy and Your Rights
- Information Privacy - Managing Your Responsibilities

Training

Privacy Principles: Information Privacy Management

With funding from the Education Training Foundation of NSW, the Commission has developed a training package for private sector managers and supervisors about how information privacy principles can assist in better management practices as well as improved client service. The package which consists of a one hour workshop, video and training notes will be launched and marketed nationally in 1993.

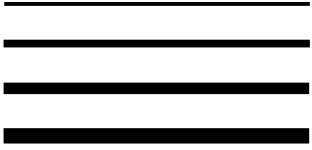
**PRIVACY
COMMISSIONER'S
MAJOR
SPEAKING
ENGAGEMENTS**

- 28 Jul 92 *The Privacy Act: Reflections on Federal Law and its relevance to State Administration:* Victorian Institute of Administrative Law
- 30-31 Jul 92 *Federal Credit Reporting Law: Early Experience:* ACM Conference: Achieving Excellence in Credit Management: Moving Towards World-Best Practice
- 31 Aug 92 *Telecommunications Privacy: Reflections on the AUSTEL Draft Report:* Second Annual Australian Telecommunications Law and Policy Symposium 1992
- 11 Feb 93 *Privacy and the Retail Bank Customer: Current Issues:* Australian Institute of Bankers Seminar
- 24 Feb 93 *The Privacy Act and Its Impact on the Handling of Government Information:* IIR Conference - Protecting Information Privacy within the Public Sector
- 18 Apr 93 *Law Enforcement under the Federal Privacy Act:* Victorian Council for Civil Liberties/NCA joint National Conference on Liberty, Law Enforcement and Accountability
- 2 Jun 93 *Legislative Developments affecting Privacy and Security:* Business Information Security: First Line of Defence
- 10 Jun 93 *Privacy Act Implications for Accountants:* Professional Development Forum of Institute of Chartered Accountants

18 Jun 93

The Privacy Act and its impact on the Department of Social Security: Welfare Rights Unit - FOI and Privacy Forum, Broadmeadows TAPE

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CORPORATE MANAGEMENT

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CORPORATE MANAGEMENT

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

In 1992/93 the Commission sub-divided its own program activities into the following program elements:

- a Human Rights
- a Disability Discrimination
 - o Race Discrimination
- a Aboriginal and Torres Strait Islander Social Justice
- a Sex Discrimination
- a Privacy

The Disability Discrimination and Aboriginal and Torres Strait Islander Social Justice program elements were introduced during the reporting period as a result of the appointment of the new Disability Discrimination Commissioner and Aboriginal and Torres Strait Islander Social Justice Commissioner. Program activity and reporting (including financial reporting) for 1992/93 is based on this structure. The Commissioners have their own sections and are supported by common services.

The major legislation and regulations applicable to Corporate Services include:

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

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

- o Financial Management
- o 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.

The Commission is characterised by its relatively small size (148 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.

External Review

A review of the structure and management systems of the Commission was undertaken by Oxley International Pty Ltd. The recommendations arising from the review are under consideration.

EXTERNAL SCRUTINY

Inquiries by Parliamentary Committees

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 (the Lavarch Report) made a number of recommendations concerning the operation of the Sex Discrimination Act. Information regarding this inquiry is contained in the section on Sex Discrimination (pp. 127 - 129).

A Report by the Senate Standing Committee on Legal and Constitutional Affairs noted that the information it suggested that the Commission include in its Annual Reports (regarding the terms of appointment of the President and Commissioner) was included in the 1991/92 Annual Report. This information is included in this report in the section on the Commission (pp. 9 - 19).

FINANCIAL MANAGEMENT

The Commission's computer-based financial accounting system was reviewed and upgraded to cater for the increasing complexity of the Commission's budget and diverse range of reporting requirements. Enhancements to the system have enabled better monitoring of expenditure and improved the quality of decision making and financial management.

Financial Statements

The Commission's Financial Statements for 1992/93 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 3 and 4 show the breakdown of expenditure by program element, and by classification. Figure 5 shows a comparison of expenditure by classification between 1991-92 and 1992/93. Figures 5 and 6 indicate estimated expenditure by both program element and classification for 1993/94.

A decrease in expenditure has occurred in the running costs area primarily as a result of a delay in the uptake of the Aboriginal and Torres Strait Islander Social Justice and the Disability Discrimination Programs. This was due to the later than anticipated commencement of the Disability Discrimination Commissioner (February 1993) and Aboriginal and Torres Strait Islander Social Justice Commissioner (April 1993). Unexpended funds from 1992/93 will be transferred to 1993/94 to enable programs to proceed as planned.

Payment of Accounts

The Commission received 3,443 accounts during the year. 3,441 accounts were processed for payment on the due date and 2 accounts were processed after the due date.

Purchasing

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

The Commission uses the Australian Government Credit Card to purchase and pay for goods and services unless there are sound reasons for not using it.

All purchase arrangements exceeding \$2,000 were notified in the *Commonwealth (Purchase and Disposal) Gazette*.

Fraud Control

The Commission has been assessed a low risk by the Fraud Control Committee of the Attorney-General's Department. The Commission continues to rely on internal controls to monitor and investigate fraud risk areas.

HUMAN RESOURCE MANAGEMENT

The Public Service Act 1922 governs the Commission's staffing arrangements. The Commission's staffing level as at 30 June 1993 was 148 (not including the President and Commissioners). During the financial year 1992/93:

- 13 new staff were permanently appointed to the Commission
- 18 new staff were promoted or transferred from other APS departments and Agencies (this figure includes staff on temporary transfer)
- 39 new staff were engaged as short term temporary employees

- 7 employee initiated permanent part time work proposals were approved
- 15 new positions were created
- 20 staff resigned/were transferred or promoted, including 6 staff who ceased temporary transfer
- 32 positions were advertised in the Gazette and/or the Press

The Commission's staffing profile within classification levels appears at Table 27 the staffing profile with regard to permanent or temporary employment appears at Table 28.

SES Staffing

At 30 June 1993, the Commission's SES profile consisted of 2 SES Band 2 positions and 3 SES Band 1 positions which were filled by 3 female officers and 2 male officers.

Senior staffing changes during 1992/93 included:

- Mr Nhan Vo-Van, acting Senior Executive Band 1, Management Branch was promoted to the Department of Immigration and Ethnic Affairs - April 1993
- Ms Sema Varova, commenced on promotion as Executive Director, Senior Executive Band 2 - June 1993.

Post Separation Employment

There were no cases of post-separation employment during 1992/93.

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. The Commission's Policy on the Use of Consultants is currently being revised.

The list of external consultants engaged by the Commission during 1992/93 is set out in Appendix 2.

HUMAN RESOURCE 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 1992/93, including cooperative arrangements, was \$5,392,800. Direct expenditure on Human Resource Development was \$292,955 (5.43% of total salaries).

As at 30 June 1993, there were 141 full time and 7 part time staff and 85 participated in training activities during the year. A total of 565.44 staff days were devoted to training and development in 1992/93, which represents an average of approximately 3.82 days per staff member. Comprehensive details of HRD activities are provided in the Commission's report to the Public Service Commission.

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. The more significant issues covered are discussed below.

Training

Throughout 1992/93, staff attended courses such as administrative law, industrial relations, occupational health and safety, financial and staff resource management.

During the reporting year, staff also attended work-related seminars and conferences which provided them with professional and technical development opportunities. These courses were conducted by various organisations including the Public Service Commission, Department of Finance, the NSW Joint Agencies Training Committee. In addition, the Commission conducts training courses in-house where this is considered the most effective delivery method.

Staff are offered a variety of computer training courses conducted internally and externally. The most common external courses are specifically tailored to the Commission's requirements. A number of staff attended external, specialist computer skills courses, including spreadsheet applications. Computer staff also provide training in-house for staff on a variety of computer-related matters. At each work location in Central Office a staff member has been trained to provide front-line computer support.

A plan to assess users' needs and skill levels is being developed to more ably target and focus computer training.

Studies Assistance (Studybank)

In 1992/93, approved studies assistance was given to 15 staff members under the Studybank scheme.

Middle Manager Development

One staff member participated in the Senior Women In Management Program (SWIM).

Performance Appraisal

The Commission's Performance Appraisal Program for Senior Officers, Legal Officers and SES was endorsed by the Public Service Commission and implemented during 1992/93. Training in relation to performance appraisal was provided. The initial appraisal cycle will be evaluated prior to the end of the calendar year.

Performance Pay

During the 1992/93 year, no payments of performance pay were made. It is anticipated that payments will be made to eligible Senior Officers, Legal Officers and SES staff before the end of the calendar year.

Work Experience Placements

The library accommodated several short-term student fieldwork placements from the New South Wales TAFE Library Practice Associate Diploma course and the University of New South Wales Graduate Diploma in Information course.

INDUSTRIAL DEMOCRACY

The Commission's policy on industrial democracy is to ensure that staff are more fully able to contribute to the efficient 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.

Major priorities 1992/93

The Commission's main industrial democracy priorities last year were to establish a joint union/management working party to consult on accommodation requirements for the possible relocation of Central Office; make information on new and revised human resource management policies and practices available to staff for consideration and comment; and fully involve staff in internal review processes. These objectives were met. The Industrial Democracy Sub-Committee was also involved in the review of a number of human resource management policies.

Significant Activities 1992/93

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

The following sub-committees of the Consultative Council operated during 1992/93:

- a Industrial Democracy Sub-Committee (this sub-committee is also responsible for HRD matters)
- a Equal Employment Opportunity Sub-Committee
- a 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.

The Industrial Democracy Sub-Committee developed the Commission's Performance Appraisal Program for Senior Officers, Legal Officers and SES, and SES Higher Duties Policy, as well as coordinating comments and suggestions regarding the Commission's Corporate Plan.

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:

- o 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
- o Branch/Section/Regional Office meetings, where senior officers involve their staff in the process of developing individual programs, tailored to the relevant work area
- o Project/Work Group meetings, where planning, implementing and monitoring specific projects takes place
- o Union meetings, where matters of industrial concern are discussed

0 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 1993/94

The major priorities for the coming year are to complete an evaluation of the initial Performance Appraisal cycle; to review the Commission's Human Resource Development Plan; to continue the involvement of staff in the Review of the Commission which is being conducted by the Department of Finance and Attorney-General's Department; to continue the involvement of staff in the relocation of Central Office through the Accommodation Committee; and to make information on all new and revised human resource management policies and practices available to staff for consideration and comment.

ACCOMMODATION

The Commission has six offices in Australia, occupying a total area of 3,969 square metres for its 154 staff and Commissioners. Excluding public contact areas and special purpose areas (hearing rooms, reception areas; conciliation/interview rooms; and computer rooms) the average area per officer is 21.4 square metres. Average national rent per square metre is \$483 although this will fall substantially from 1993/94 as new leases are entered into.

The overall office usage by program element is as follows:

20% human rights

20% race discrimination

20% sex discrimination

30% privacy

6% disability discrimination

4% Aboriginal and Torres Strait Islander Social Justice

Of the Commission's total area leased nationally, 73% is in central office in Sydney; 18% in other capital cities and 9% in regional areas. 88% of the total area leased is for officer accommodation and 12% is for public contact and special purpose areas.

**ENERGY
USE AND
ENERGY
EFFICIENCY
IMPROVEMENT
MEASURES**

The Commission commenced development of its Energy Management Plan during 1992/93. It began with a data collection exercise to identify current energy consumption for buildings and vehicles. It is expected that the plan will be finalised in early 1994 and will incorporate policies and targets.

The Commission occupies privately leased buildings in 7 locations throughout Australia.

State	Area (m²)	Electricity Costs pa (S)
New South Wales	3,200	50,800
Queensland	700	13,100
ACT	200	5,000*
Northern Territory	120	1,800
Tasmania	100	3,400
TOTAL	4,320	74,100

* estimate - based on projection for 93/94

During the year planning commenced on the relocation of the Commission's Central Office in Sydney. The fit-out brief for the relocation will include energy efficiency as a key component.

The Commission's fleet vehicles and fuel use are summarised below:

State	No. of Vehicles	Type	Petrol Costs (\$)
<i>Fleet</i>			
New South Wales	1	1 Wagon	900
Queensland	5	4 Sedans 1 Wagon	6,900
ACT	2	2 Sedans	1,000
Tasmania	1	1 Sedan	1,700
Northern Territory	1	1 Sedan	1,300
Sub.Total	10	8 Sedans 2 Wagons	11,800
<i>SES Fleet</i>			
New South Wales	8	5 Sedans 3 Wagons	6,200
TOTAL	18	13 Sedans 5 Wagons	18,000

The Commission recycles office consumables (paper, toner cartridges etc) wherever possible.

The Commission continues to place a high priority on occupational health and safety issues. During 1992/93, the Commission finalised its Occupational Health and Safety Policy and Agreement, which was endorsed by both management and union representatives.

A joint management and union Occupational Health and Safety Sub-Committee (OH&S) of the Consultative Council was established in 1990. The OH&S Sub-Committee met regularly during 1992/93 and reported on its progress and future directions to the Council. The Sub-committee undertook the following activities:

- finalised the Commission's OH&S Policy and Agreement;
- undertook further work arising from the OH&S audit; and
- provided ongoing training for staff in OH&S matters.

As required under the OH&S legislation, health and safety representatives have been elected in Commission offices.

EEO Resources and Consultative Mechanisms

The Executive Director 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 the 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

**OCCUPATIONAL
HEALTH AND
SAFETY**

**EQUAL
EMPLOYMENT
OPPORTUNITY**

diversity in the workplace and on EEO requirements for managers and supervisors.

The consultative mechanism for EEO is part of the industrial 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 29 and 30 show the Commission's proportion of EEO target group members in comparison with service-wide averages prevailing at June 1992. The Commission uses the NOMAD system to prepare the statistical data.

Achievements 1992/93

The EEO Sub-Committee revised the Commission's EEO Plan which involved consultation with staff. A number of positions in the Aboriginal and Torres Strait Islander Social Justice Unit were advertised in the Koori Mail and other media with a high ratio of Aboriginal and Torres Strait Islander readership. Two Aboriginal Law Students were employed for 2 to 3 months during their vacation. Some changes were made to existing fit-out to accommodate staff with disabilities.

Major Priorities 1993/94

The major priorities for the coming year include implementing the Commission's EEO Plan 1993-96, which includes developing Workplace Harassment Guidelines; developing and implementing an Action Plan under the Disability Discrimination Act; and developing and implementing an Aboriginal and Torres Strait Islander Recruitment and Career Development Strategy.

ACCESS AND EQUITY

The Commonwealth Government introduced the Access and Equity (A&E) Strategy in 1985. Since then its focus has broadened, and it now targets barriers faced by Aboriginal and Torres Strait Islander peoples, non-English speaking background migrants, their families and their communities. It is designed to

enhance program design and delivery arrangements so that they account for client diversity.

The Commission's second A&E Plan was developed in 1990, according to the Guidelines in place at that time. It was published as part of the Attorney-General's Access and Equity Plan 1991 - 1994.

A service-wide evaluation of A&E was undertaken during 1992. The Commission is reviewing its current A&E performance to take into account the revised focus on program design and delivery arrangements. The Commission's A&E Plan, written in 1990, is being updated, strategies reviewed, and performance indicators and data collection measures put in place to assess outcomes.

SOCIAL JUSTICE

The majority of the Commission's work serves a social justice purpose. Each of our activities is specifically targeted at one or more of the most disadvantaged and vulnerable groups in our society, with the aim of ensuring that they are given the opportunity to participate equally in all aspects of Australian life, free from discriminatory treatment. Detailed information is contained in the sections on Human Rights, Disability Discrimination, Race Discrimination, Aboriginal and Torres Strait Islander Social Justice and Sex Discrimination.

INFORMATION MANAGEMENT

Computer Services

In recognition of the need for significant Information Technology planning and policy activities, the new position of Computer Services Manager was created.

Policy & Planning

The Commission is developing an Information Technology Strategic Plan that will provide a strategy to best meet the Commission's needs now and in the future. It will address the strategic and technical issues involved in providing the most effective, functional, and cost-effective, mix of equipment and software.

Part of this Strategic Plan will examine networking and office automation issues so that the Commission can take advantage of the most effective information technology solutions. As part of this process, the Commission replaced many of its older slow personal computers late in 1992/93.

This is the first part of an Information Technology enhancement policy to bring the IT equipment 'platform' to a consistent and functional level throughout the Commission. When completed this will enable the Commission to implement future networking and office automation applications.

Various Information Technology (IT) policies, such as Computer Security and Disaster Recovery, are being implemented throughout the Commission.

A more detailed fault logging system has been introduced and its reporting functions will continue to be expanded.

Information Technology acquisitions have adhered to the relevant Government purchasing policy as outlined in the *IT Buyer's Handbook* (published by the Department of Administrative Services).

Maintenance

The current maintenance agreements with suppliers are being re-evaluated in line with the IT strategies being developed.

The Commission is looking to rationalise its approach to equipment maintenance and ensure that, as far as possible, the approach is administratively simple, consistent and cost-effective.

Library

The Commission's library provides a comprehensive research resource for Commissioners and staff. Services include information, assistance with major and minor research, on-line and CD-ROM database searching, preparation of specialised bibliographies, training sessions in research techniques, inter-library loans and regular displays of new acquisitions.

A wide range of materials is held in subject areas relevant to the work of the Commission, across a range of print and electronic formats. Included are databases, monographs, journals, newspapers, legislation, government publications, law reports, pamphlets and an archives collection of HREOC publications. Emphasis is placed on Australian publications, with selected international acquisitions.

With the addition to the Commission of the Disability Discrimination Unit and the Aboriginal and Torres Strait Islander Social Justice Unit specific materials have been acquired to support the work of these new areas.

Requests for new acquisitions may be purchased, depending on considerations of budget and general relevance to the collection, or borrowed on interlibrary loan.

Throughout the year one hundred and ninety three items were supplied on interlibrary loan to other libraries and five hundred and thirteen items were received from other libraries for the use of HREOC staff. The general public may use the library by appointment between 10.00am and 4.30pm.

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 1992 to 30 June 1993 the Commission received thirteen requests for access to documents pursuant to the Freedom of Information Act. Nine of these were for access to documents relating to complaints lodged by the applicant and the remaining four sought access to documents relating to complaints lodged by persons other than the applicant. One of these also requested access to policy related documents.

The Commission maintains the following categories of documents:

Administration: Matters including personnel and recruitment, accounts, general administration files, documents and registers, registry and library records and indices.

Conciliation: Matters including the investigation, clarification 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, inquiries 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

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

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

Facilities for successful applicants to examine documents and obtain 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, QNU Building
187 Melbourne Street, SOUTH BRISBANE 4101
Telephone: (07) 844 6099

Second floor, Aplin House
19 Aplin Street, CAIRNS 4870
Telephone: (070) 317 399

- 0 Third floor, MLC House
130 Victoria Parade, ROCKHAMPTON 4700
Telephone: (079) 226 877

- 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
- Level 2 NATWEST House
40 Allara Street, CANBERRA 2608
Telephone: (062) 247 3358

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 activities of the Regional Offices in Queensland are reported in a separate chapter in order to fulfil its statutory obligations to the Queensland Government in accordance with the 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

Continuing education and the proactive fostering of networks with the wider Tasmanian community has been the major thrust of the activities of the Tasmanian office throughout 1992/93.

The number of people seeking advice from the office on equal opportunity, human rights and discrimination issues continued at a very high level throughout the year with 4202 telephone inquiries and 184 personal inquiries. Formal complaints remained at a stable level.

As in recent previous years the Commission received many invitations to conduct seminars and address a diverse range of audiences with staff undertaking speaking engagements on an often more than weekly basis. As well as engagements with government departments and agencies, a variety of non-government and community organisations, trade union and schools, colleges and University, it was pleasing this year to further develop contact with industry groups particularly in the retail and finance field.

These activities took place throughout Tasmania with staff regularly travelling to Launceston and the North, the North-West coast and on a few occasions to the West Coast, ensuring a good coverage of all population centres.

Once again an important focus for the year was Human Rights Week with a very strong involvement on the organising committee of non-government organisations. Events were held in Launceston and Hobart including the presentation of the Tasmanian awards for humanitarian activities and a very well attended concert at Parliament Lawns in Hobart.

A number of human rights issues arose throughout the year which attracted the attention of the local media and the Regional Director and visiting Commissioners received good publicity through both print and radio/TV media on several occasions.

The question of State anti-discrimination legislation was a matter of debate within the community on a regular basis during the year with a State-wide survey conducted by the Tasmanian Council of Social Service showing that the people of this State solidly favoured additional anti-discrimination legislation. It is understood that the State Government is considering a number of options in this regard but no form proposals have yet been put forward.

During the year the Tasmanian Hearing Commissioner, Mr Robert Nettlefold heard a number of cases which could not be resolved by conciliation furthering this vital part of the Commission's work in Tasmania.

Northern Territory

The Northern Territory Anti-Discrimination Act was assented to in December 1992. It came into operation in the latter half of 1993.

The former Regional Director of the Northern Territory Office, Ms Dawn Lawrie, has been appointed as the Northern Territory Equal Opportunity Commissioner.

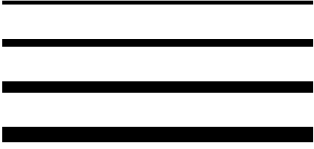
Visits to the Northern Territory by the Human Rights Commissioner, Sex Discrimination Commissioner and Disability Discrimination Commissioner have assisted greatly in raising the profile of the Commission, as has the appointment of a Territorian as the first Aboriginal and Torres Strait Islander Social Justice Commissioner.

The Regional Director is a member of the NT Planning and Settlement Committee, chaired by the Department of Immigration and Ethnic Affairs, and acted as returning officer for the Ethnic Communities' Council and the Multilingual Broadcasting Council of the Northern Territory.

The Regional Director is also a member of the coordinating committee chaired by ATSIC, which is concerned with the coordination of the delivery of services to Aboriginal people throughout the Territory.

Access to many of the Aboriginal centres across the Northern Territory is severely limited, particularly in the wet season when vast areas are effectively isolated for months at a time. To overcome communication difficulties the regional office is planning to arrange regular broadcasts in several aboriginal languages through the Central Australian Aboriginal Media Association (CAAMA) and the Top End Aboriginal Bush Broadcasting Association (TEABBA). These broadcasts will augment the regular ABC regional program interviews which have proved successful in promoting the Commission's statutory functions and activities.

A public education program accessible to all people in this vast and culturally diverse Territory remains the regional office's greatest challenge.



**AUSTRALIAN
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**AUSTRALIAN
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HUMAN
RIGHTS
OFFICE**

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 1992/93 the work of the ACT Human Rights Office (ACT HRO) has grown steadily. The number of inquiries received each month and the number of complaints being handled have more than doubled during this period.

As a result of teaching and other commitments overseas, the ACT Discrimination Commissioner, Professor Philip Alston, was absent during 1993. Dr Rosalie Balkin was appointed as the acting Discrimination Commissioner in January 1993 and will occupy the position during 1993.

More detailed information regarding the ACT Human Rights Office's activities is contained in the ACT Discrimination Commissioner's report to the ACT Government.

**THE
ACT
DISCRIMINATION
ACT
1991**

The Discrimination Act makes discrimination on the following grounds unlawful:

- sex
- sexuality
- transsexuality
- marital status
- race
- pregnancy
- status as parent or carer
- 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.

PROMOTIONAL ACTIVITIES

During 1992/93 considerable effort was put into promoting the existence and role of the ACT HRO and, in particular, the *ACT Discrimination Act 1991*.

The Discrimination Commissioner, Professor Philip Alston, held a series of lunchtime meetings in late 1992 with representatives of community groups, trade unions, employers and ACT Government agencies to promote awareness of the role of the Office and of the legislation which it administers.

The major promotional activity of the Office during 1992/93 was a stall at the Canberra Show on 26 to 28 February 1993 which was organised in conjunction with the ACT Government Women's Referral and Information Centre (WIRC). Stickers and magnets were made for distribution at the Show (with the slogan 'ACT AGAINST DISCRIMINATION') and a considerable amount of other ACT HRO and HREOC material was also distributed.

This was followed on 1 March 1993 by a stall at the ACT Trades and Labour Council picnic at which more material was handed out and discrimination issues were discussed with union members.

In February 1993 letters were sent to approximately 200 community organisations (welfare, unions, employers, lobby groups etc) informing them of the existence and role of the Office. These letters generated many inquiries about the Office, requests for further information etc.

Letters were also sent to Equal Employment Opportunity Co-ordinators in Commonwealth and ACT government agencies (about 70 people) informing them of the role of the Office.

These letters also resulted in requests for speakers from the Office.

The Office receives a steady stream of inquiries about a wide range of matters as well as requests for pamphlets and other material on anti-discrimination issues. Since November 1992 (when recording of inquiries began) the Office has received approximately 938 telephone inquiries and 'walk-ins'.

Pamphlets have been drafted on the major grounds under the ACT Discrimination Act (sex/pregnancy/marital status, sexual harassment, race, and impairment). However, due to the growing workload of the Office and the lack of staff resources in early 1993 finalisation of these pamphlets was postponed until later in 1993.

Media

During 1992/93 the Office contacted most of the major media (press, radio and newspaper) organisations in the ACT and received good coverage, particularly from radio.

Several local radio stations broadcast free community announcements about the Office in early 1993. Media coverage of the Office included four interviews on local ABC radio, two interviews on 2XX, interviews on WIN TV with the Acting Discrimination Commissioner and with the Regional Director of the Office, and a lengthy article in Public Eye about the role of the Office. The Canberra Times also published two letters from the Regional Director in response to items about alleged discriminatory acts.

Community Education

Talks by the ACT Discrimination Commissioner, Professor Philip Alston included -

- Address to PSU Seminar on Work and Family
- Address to Senior Executives Responsible for EEO, ACT Government
- Address to meeting of Council on the Ageing

Talks by the Acting ACT Discrimination Commissioner, Dr Rosalie Balkin included -

- Address on ACT Discrimination Act at dinner of Women Lawyers' Association
- Address to public seminar on proposed age discrimination legislation for the ACT

Talks given by staff of the ACT Human Rights Office included -

Employment-related

- Seminar at Vocational Training Centre for adults enrolled in a work retraining program
- Talk at meeting of ACT Government EEO Co-ordinators
- Address to Staff Development Seminar for military and civilian personnel involved in personnel policy, Department of Defence
- Address at seminar on EEO for managers in ACT Treasury
- Address to participants in a JobSkills course
- Talk to students at Vocational Training Centre, Belconnen
- Talk on discrimination legislation to Retirement Benefits Office
- Talk on discrimination issues to long-term unemployed people participating in a JobSkills course
- Participated in Sexual Harassment Seminar (hypothetical) organised by ACT Women's Consultative Council
- Addresses to Breakfast Seminar organised by ACT Trades and Labour Council in conjunction with ACT Women's Consultative Council, Youth Advisory Council and Women's Unit, Chief Minister's Department to raise awareness among employers of sexual harassment (with the Sex Discrimination Commissioner)
- Address to students at Work Resources Centre
- Talk to Sexual Harassment Contact Officers in ACT Department of Environment and Land Planning
- Talk to Sexual Harassment Contact Officers in the Department of Social Security

- Talk on discrimination legislation at EEO meeting in ACT Department of Environment and Land Planning
- Talk to students in Work Environment course, Canberra Institute of Technology
- Address to Association of Managers

Community

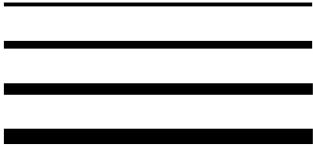
- Address to meeting of ACT Bahai Community for *Different Colours, One People Week*
- Panel member of Family Planning Association Sexual Assault Hypothetical
- Address to ACT Deaf Club
- Talk on discrimination issues to people who have experienced a stroke, Belconnen Community Centre
- Address to Head Injury Council of Australia

Educational institutions

- Sessions with Year 9 and year 10 classes at Wanniasa High School
- Lecture to 'Employment, Discrimination and the Law' class at the University of Canberra
- Address to Caloola Training Centre
- Address to JobSkills course, ANU
- Lecture on the ACT HRO to students in human rights law course, Law School, University of Canberra
- Lecture on the ACT HRO to students in women's studies course, University of Canberra

○ Seminar on sexual harassment with students at Copeland College

In addition to community education functions, ACT HRO staff attended a wide range of other functions and meetings. These included launches of publications, meetings with Government agencies and other organisations to discuss issues of common interest or concern, conferences, training and staff development courses etc. Functions of this nature also provide staff with opportunities to promote community knowledge about the role of the Office in an informal way.



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**QUEENSLAND
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and
HREOC**

**Commonwealth
and
State
Co-operation**

The Queensland Anti-Discrimination Commission and the Federal Human Rights and Equal Opportunity Commission operate from joint offices in Brisbane, Rockhampton and Cairns due to a cooperative agreement between the Federal and Queensland Governments.

This arrangement provides a coordinated approach to anti-discrimination and human rights issues in Queensland as well as a single point of contact on relevant State and Federal laws.

The structure of the Queensland Anti-Discrimination Commission is shown in the organisational chart at Appendix 1.

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

**Highlights
of
1992/93**

AntiDiscrimination Act the first 12 months

The Anti-Discrimination Act was proclaimed on 30 June 1992. In the Act's first 12 months, the Commission handled more than 4,690 telephone inquiries, accepted 410 formal complaints and conducted 327 educational sessions relating to the new Act.

Appointment of Tribunal Member

The Queensland Government appointed Brisbane barrister Ms Roslyn Atkinson as the first member of the Anti-Discrimination Tribunal. Ms Atkinson took office on 13 July 1992.

Opening of Commission regional offices

On 7 July, Queensland Attorney-General Dean Wells and Federal Sex Discrimination Commissioner Quentin Bryce opened the Commission's joint federal/state office in Rockhampton. On 14 July, the Attorney and Federal Human Rights Commissioner Brian Burdekin opened the Cairns office. On both occasions, Acting Anti-Discrimination Commissioner Helen Twohill welcomed government and community representatives to the opening.

Launch of calendar, posters and publications

In the second half of 1992, the Commission launched new posters, guidelines and rights information focusing on the Queensland legislation. The launches were held at a variety of venues to reflect the diversity of the community and the reach of the legislation. On 9 December 1992, the Commission hosted a function at a Brisbane hotel to launch the 1993 Discrimination Free Calendar.

Human Rights Network for Schools

To celebrate Human Rights Day on December 10, the Commission, in conjunction with the Department of Education, held a full-day training session for two Year 9 students and a teacher from each school in Brisbane, Rockhampton and Cairns. The aim was to create a network of teachers and students who could act as anti-discrimination contacts and advocates in their schools and who could stimulate school-based activities around human rights issues. These students and teachers now comprise the Human Rights Network for Schools and are involved in regular liaison and meetings with the Department and the Commission.

Workshops for EEO Practitioners

In December and May, the Commission hosted two workshops for public and private sector EEO practitioners to assist them with their work and to facilitate cross-sector communication.

Liaison with Government departments

The Commission continued extensive liaison, consultation and training for departmental staff and management across the state public sector. Training was provided to managers and supervisors, general staff and harassment contact officers. Commission staff were involved in a wide range of consultative committees within this sector.

Aboriginal and Torres Strait Islander liaison

Extensive contact and consultations with Aboriginal and Islander people and their peak bodies continued throughout the year. The Commission's Aboriginal Liaison Officer and other staff conducted field trips to various communities to discuss issues of concern. The Commission was involved in a number of events to mark International Year for the World's Indigenous Peoples.

First Tribunal hearing

In April, the Anti-Discrimination Tribunal conducted its first public hearing into a complaint of discrimination. Under the Anti-Discrimination Act, complaints of discrimination which are unable to be resolved through conciliation may be referred for public hearing. The hearing attracted widespread media and community interest.

Anti-Discrimination Commissioner

Ms Helen Twohill was Acting Anti-Discrimination Commissioner until 21 May when she was seconded to the Department of Family Services and Aboriginal and Islander Affairs as head of the Division of Protective Services and Juvenile Justice.

After that date, Ms Margo Couldrey took over as Acting Commissioner pending the appointment of the Commissioner.

LEGISLATION

The Anti-Discrimination Commission and the Anti-Discrimination Tribunal were established by the Anti-Discrimination Act 1991 which was proclaimed on 30 June 1992. The sections on superannuation and insurance did not become operative until 9 December 1992.

The 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.

Commission Functions

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 examine legislation to determine whether it is inconsistent with the purposes of the Act and to report on these matters to the Attorney-General
- to undertake research and educational programs to promote the purposes of the Act
- 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 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.

Tribunal functions

The main functions of the Anti-Discrimination Tribunal are:

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

Grounds and areas

If people are treated unfairly in the areas covered by the Act because of any of the following personal attributes, they can lodge complaints with the Commission:

- sex
- pregnancy
- marital status
- parental status
- breastfeeding
- age
- race
- impairment
- religion
- political belief or activity
- trade union 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
- education
- goods and services
- accommodation
- superannuation and insurance
- disposition of land
- club membership and affairs
- administration of state laws and programs
- local government

THREE YEAR PLAN

Sexual harassment provisions

The Act prohibits sexual harassment in any situation. Sexual harassment is broadly defined to include any unwelcome sexual conduct that is offensive, humiliating or intimidating.

The Commission's work is guided by a three-year plan for the period 1991 - 1994. The plan covers objectives, community education, complaint handling, special projects, administrative matters and staff training.

Objectives

The Commission's objectives are:

- to promote the Commission's goals and an understanding of Federal and State human rights and anti-discrimination laws and how such laws contribute to economic well-being and social justice in Queensland
- to foster informed and unprejudiced attitudes in the community with a view to eliminating discrimination
- to provide effective redress for people subjected to unlawful discrimination
- to encourage equal opportunity principles and practices in employment, education, the provision of goods and services, accommodation, advertising and other areas of public life

Corporate goals

The Commission's corporate goals are:

- to administer anti-discrimination and human rights laws as effectively as possible with the resources allocated
- to carry out its functions and service its clients in the most competent and efficient manner possible
- to manage at the highest possible standard at all levels and to maximise the potential of Commission staff by being a

fair and responsible employer and adopting professional human resource practices.

Overall strategies

The Commission's overall strategies as outlined in its three-year plan are:

- to adopt complaint-handling practices that are effective, timely and of the highest possible standard
- to develop adequate training, educational and promotional programs to inform the public about their rights and about human rights and anti-discrimination issues generally
 - to undertake policy development and research programs in areas of concern
- to consult with relevant non-government organisations and join with them in cooperative ventures which are consistent with the Commission's goals
 - to monitor media coverage of human rights and anti-discrimination issues to ensure accurate, responsible and sympathetic reporting
- to report and make recommendations to government regarding the legislation administered by the Commission
 - to develop a program of advice, guidance, liaison and training for Federal and State agencies in respect of all anti-discrimination legislation
- to develop and promote a corporate approach to management, planning and operations
 - to maximise efficiency and economy in the use of resources
- to adopt management information systems which support effective program evaluation and accountability
 - to take advantage of technological developments to promote cost-effective management operations
- to develop an integrated human resource management strategy
- to maintain equal employment opportunity as an integral part of the Commission's functions
- to promote the merit principle in recruitment, appointments and promotions.

COMPLAINT HANDLING

Initial Inquiries

By telephone

1992/93 was the first year that the Anti-Discrimination Act was in force and it was a very busy year for complaints-handling staff. The Commission provides a telephone advice service for the public and, in the past year, 4,690 people phoned for advice about the new legislation or their rights. Tables 24 and 25 show the nature of these inquiries.

Area of inquiry

Apart from calls about the scope of the legislation, the vast majority of callers (68%) phoned about alleged discrimination in the employment area. There were also substantial numbers of callers about alleged discrimination in the provision of goods and services (13%), rental accommodation (8%), education (4%) and administration of State laws and programs (3%).

Grounds of inquiry

Apart from general calls about the scope of the Act, 19% of the telephone inquiries were about alleged sexual harassment with the remainder about alleged discrimination on the grounds of age (18%), impairment (17%), race (16%), marital status (7%), pregnancy (7%), parental status (4%), lawful sexual activity (4%), sex (3%), trade union activity (2%), religion (2%) and others (1%).

In writing

Over the course of the year, the Commission received 1,367 letters from people wishing to lodge complaints of discrimination or harassment. Of these, 419 were accepted as complaints under the Queensland legislation and a further 134 were accepted as complaints under Federal anti-discrimination laws.

In person

Commission staff also interviewed 444 people who visited one of the three offices to discuss alleged discrimination or harassment.

Formal Complaints

The Commission attempts to resolve complaints of discrimination through the conciliation process. This involves investigating the complaint, putting the evidence before both parties and assisting them to come to a mutually acceptable agreement. Where the conciliation process is not successful, either the complainant or the respondent can ask for the matter to be referred for a hearing before the Anti-Discrimination Tribunal.

Figures 1 and 2 show the numbers of complaints accepted by the Commission over the first twelve months and the grounds and areas involved.

Area of complaint

As with the telephone inquiries, most (75%) of the 419 complaints accepted related to alleged discrimination in the employment area with the other substantial areas of complaint being the provision of goods and services (13%), rental accommodation (7%), education (4%) and the administration of State laws and programs (3%).

Grounds of complaint

The grounds involved in the complaints accepted also reflected the pattern apparent in the telephone inquiries with the most common ground being sexual harassment (22%) followed by impairment (20%), sex (14%), race (13%), age (10%), pregnancy (7%), parental status (5%), marital status (3%), lawful sexual activity (2%), religion (1%) and others (3%).

Outcomes of complaints

Of the 419 complaints accepted, 113 had been closed by the end of June 1993, and the remaining 306 were still current. Table 26 shows the outcomes of the 113 complaints which had been closed.

The majority (61) had been conciliated, 33 had lapsed, 16 had been withdrawn by the complainant and 3 had been referred for a Tribunal hearing.

CASE STUDIES

Case study 1: Impairment discrimination in education

A woman complained that an education authority had discriminated by failing to take her impairment into consideration when she was required to complete assessments. The complainant believed that this lack of consideration resulted in her being unable to complete the assessments under reasonably comfortable conditions.

The authority denied discrimination and claimed it had always been open to discussing consideration of individual needs. After a conciliation conference it was agreed that communication breakdown had caused the complainant to feel her concerns were not taken seriously.

An agreement between the parties included a review of written materials which are provided to students with impairments, a continuation of consideration of special needs, and special consideration to be given to her most recent assessments.

Case study 2: Age discrimination in employment

A man complained that he was not considered for a position because of his age. He said he was told the company was looking for younger people.

The employer denied discrimination claiming that all applications were considered on merit. It was agreed that a remark about age had been made by an employee not involved in the selection process. The employer said this did not reflect company policy.

The company acknowledged the remark, undertook to ensure all staff were made aware of company policy and apologised for the way the situation was handled.

Case study 3: Parental status discrimination in the provision of goods and services

A woman complained that she and her companions were discriminated against by a council sporting facility when they had been asked to leave the facility which they regularly used for keeping fit. It was claimed that they had been asked to leave because they had brought their young children to the facility in prams. It was further claimed that access to a child care service had been denied because of the particular type of sport in which they were engaged and therefore their right to use the facility was denied to them because of their parental status.

The respondent claimed there had been a misunderstanding and the matter was resolved when the respondent clarified the issues and arranged that the complainant and her companions be given access to a nearby facility for the care of the children.

Case study 4: Parental status discrimination in employment

A woman complained that her employer had discriminated against her on the basis of parental status when she was dismissed after her return from maternity leave.

The employer claimed that the termination was based on poor work performance and that the complainant had been warned of this prior to her termination. The employer, however, was not able to show evidence of a warning, it allegedly being verbal and not recorded. The complainant stated that she had worked competently in a number of areas on her return and without comment by her employer. She said that she encountered problems when she was placed in an unfamiliar area of employment and poorly trained by someone who was later dismissed for incompetence.

The matter was conciliated when the employer provided more than \$6,000 compensation for loss of income and distress.

Case study 5: Racial discrimination in education

A parent complained on behalf of her child that the child had suffered discrimination at his school. She said her child had been subjected to consistent and prolonged racist abuse which culminated in his reacting against his tormentors and causing minor damage to school property. The parent said the principal had failed to show any awareness of the distress caused by the

racist abuse and had not taken it into account when dealing with the matter of damaged property.

Following a conciliation conference, it was acknowledged that the particular punishment meted out in this case was not appropriate, was misunderstood by the child and the mother, and the issue could have been dealt with in a positive manner had more time been taken to properly consult with the parent.

The principal apologised for any misunderstanding and it was agreed that support for the child and his family would be provided by the educational authority. It was agreed that support programs would be advertised more often and more widely within the school community, and awareness of racial issues would be raised at the school.

Case study 6: Racial discrimination in employment

A man working in an academic institution complained that he had been subjected to racist comments and actions during his employment. He had complained to his employer but felt that the employer had failed to address the issues adequately. The employer said appropriate action had been taken to deal with the issues.

Following a conciliation conference it was agreed that action had been taken but the employer had failed to realise that the time taken to institute this action had impacted severely on the complainant and his family. The employer agreed to provide a public apology to be published in the institution's newsletter and the local newspaper. A private and personal apology was also provided to the complainant along with monetary compensation of \$4,000 for distress suffered.

The employer also agreed to ensure that the institution's code of conduct was widely advertised within the institution and enforced. It was acknowledged that closer communication and interaction with the complainant's community group would assist in better understanding of the difficulties encountered by that particular racial group.

Case study 7: Discrimination on the grounds of lawful sexual activity in the provision of goods and services

A researcher conducting a survey of men who have sex with men attempted to lodge an advertisement in a newspaper. He said the publisher tried to change the wording of the advertisement and gave a number of anti-gay reasons for doing so.

In conciliation, the respondent said the reasons for the wording changes had been technical rather than "moral" ones but agreed to abide by anti-discrimination laws in future.

Case study 8: Sex discrimination in employment

A man complained that he had been refused registration as a child carer because of his sex. The process of conciliation revealed that the respondent had imposed this regulation in the mistaken belief that it was a requirement of a government department.

The policy was withdrawn, all affected parents were advised of the reversal of policy and that the original had not been a reflection on the individual complainant; all relevant care providers were informed; and it was agreed the complainant would be registered following the successful completion of the usual application procedures. The complainant agreed that he would be reassessed as a carer if that was required in the normal course of events and was not directed at him because of his sex.

Case study 9: Sexual harassment in employment

A young woman complained that she had left her job because of sexual harassment and lodged the complaint against her employer and a male employee. It was claimed that another male employee had touched her, made sexual gestures and made sexual remarks to her and about her to others.

During the process of conciliation the employee denied that the conduct was meant to harass the complainant and said it was meant to be light-hearted fun. The matter was conciliated on the provision of a written apology and \$1,000 in compensation.

Case study 10: Sexual harassment in employment

A young man complained that he had been sexually harassed by other male employees. He claimed that sexual remarks were made about him and assumptions were made about his sexual preference. He said he was threatened by the employees to the degree that he did not feel he could safely complain about their behaviour to his employer.

The allegations were denied and it was claimed that the actions of the employees were misinterpreted by the complainant. However, the matter was conciliated with an apology for any distress caused to the complainant and \$1,300 compensation for lost wages and distress.

Case study 11: Sexual harassment in employment

The complainant worked in a factory on a production line. She was the first woman to be employed in what was previously an all-male workplace. She said that over time sexist remarks were made but they became progressively worse. She said she was threatened with rape, asked repeatedly about her sexual activity and called derogatory names. As a result of her complaint to the Commission, the employer conducted an investigation and four male employees were dismissed following confirmation of the alleged sexual harassment.

The dismissed employees' union sought their reinstatement through the Australian Industrial Relations Commission (AIRC) because they felt the sexual harassment was not serious enough to warrant sacking. The AIRC delayed making a recommendation on reinstatement until the outcome of a conciliation conference with the Anti-Discrimination Commission was known.

The complaint was conciliated at the conference where the men commented that they had never worked alongside women before and acknowledged they had behaved wrongly. They apologised to the woman and guaranteed not to sexually harass her or any other women at the workplace. The complainant said she would not object to the reinstatement of the men, providing two of them were not on the same shift as her. All parties recommended the union should conduct a state-wide education campaign for its members about sexual harassment. The company agreed to organise education for the workplace.

At the AIRC conference held subsequently, two of the men were reinstated. Despite the agreement reached through conciliation, the process was extremely stressful for the woman and her return to work has proven very difficult.

Case study 12: Marital status discrimination in the provision of goods and services

A woman complained that she had been unable to take advantage of a lower fee rate for 'married' couples at her local sports facility because she was in a de facto relationship.

Following the conciliation conference the respondent advised that the 'married' rate had been removed from the fee structure but that the complainant would be offered that rate for one year.

Priorities for 1993/94

The Commission's priorities for 1993/94 in the complaint handling area include:

- developing a mechanism for reviewing client satisfaction with the Commission's services
 - working towards a goal of processing 90% of written inquiries within 10 working days
- ensuring as far as possible that complaints are settled or the conciliation process exhausted within six months of acceptance of the complaint.

COMMUNITY EDUCATION AND ADVICE

The Commission puts a large effort into community education work in an effort to raise understanding and acceptance of human rights and anti-discrimination issues. While complaint-handling is a very important aspect of the Commission's work, it is also important to take a preventive approach. This is done largely through educating employers, community groups, government agencies, service providers, property owners, educational authorities and others so that they understand their rights and responsibilities and minimise the incidence of complaints.

Talks

During the last twelve months, the Commission has provided guest speakers, conducted in-house training and initiated educational sessions for a wide range of groups. A list of the Acting Commissioner's major speaking engagements is at the end of this chapter.

Guest speakers and in-house training

Of the 327 occasions on which the Commission provided guest speakers or conducted training for various organisations last year, 104 were for community groups; 67 were for State Government agencies; 58 were for teachers or students at universities, TAFE colleges, private training colleges or schools; 38 were for private sector employers; 22 for professional associations; 18 for Commonwealth Government agencies; 13 for trade unions; and 7 for local government authorities.

EEO trainers' sessions

At the request of various EEO officers, the Commission ran two half-day workshops for EEO trainers from both the public and private sectors. The first of these was on the issues involved in establishing internal grievance procedures and the second provided an advanced session on anti-discrimination laws and a workshop on training strategies. Both were very well-attended and, according to participants' evaluations, well-received.

Second Chance Business Register

Commission staff attended a breakfast at the Wacol Correctional Centre along with a number of Cabinet Ministers and representatives of Corrective Services and the Second Chance organisation. Staff presented certificates to 24 employer representatives involved in providing employment opportunities to ex-inmates of the centre.

Policy Advice for Employers

The Commission was consulted by many employers on a wide range of matters, including the design of employment application forms; appropriate responses to various immediate situations; EEO and sexual harassment policy formulation; the development of staff training programs and the establishment of internal grievance procedures. Formal written advice was provided on 73 occasions; many hundreds of telephone calls from employers were fielded; and Commission staff met with employers and managers to provide advice on 123 occasions over the past twelve months.

Advice to Publishers

Because the Act prohibits discriminatory advertising, classified advertising staff from most newspapers around Queensland phoned the Commission regularly for on-the-spot advice on advertising copy.

Publications

The Commission has researched, written and produced a wide range of publications in the last twelve months largely in response to requests from various groups and emerging needs.

Guidelines for employers

In response to requests from employers, the Commission produced guidelines for employers on age discrimination. This was added to the employer's kit already distributed which contained three sets of guidelines on discrimination, sexual harassment and staff selection as well as model company policies. The employer's kit has been well-received and some 10,000 copies were distributed in the last year.

Guidelines for publishers

Because the Act prohibits discriminatory advertising, the Commission produced guidelines on this subject for publishers. Bulk copies of these as well as the Commission's poster on discriminatory advertising were distributed to classified advertising managers in all Queensland newspapers.

Guidelines for real estate agents

With discrimination in rental accommodation remaining a serious concern, the Commission produced guidelines for real estate agents on anti-discrimination laws. These were produced in consultation with the Real Estate Institute of Queensland and the Queensland Tenants' Union and have been distributed with the Institute's monthly journal. At the request of the Institute, the Commission also produced a one-page guide for property owners designed for agents to hand to their clients at the point of engagement. This has been very popular with agents and the Commission has received many requests for bulk copies. At the suggestion of the Tenants' Union, the Commission also produced a similar one-page guide for property lessors who do not

use real estate agents. This has been distributed by the Rental Bond Authority as property lessors lodge new bonds.

Rights information

In consultation with the Queensland AIDS Council, the Commission produced a new rights sheet covering HIV, AIDS and discrimination. A rights sheet for school students and a wallet-sized rights card for pregnant women, parents and breast-feeding mothers were also produced. These publications were additional to those which had been distributed earlier which included rights sheets on discrimination, sexual harassment and disability as well as rights cards on sexual harassment and for Aboriginal and Torres Strait Islander people, people from non-English speaking backgrounds, gay men and lesbians and people with disabilities.

Translations

After consulting with the Bureau of Ethnic Affairs on the major language groups in Queensland, the Commission produced a brochure, poster, rights card, general rights sheet and sexual harassment rights sheet in Chinese, Vietnamese, Filipino, Serbian, Croatian, Arabic and Spanish. These have been distributed to relevant community groups and used in educational sessions conducted by the Commission.

Printhandicap

The Commission produced an audio-tape summarising anti-discrimination laws as well as a braille version and these have been distributed by groups representing people who are print-handicapped.

Library kit

Because of the very large volume of requests for information from students, the Commission distributed a library kit to all university, TAFE, secondary school and municipal libraries in Queensland and students and teachers are now referred to this kit. It was updated with new information during the year and this will continue every six months.

Under One Sun

The Commission distributed 5,500 copies of its quarterly newsletter *Under One Sun* to private sector employers, government agencies, trade unions, the media, members of parliament and community organisations during the year. The newsletter covers Commission and relevant community activities, sets out case studies and addresses the most frequently asked questions about discrimination and the law.

Facts sheets

The Commission produced three facts sheets to counter the myths about older people, people with disabilities and sex stereotypes. These have proved particularly useful in educational sessions with students.

Conciliation and complaints brochure

To take account of both State and Federal legislation, the Commission produced a new brochure outlining its conciliation and complaints procedures. These are distributed mainly to people who are thinking of lodging a complaint and to people against whom complaints are lodged to ensure the Commission's processes are understood.

Discrimination-Free Calendar

To celebrate 1993 as the first calendar-year of the Act's operations, the Commission produced its *Discrimination-Free Calendar*. 5,000 copies were distributed to workplaces and community groups around the State in December last year and demand far outstripped supply.

Participation in Community Events

The Commission took part in many community events during the past year usually by staffing a display and giving information to the public. These included:

- Info Expo for people from non-English speaking backgrounds
- 0 the Attorney-General's Department display at the Brisbane RNA Show

- National Aboriginal and Islanders Day of Commemoration celebrations in Brisbane, Ipswich, Murgon and Cherbourg
- Community Disability Alliance Week in Brisbane
- the Referendum Day Festival for Aboriginal and Torres Strait Islander people in Brisbane
- International Women's Day in Brisbane
- Life Options Expo for people with disabilities at Logan City
- Focus on Ability Expo for people with disabilities in Brisbane
- Invasion Day march and concert in Brisbane
- Lesbian and Gay Pride Festival in Brisbane
- Opening of International Year for the World's Indigenous Peoples in Brisbane
- Disability Forum in Rockhampton
- Women and Government Services display in Rockhampton.

Consultation and Liaison

Involvement on committees

Commission staff have been involved in a wide range of community and government committees including:

- Aboriginal/Police Liaison Group
- Community Disability Alliance
- Mareeba Community Arts Network
- Police Ethnic Advisory Group
- Queensland Domestic Violence Council
- Network for Intercultural Communication
- Police/Gay Community Consultative Committee
- Prisoners' support groups
- Aboriginal Elders
- Department of Family Services and Aboriginal and Islander Affairs EEO Consultative Committee

- o Interdepartmental Working Group for the Forward Plan on Ageing
- o Ipswich Aboriginal Housing Group
- o Public Place Users Group in Cairns

Informal liaison

In addition to formal involvement on committees, Commission staff regularly liaised and consulted with a wide variety of organisations such as the Commonwealth Employment Service, Legal Aid, women's health centres, South Sea Islander organisations, community legal services and the Community Justice Program.

Aboriginal and Torres Strait Islander liaison

The Commission's Aboriginal Liaison Officer regularly visited Aboriginal and Torres Strait Islander communities and organisations in Brisbane and nearby and conducted field trips to those outside Brisbane on a regular basis. Meetings were held in many communities including Kowanyama, Woorabinda, Mornington Island, Doomadgee, the Darumbal Centre at Rockhampton, the Toonooma Centre, Horn Island, Mareeba, Goondiwindi, Inglewood and Milbi Farm and ranged over issues such as the use of public places and the media representation of Aboriginal and Islander people.

Brilliant Lies

The cast of David Williamson's play *Brilliant Lies* which was about sexual harassment consulted with Commission staff during the rehearsal phase. The Commission supplied material for inclusion in the printed program and staff addressed school students attending two schools' performances of the play about the Commission's experience with sexual harassment complaints.

Public Events

Following the proclamation of the Act on 30 June last year, the Commission organised a number of public events to launch new materials, consult with target groups and publicise the legislation. These included:

- o a public breakfast in Brisbane's King George Square for people with disabilities

- a telephone hotline to survey discrimination against gay men and lesbians
- a media conference on sexual harassment which included women who spoke of their experiences
- an exhibition of Aboriginal and Torres Strait Islander political posters
- a lunch and media launch at Stubbies Clothing Company for multicultural workplace representatives
- a public launch of the Commission's Discrimination-Free calendar, involving many of the people featured in the publication
- launch of the Commission's discriminatory advertising poster with the classified advertising staff of Queensland Newspapers.

Human Rights Network for Schools

As a joint project with the Queensland Education Department, the Commission has developed a human rights network for secondary schools. Both government and non-government schools in Brisbane, Rockhampton and Cairns were invited to nominate two year nine students and a teacher to attend a one-day workshop on Human Rights Day 1992. Those who attended have agreed to be advocates for human rights in their schools until year 12 and workshops will be held for them every six months. Student evaluations showed the program was very well-received and there are plans to extend it to other regions in the next twelve months.

Media

The Commission's contact with the media was quite extensive. The Acting Commissioner was interviewed on 89 occasions and the Regional Directors and other staff on 20 occasions. The Commission held four media conferences, gave regular background information and advice to media representatives and issued more than 30 media releases.

Library

The Commission maintains a specialist library of books and videos in its Brisbane office for staff and public use. The library is open to the public on Thursdays. Requests for information from the public, government departments, business and students, by phone and in person, were a significant part of the librarian's work with 406 people visiting, 546 ready reference inquiries and 63 extended queries.

Priorities for 1993/94

Besides ongoing seminar, media, consultation and advice programs, the Commission's community education priorities for 1993/94 include:

- a review of educational material to update existing publications
- the development of new publications, such as guidelines for hoteliers and additional translated material, where needs are identified
- a series of train the trainer sessions on eliminating sexual harassment from the workplace
- training for Aboriginal and Torres Strait Islander community workers using *Tracking Your Rights* package
- a seminar program for real estate agents on their rights and responsibilities under anti-discrimination laws
- the development of closer links with non-English speaking background communities
- an expansion of the Human Rights Network for Schools into regions other than Brisbane, Rockhampton and Cairns.

Assistance to the Tribunal

One of the Legal Officer's roles is to act as the officer assisting the Anti-Discrimination Tribunal and to organise Tribunal hearings. During the year, there were two complaints of discrimination referred for public hearing; there was one request for an exemption and one request for a Tribunal opinion.

Staff Development

In-house training

The Commission conducted training for staff on the legislation it administers, the conciliation process, administrative procedures and community education issues on a weekly basis. Legal training was provided by the legal consultant to the Commission, Mr Phillip Tahmindjis.

In November, all staff attended a week-long comprehensive training with Phillip Tahmindjis dealing with the legislation and presentations by the Acting Commissioner and staff on a variety of topics.

External courses, conferences and seminars

In February, one of the conciliators commenced training in the Public Sector Management Course at Griffith University. This will culminate with a workplace project in the next financial year. Staff attended a variety of seminars including:

- Staff Appraisal and Performance Agreements seminar for senior officers in Sydney in August
- Mediation conference in Melbourne in October
- Tribunal Registrar's seminar in Sydney in October
- State Attorney-General's Department EEO Conference for female staff on strategies and training in assertiveness and stress management in Brisbane in November
- Seminar for FOI decision-makers at the Department of Attorney-General in January
- Media & Indigenous Australians Conference in Brisbane in February
- Indo-Chinese Awareness Seminar in Brisbane in February

- National Community Educators Conference in Melbourne in April
- Indigenous Rights - A Beginning Conference in Brisbane in April
- Enterprise Bargaining Seminar for Women in May
- Office of Multicultural Affairs conference on access and equity in the Australian Public Service in May
- Seminar by Professor Kathleen Mahoney on Gender, Racial Bias and Judicial Education sponsored by the Qld Domestic Violence Council in Brisbane in May
- word processing training at a variety of levels from Basics to Advanced

Work experience placements

Two social work students from the University of Queensland completed 17-week placements with the Commission. They were supervised by a conciliator who is a qualified social worker.

An officer from the Public Sector Management Commission was on placement with the Commission for four months as part of the Regional Directors' Staff Development Committee management development program.

A student from the Associate Diploma of Business (Aboriginal and Torres Strait Islander Administration) course at Kangaroo Point TAFE College completed a four-week placement with the Commission. He was supervised by the Office Manager.

A trainee from NADOW (Qld) completed a four-week administrative and clerical placement in the Brisbane office.

The Cairns Office cooperated with the Commonwealth Rehabilitation Service in providing clerical work training for a trainee for 16 weeks. The Cairns Office also supervised a law student on four weeks work experience from James Cook University.

Priorities for 1993/94

The Commission's priorities for 1993/94 in the staff development area include:

- a two-day in-house training program on community education strategies
- a comprehensive in-house induction program for new staff
- regular in-house training on legislative developments.

**QUEENSLAND ANTI-
DISCRIMINATION
COMMISSIONER'S
MAJOR
SPEAKING
ENGAGEMENTS**

- 7 Jul 92 Address to guests at function for opening of the Commission's Rockhampton Office.
- 10 Jul 92 Addressed Queensland Newspapers 'classifieds' staff and launched poster on discriminatory advertising.
- 14 Jul 92 Address to guests at function for opening of the Commission's Cairns Office.
- 15 Jul 92 Public address in Brisbane's King George Square at function to launch QADA disability rights sheet, rights card and poster.
- 16 Jul 92 Address to Institute of Industrial Advocates: *Role of the Advocate in Conciliation Conferences and Hearings* at the Bellevue Hotel.
- 21 Jul 92 Presented paper on Economic and Social Rights to Electoral and Administrative Review Commission Seminar on a Bill of Rights for Queensland and participated in panel session.
- 26 Jul 92 Addressed guests at function to launch Gay and Lesbian Rights Card and Hotline at Cafe Society in Fortitude Valley.
- 28 Jul 92 Presented workshop on dealing with workplace harassment at *Valuing Diversity - EEO and Anti-Discrimination Best Practice* Conference at the Heritage Hotel, Brisbane.
- 3 Aug 92 Address to guests at function to launch QADA sexual harassment rights sheet, rights card, employer guidelines and poster.
- 14 Aug 92 Address to Unicare Managers re employers' responsibilities under the QADA.

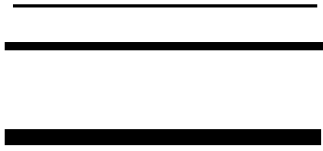
- 17 Aug 92 Address to Annual General Meeting of the Registered and Licensed Clubs Association of Queensland regarding the QADA and SDA and clubs at Eastern Suburbs Leagues Club.
- 24 Aug 92 Address at function to launch Aboriginal and Torres Strait Islander Poster Exhibition, ADA poster and rights card at McWhirters Artspace in Brisbane.
- 25 Aug 92 Address to Queensland Association for Mental Health Seminar on the ADA and implications for those involved in the area of mental health and illness at Queensland Health Development Centre.
- 7 Sep 92 Address at launch of QADC's multi-lingual information at function at the Stubbies Clothing Company in Brisbane.
- 9 Sep 92 Presentation to community groups in Innisfail on the QADA and the establishment of a Community Relations Committee.
- 10 Sep 92 Presentation to Aboriginal and Torres Strait Islander students at Innisfail TAFE re QADA, *Know Your Rights* Package and *Different Colours One People* campaign.
- 10 Sep 92 Presentation to TAFE teachers and staff at Innisfail TAFE re QADA.
- 14 Sep 92 Address to the Annual General Meeting of the City of Brisbane Benefit Fund at City Hall on the QADA and impairment provisions.
- 17 Sep 92 Presentation to the Management Development program of the Department for Community Service of the Uniting Church on the ADA and its application to services provided and employers' responsibilities.
- 9 Oct 92 Address to Commonwealth DPP Conference at the Bardon Professional Centre re Anti-Discrimination Act and Commonwealth/State arrangements.
- 10 Oct 92 Presented paper to 25th Annual Convention of the Industrial Relations Society of Queensland at Broadbeach on the Anti-Discrimination Act and the relationship with the industrial relations area.
- 13 Oct 92 Guest speaker at Australian Services Union Women's Conference regarding the Anti-Discrimination Act and use by Unions.

- 14 Oct 92 Breakfast address to Ipswich Chamber of Commerce on the Anti-Discrimination Act and employment.
- 16 Oct 92 Guest speaker at Disability Reform Package employer information forum at North Rockhampton. Also facilitated people with disabilities speaking out about their employment experiences.
- 26 Nov 92 Dinner address to the Department of Justice and Attorney General's EEO Conference regarding the Anti-Discrimination Act, the complaint process and sexual harassment provisions.
- 28 Nov 92 Address to the National Foundation for Australian Women's *Conversations* morning on a review of the first five months of the Anti-Discrimination Act at Queensland University of Technology.
- 8 Dec 92 Presented paper *The impact of Anti-Discrimination legislation in Queensland - a Review to the Equal Employment Opportunity & Anti-Discrimination* 3rd Annual National Forum in Sydney.
- 9 Dec 92 Address at the launch of the Commission's *Discrimination Free* calendar at the Powerhouse Hotel in Brisbane.
- 10 Dec 92 Address to Human Rights Day seminar for teachers and students at Education House, Brisbane.
- 11 Dec 92 Chaired launch of *Tracking your Rights: Tools for Survival and Change* a handbook for Aboriginal and Torres Strait Islanders in Queensland at OPAL in Brisbane - Commissioner Irene Moss and Minister Robert Tichauer spoke at the launch.
- 11 Jan 93 Address to Australian Workers Union conference on the ADA, SDA, particularly employment and sexual harassment.
- 27 Jan 93 Address to Department of Consumer Affairs EEO launch and senior managers seminar regarding ADA, discrimination issues in employment, employer responsibilities, vicarious liability and sexual harassment.
- 17 Jan 93 Training session for managers of Ipswich City Council on the ADA with particular emphasis on the sexual harassment provisions.

- 27 Feb 93 Address and participation in a panel discussion organised by the Transport Lobby Group regarding the impairment provisions of the ADA, the DDA and how the legislation can be used to address discrimination in relation to the provision of transport.
- 8 Mar 93 Guest speaker at Union of Australian Women IWD celebration regarding the International Year of the World's Indigenous People.
- 9 Mar 93 Participated in conference organised by Queensland Parents of People with Disabilities *Access 93 - Inclusion in Life* hypothetical session *Legislation & Lifestyle* at Bardon Professional Centre re impairment provisions of ADA.
- 17 Mar 93 Address to seminar of senior executives of the Department of Premier, Economic & Trade Development and associated agencies in relation to the QADA, sexual harassment and responsibilities of managers.
- 27 Mar 93 Address to the Annual General Meeting of the Epilepsy Association of Queensland regarding the ADA and DDA.
- 1 Apr 93 Address to the Health Consumers Advocacy Network Reference Group, Department of Health, re health related complaints and anti-discrimination legislation.
- 6 Apr 93 Address to Women's reference group meeting and function in Brisbane with Sex Discrimination Commissioner.
- 16 Apr 93 Guest speaker at Community Disability Alliance State Conference at Maroochydore regarding the Anti-Discrimination Act and impairment complaints.
- 21 Apr 93 Address to general meeting of Better Hearing Australia regarding impairment provisions of the Anti-Discrimination Act and Disability Discrimination Act.
- 28 Apr 93 Guest speaker at Queensland Shelter general meeting on the Anti-Discrimination Act and discrimination in accommodation.

7 May 93 Opening address to *Universities are Employers Too* seminar organised by Tertiary Initiatives for People with Disabilities on the ADA, DDA and experience of employees with disabilities and discrimination in the workplace.

30 Jun 93 Address to trainees in the rehabilitation unit for the survivors of torture and trauma at the Mater Hospital in Brisbane.



APPENDICES

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Figure 1 HREOC Organisation Chart

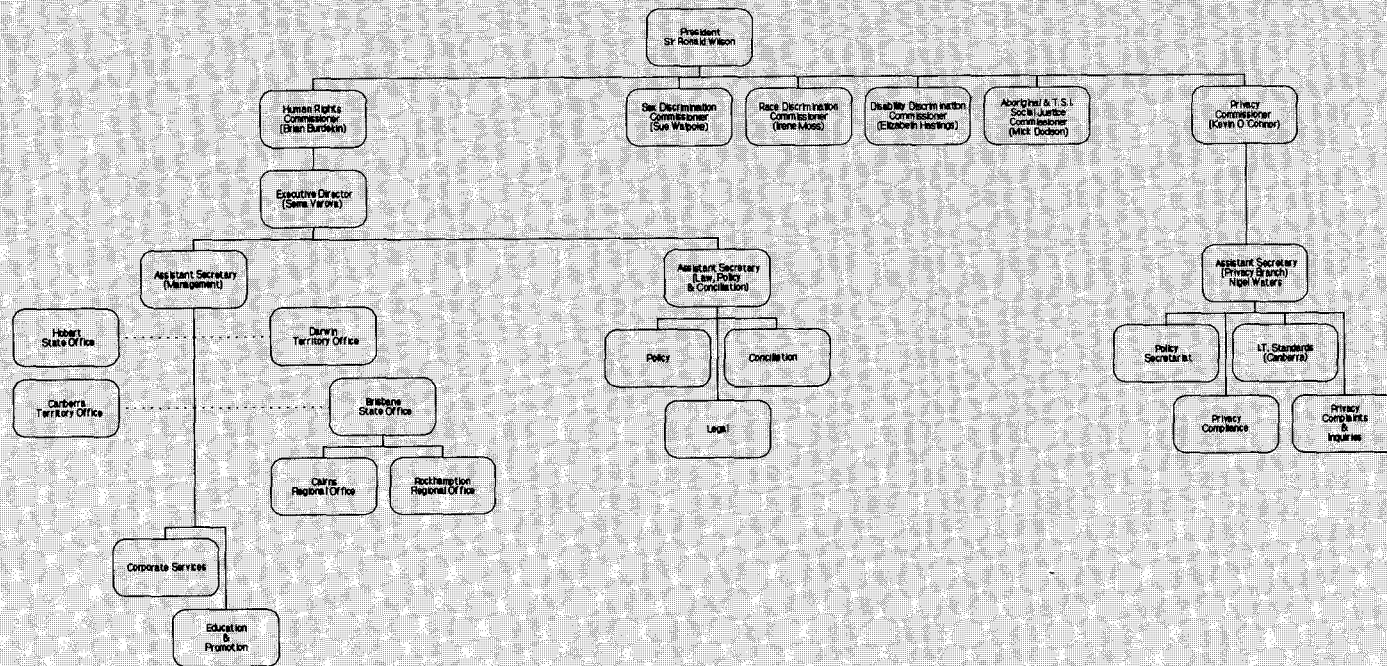


Figure 2 Qld Anti-Discrimination Commission and HREOC Organisation Chart

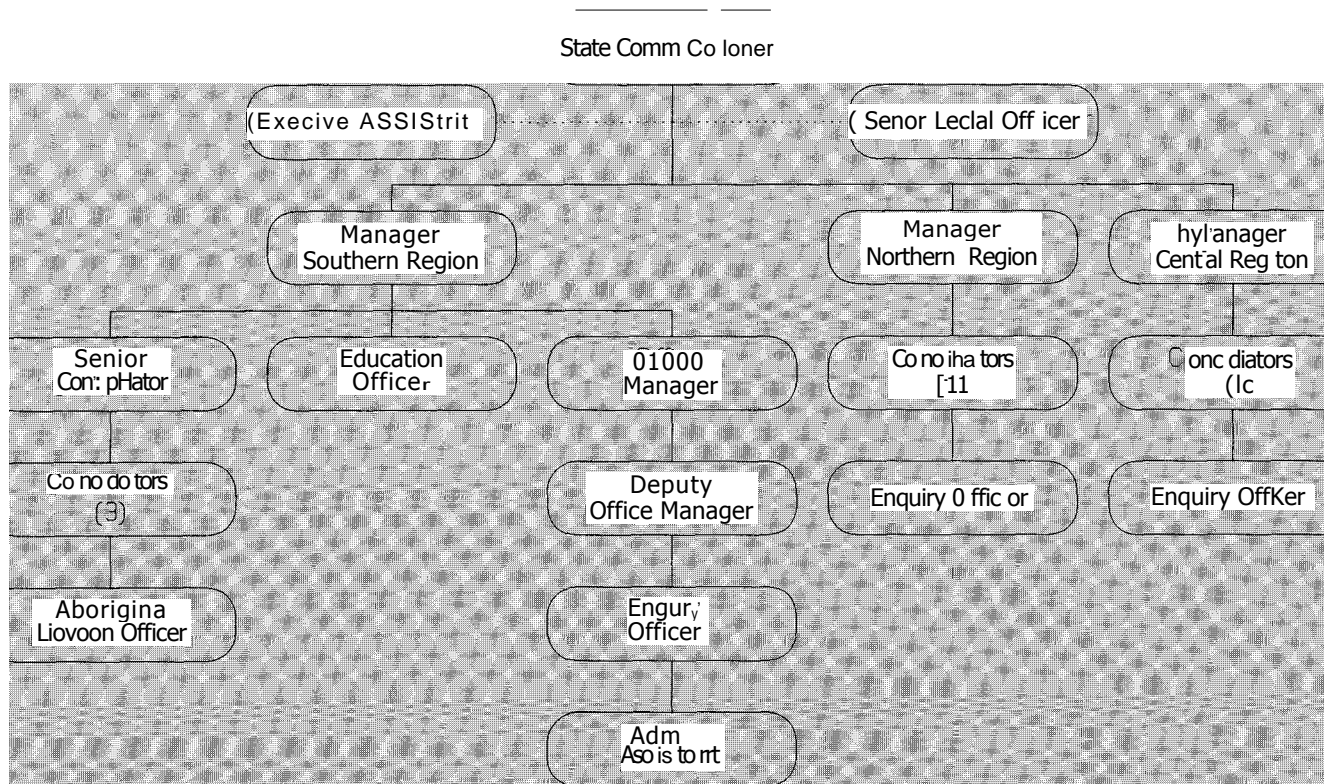


Figure 3 Old Anti-Discrimination Commission and HREOC

COMPLAINTS RECEIVED - BY AREA

1 JULY 1992 - 30 JUNE 1993

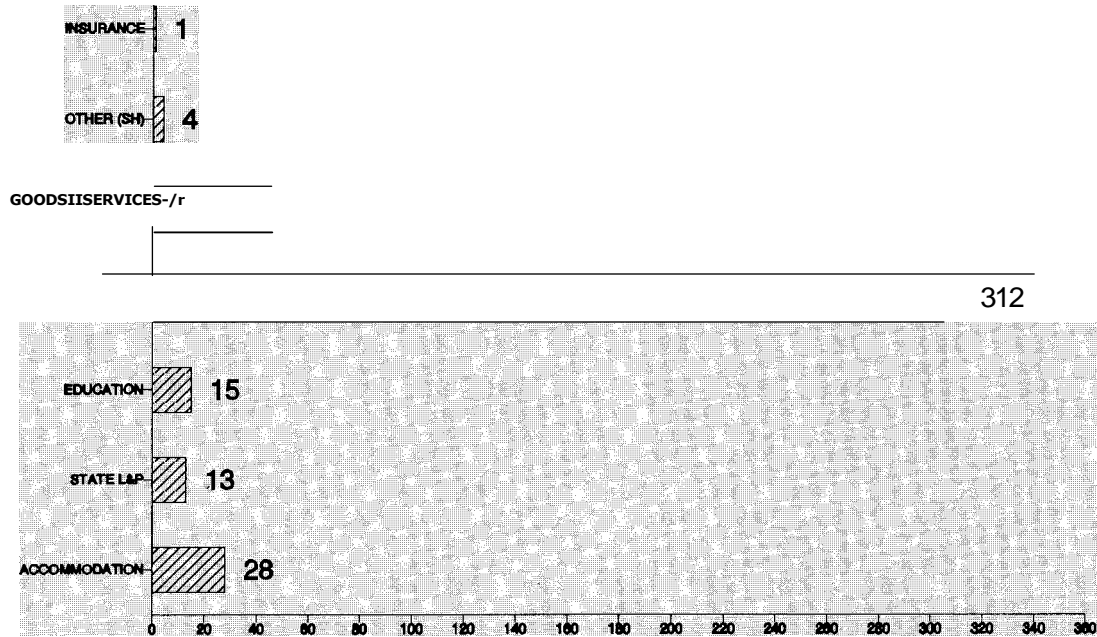


Figure 4 Qld Anti-Discrimination Commission and HREOC

ADA COMPLAINTS RECEIVED - BY GROUND

1 JULY 1992 - 30 JUNE 1993

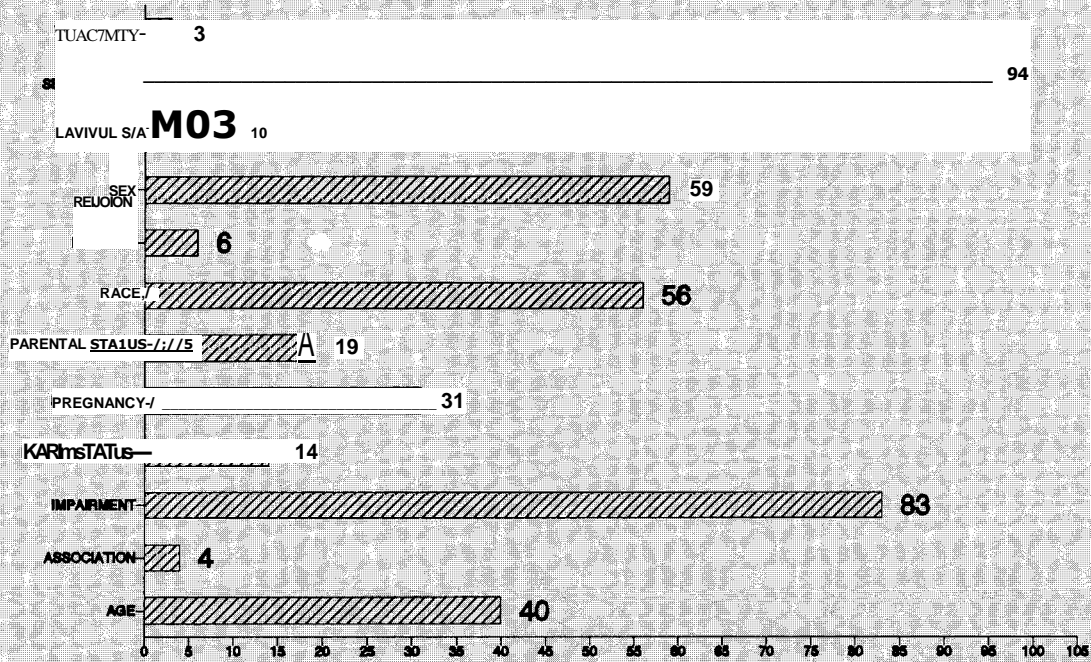
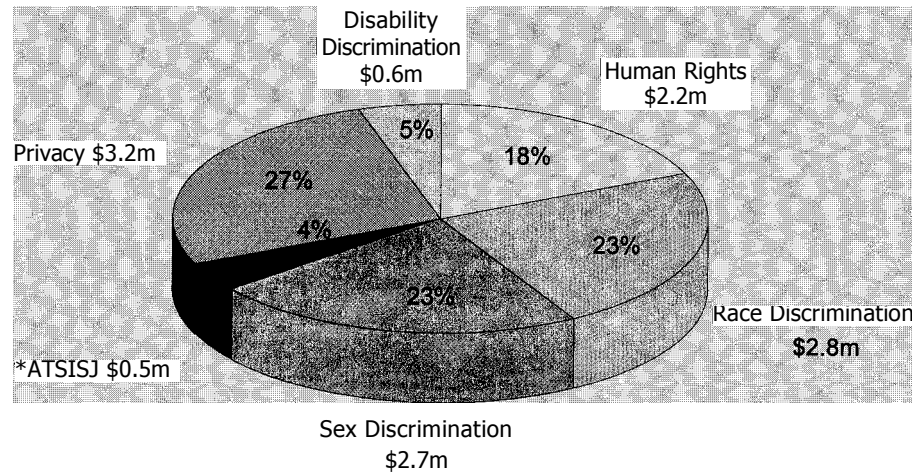
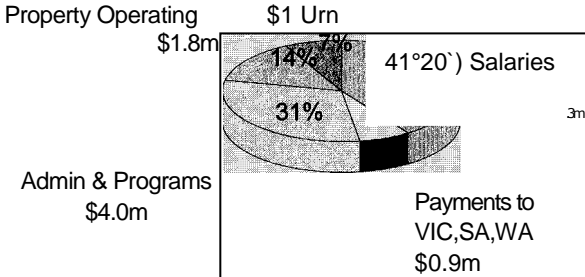


Figure 5 Expenditure by Program Element 1992-93

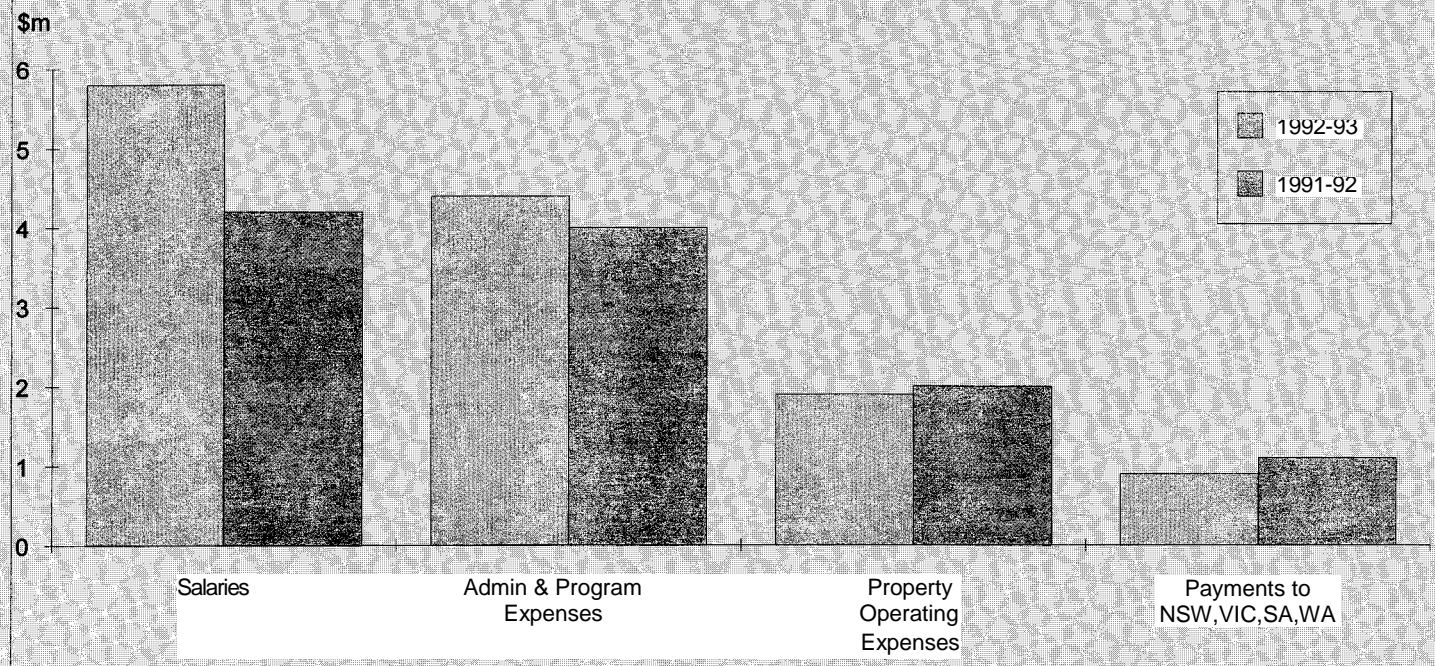


*Aboriginal & Torres Strait Islander Social Justice

Figure 6 Expenditure by Classification 1992-93



**Figure 7 Expenditure by Classification Comparison
1992-93 with 1991-92**



**Figure 8 Estimate of Expenditure by Program Element
1993-94**

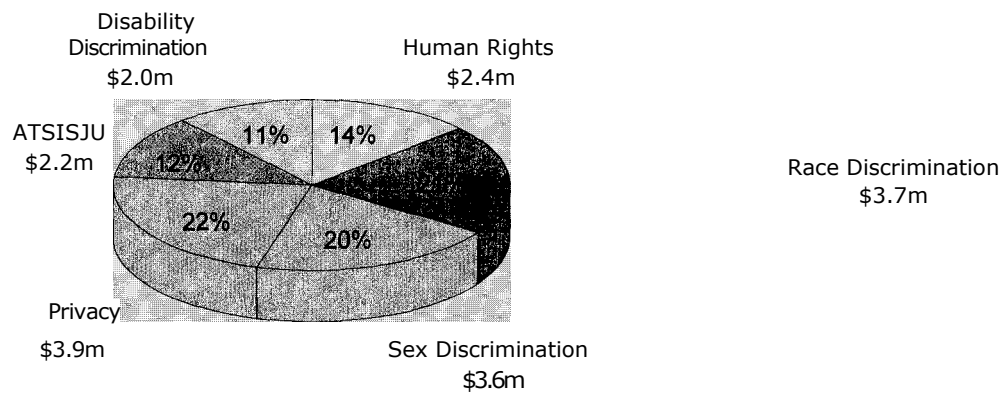
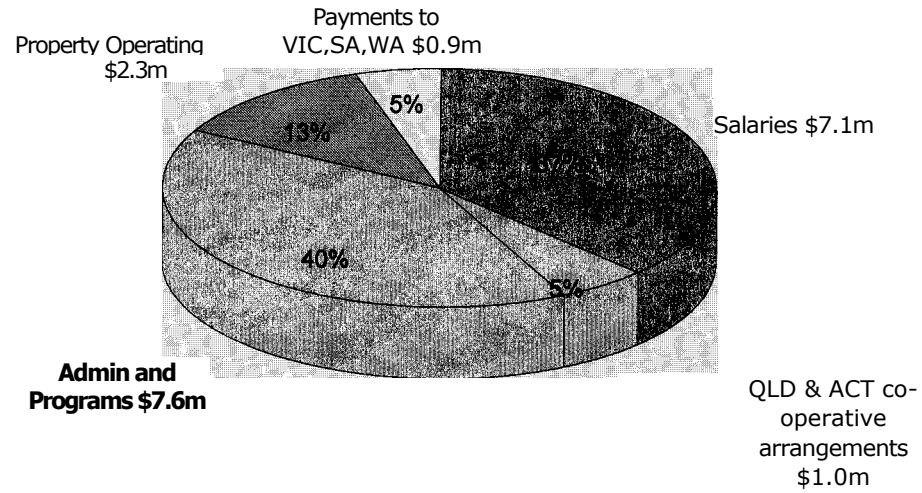


Figure 9 Estimate of Expenditure by Classification 1993-94



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Table 1.**Complaints received 1 July 1992 to 30 June 1993**

Description	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
SDA	110	72	12	19		270	261	32	783
RDA	37	32				132	136	17	370
HREOCA	78	29		10	11				129
Privacy Act	254								254
DDA	26								26
Old Anti-Discrimination Act		419							419
ACT Discrimination Act					43				43
Total	505	552	17	36	66	402	397	49	2024

Table 2.**Complaints closed 1 July 1992 to 30 June 1993**

Description	Central	Old	NT	Tas	ACT	Vic		WA	Total
SDA	94	129		10		161	264	25	690
RDA	38	44				63	124	17	293
HREOCA	84	62							158
Privacy Act	187								187
DDA									
Qld Anti-Discrimination Act		113							113
ACT Discrimination Act									
Total	406	348		22	16	224	388	42	1453

Table 3.**Outcomes of complaints closed under Commonwealth legislation 1 July 1992 to 30 June 1993**

Description	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
Conciliated	172	187		19		51	185		632
Withdrawn	87	15				97	60	13	278
No contact from complainant	31					10	79		130
Declined	86	12				12	19		131
Outside jurisdiction									14
Referred elsewhere	10					30	34		87
Referred for hearing	20	10				24			59
Report to Minister									
Total	406	235		22		224	388	42	1331

Table 4.**Breakdown of matters, not covered by the legislation, received by Commission offices 1 July 1992 to 30 June 1993**

Description	Number
Employment	281
HREOC related	73
Misconceived	100
Sex related	122
Family law/legal system	430
Race related	56
Miscellaneous	228
Privacy related	286
Referred to other agency	134
State/Local Government	75
Immigration	66
Prisons	33
<i>Continued on next page</i>	

Description	Number
<i>Continued</i>	
Police	65
Housing	11
Social Security	41
Disability	32
Age	161
Advertising	152
Education	23
Goods/ Services/Places/ Facilities	16
Overseas matters	1
Sexual preference	22
Total	2408

Table 5.

Complaints lodged under the *Human Rights and Equal Opportunity Commission Act 1986* 1 June 1992 to 30 June 1993

Description	Central	Did	NT	Tas	ACT	Total
<i>Relevant International Instrument</i>						
International Covenant on Civil and Political Rights	10					10
International Labour Organisation Convention 111	68	29		10	11	119
Declaration on the Rights of the Child						
Declaration on the Rights of Disabled Persons						
Declaration on the Rights of Mentally Retarded Persons						
Total	78	29		10	11	129
<i>Area of Complaint</i>						
Employment	68	29		10	11	119
Immigration						
Access to goods and services						
Education						
Civil Rights in general						
Total	78	29		10	11	129
<i>Continued on next page</i>						

Description	Central	Qld	NT	Tas	ACT	Total
-------------	---------	-----	----	-----	-----	-------

Continued

Category of Complainant

Male	59	13				89
Female	12	15				32
Group/Organisation						
Other						
Total	78	29		10	11	129

Category of Respondent

Commonwealth	36					53
State	23					29
Other	19	20				47
Total	78	29		10	11	129

Table 6.

Grounds of complaint under ILO 111 1 July 1992 to 30 June 1993

Description	Central	Qld	NT	Tas	ACT	Total
Age	42					56
Medical record						
Criminal record						21
Impairment						17
Marital status						
Mental disability						
Psychiatric disability						
Intellectual disability						
Nationality						
<i>Continued on next page</i>						

Description	Central	Old	NT	Ias	ACT	Total
<i>Continued</i>						
Sexual preference	4	1	-	-	-	5
Trade union activity	2	1	-	-	1	4
Religion	2	1	-	-	-	3
Political opinion	2	-	-	-	-	2
Race	1	-	-	-	-	1
Sex	-	5	-	-	-	5
Physical disability	-	-	-	-	-	-
Total	71	29	1	10	11	122

** Several of the complaints received by Central Office covered more than one ground.*

Table 7.

Outcome of complaints closed under the *Human Rights and Equal Opportunity Commission Act 1986* 1 July 1992 to 30 June 1993

Description	Central	Old	NT	Tas	ACT	Total
Conciliated	30	41				79
Withdrawn	33	10	1	1	1	46
No contact from complainant	12					15
Declined						
Outside jurisdiction						
Referred elsewhere						11
Report to Minister						
Total	84	62	1	7	4	158

Table 8.**Complaints lodged under the *Racial Discrimination Act 1975* by area of complaint 1 July 1992 to 30 June 1993**

Description	Central	Did	NT	Tas	ACT	Vic	SA	WA	Total
Land/Housing/ Accommodation							13		27
Goods/Services/ Places/Facilities	19	12				33	58		126
Employment	17	15				88	63	11	205
Advertising/ media									
Incitement to unlawful acts									
Education									10
Other									
Total	37	32				132	136	17	370

Table 9.**Complaints lodged under the *Racial Discrimination Act 1975* by ethnicity of complainant 1 July 1992 to 30 June 1993**

Description	Central	Did	NT	Tas	ACT	Vic	SA	WA	Total
Aboriginal		10				19	42		83
Non-English speaking background	26	18				96	72		228
English speaking background						17	20		53
Association									
Not recorded									
Total	37	32				132	136	17	370

Table 10.**Complaints lodged under the *Racial Discrimination Act 1975* by category of complainant and respondent 1 July 1992 to 30 June 1993**

Description	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
<i>Category of Complainant</i>									
Female	10	14				52	53		140
Male	24	17				79	82	11	222
Group/organisation									
Not recorded									
Total	37	32				132	136	17	370
<i>Category of Respondent</i>									
Commonwealth	19					15			54
State						37	22		78
Other	16	19				80	108		238
Total	37	32				132	136	17	370

Table 11.

Outcomes of complaints closed under the *Racial Discrimination Act 1975* 1 July 1992 to 30 June 1993

Description	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
Conciliated		35				14	50		115
Withdrawn	13					25	17		63
No contact from complainant							33		53
Declined							11		25
Outside jurisdiction									
Referred elsewhere									11
Referred for hearing						11			21
Total	38	44				63	124	17	293

Table 12.**Complaints lodged under the *Sex Discrimination Act 1984* by ground of complaint 1 July 1992 to 30 June 1993**

Description	Central	old	NT	Tas	ACT	Vic	SA	WA	Total
Sex	19	17	5	4	4	143	68	18	278
Sexual harassment	55	33	1	10		89	97	7	292
Sex and sexual harassment							69		74
Marital status						12	8	3	36
Pregnancy	25	18	2	5	2	21	13	3	89
Family responsibilities									
Victimisation									11
Total	110	72	12	19	7	270	261	32	783

Table 13.

Complaints lodged under the *Sex Discrimination Act 1984* by area of complaint 1 July 1992 to 30 June 1993

Description	Central	Old	NT	Tas	ACT	Vic	SA	WA	Total
Employment	104	64	11	18		226	219	18	666
Accommodation/Land							11	13	26
Goods/Services/Facilities						29	20		56
Clubs									
Administration of Commonwealth laws and programs									
Education						12			24
Other									
Total	110	72	12	19		270	261	32	783

Table 14.

Complaints lodged under the *Sex Discrimination Act 1984* by category of complainant and respondent 1 July 1992 to 30 June 1993

Description	Central	Qld	NT	Tas	ACT	Vic	SA	WA	Total
<i>Category of Complainant</i>									
Female	97	66		15		246	257	22	717
Male						24			59
Trade union									
Two or more persons									
Representative complaint									
Total	110	72	12	19		270	261	32	783
<i>Category of Respondent</i>									
Commonwealth	21					12	10	14	70
Other	89	64	12	18		258	251	18	713
Total	110	72	12	19		270	261	32	783

Table 15.**Outcomes of complaints closed under the *Sex Discrimination Act 1984* 1 July 1992 to 30 June 1993**

Description	Central	Old	NT	Tas	ACT	Vic	SA	WA	Total
Conciliated	33	111				37	135		338
Withdrawn	38					32	43		126
No contact from complainant							46		63
Declined									16
Outside jurisdiction						40			49
Referred elsewhere						30	26		60
Referred for hearing	15					13			38
Total	94	129		10		161	264	25	690

Table 16.

Complaints lodged under the Disability Discrimination Act 1992 by type of disability 1 March 1993 to 30 June 1993

Description	Number
Physical	14
Intellectual	
Psychiatric	
Sensory	
HIV	
Total	26

Table 17.

Complaints lodged under the *Disability Discrimination Act 1992* by area of complaint 1 March 1993 to 30 June 1993

Description	Number
Employment	10
Education	
Access to premises	
Goods, services and facilities	
Accommodation and Land	
Clubs and sport	
Administration of Commonwealth laws and programs	
Other	
Total	26

Table 18.

Complaints lodged under the *Disability Discrimination Act 1992* by category of complainant and respondent 1 March 1993 to 30 June 1993

Category of Complainant	Number
Female	11
Male	8
Two or more persons	7
Representative complaint	-
Total	26
Category of Respondent	
Commonwealth	5
State	8
Private enterprise	8
Other	5
Total	26

Table 19.

Outcomes of complaints closed under the *Disability Discrimination Act 1992* 1 March 1993 to 30 June 1993

Description	Number
Conciliated	1
Withdrawn	1
No contact from complainant	-
Declined	-
Outside jurisdiction	-
Referred elsewhere	1
Referred for hearing	-
Total	3

Table 20.

Complaints lodged under the *Australian Capital Territory Discrimination Act 1991* by area and ground of complaint 1 July 1992 to 30 June 1993

Description	Employment	Education	Access to premises	Goods Services Facilities	Accommodation	Public Act	Total
Sex							
Sexuality							
Marital status							
Status as parent or carer							
Pregnancy							
Race							
Religious or political conviction							
Impairment							13
Association							
Sexual harassment							
Racial vilification							
Total	26	2	2	10	2	1	43

Table 21.

Complaints lodged under the *Australian Capital Territory Discrimination Act 1991* by category of complainant and respondent 1 July 1992 to 30 June 1993

Category of Complainant	Number
Fernale	27
Male	10
Group or organisation	
Total	43
<i>Category of Respondent</i>	
ACT Government	
Private enterprise	35
Total	43

Table 22.

Outcomes of complaints closed under the *Australian Capital Territory Discrimination Act 1991* 1 July 1992 to 30 June 1993

Description	Number
Conciliated Withdrawn	
No contact from complainant	
Declined	
Outside jurisdiction	
Referred elsewhere	
Referred for hearing Total	

Table 23.

Outcomes of complaints closed under the *Privacy Act 1988* 1 July 1992 to 30 June 1993

Description	Number
Conciliated	99
Withdrawn	
No contact from complainant	
Declined	
Outside jurisdiction	79
Referred elsewhere	
Referred for hearing	
Total	187

Complaints under the *Privacy Act 1988*

Number of complaints received: 254

Number of complaints closed: 187

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**Table 24. QUEENSLAND ANTI-DISCRIMINATION COMMISSION and HREOC
Telephone inquiries - by ground: 1 July 1992 to 30 June 1993**

Ground	Number
Sex	88
Marital Status	231
Parental Status	130
Pregnancy	239
Breastfeeding	8
Sexual Harassment	621
Race	503
Age	569
<i>Continued on next page</i>	

Ground	Number
<i>Continued</i>	
Impairment	544
Religion	54
Political Belief	22
Trade Union Activity	70
Lawful sexual activity	119
Association	13
Other	14/9
Total	4690

**Table 25. QUEENSLAND ANTI-DISCRIMINATION COMMISSION and HREOC
Telephone inquiries - by area 1 July 1992 to 30 June 1993**

Area	Number
Employment	21 98
Education	141
Goods and Services	422
Super/Insurance	27
Land	
Accommodation	259
Clubs	44
Administration of State Laws and programs	91
Local Government	20
Other	1479
Total	4690

Table 26.

Outcomes of complaints closed under the *Queensland Anti-Discrimination Act 1991* 1 July 1992 to 30 June 1993

Description	Number
Conciliated	61
Withdrawn	16
No contact from complainant	
Declined	33
Outside jurisdiction	
Referred elsewhere	
Referred for hearing	
Total	113

Complaints under the *Queensland Anti-Discrimination Act 1991*

Number of complaints received: 419

Number of complaints closed: 113

Table 27.

Commission's staffing profile within classification levels

Classification	Males					Females					Total
	NSW	Qld	Tas	NT	ACT	NSW	Qld	Tas	NT	ACT	
Commissioners	3	-	-	-	-	3	-	-	-	-	6
SES Band 2	-	-	-	-	-	1	1	-	-	-	2
SES Band 1	2	-	-	-	-	1	-	-	-	-	3
Legal 2	1	-	-	-	-	-	-	-	-	-	1
Legal 1	1	-	-	-	-	3	1	-	-	-	5
Senior Officer Grade B	1	-	-	-	1	3	1	-	-	1	7
Senior Officer Grade C	7	2	1	-	-	11	1	-	1	-	23
Senior Professional Officer Grade C	-	-	-	-	-	1	-	-	-	-	1
Professional Officer Grade 1	-	-	-	-	-	1	-	-	-	-	1
<i>Continued on next page</i>											

Classification	Males					Females					Total
	NSW	Qld	Tas	NT	ACT	NSW	Qld	Tas	NT	ACT	
<i>Continued</i>											
ASOC6	12					15					39
AS005											11
ASOC4											15
ASOC3						16					27
ASOC2											10
ASOC1											
ITO1											
ITO2											
Total	39					77	20				154

Table 28.

Staffing profile with regard to permanent/temporary employment

Classification			Permanent			Temporary					Total	
	NSW	Qld	Tas	NT	ACT	NSW	Old	Tas	NT	ACT		
Commissioners												
SES Band 2												
SES Band 1												
Legal 2												
Legal 1												
Senior Officer Grade B												
Senior Officer Grade C	17										10	13
Senior Professional Officer Grade C												
Professional Officer Grade 1												

Continued on next page

Classification	Permanent					Temporary					Total	
	NSW	0.1d	Tas	NT	ACT	NSW	Old	Tas	NT	ACT		
<i>Continued</i>												
ASOC6	23										14	25
AS005												
ASOC4												14
ASOC3	16											22
ASOC2												10
ASOC1												
IT01												
ITO2												
Total	99	18				17					47	107
TOTAL												154

Table	Representation 29. of EEO groups	with classification	levels as at 30 June 1993						
			ASO Classification Equivalent	Total No of Staff	Staff with EEO data	Women	NESB1	NESB2	ATSI
	ASOC 1-4	53 100%	31 58%	46 87%	5 1%	2%	2 4%	2%	
	ASOC 5-6	50 100%	32 64%	34 68%	3 6%	3 6%	2 4%		
	SOG C-B including professional	40 100%	36 90%	24 60%	5%	2 5%	2 5%		
	<i>Continued on next page</i>								

ASO Classification Equivalent	Total No of Staff	Staff with EEO data	Women	NESB1	NESB2	ATSI	PWD
<i>Continued</i>							
SES BANDS 1 & 2	5 100%	3 60%	3 60%				
SES BAND 3 Statutory Office Holders	6 100%	4 67%	3 50%		17%	1 17%	1 17%
Total	154 100%	106 68%	110 71%	10 7%	7 5%	3 2%	6 4%
AVERAGE SERVICE-WIDE % as at JUNE 1992	100%	35%	47%	5%	8%	1%	4%

NOTES:

NESB1 Persons born overseas
NESB2 Australian born with parents born overseas
ATSI Aboriginal and Torres Strait Islander
PWD Persons with a disability

Percentages based on total staff

Table 30.**Representation of EEO groups within occupational groups as at 30 June 1993**

Occupational Group	Total No of Staff	Staff With EEO Data	Women	NESB1	NESB2	ATSI	PWD
SES and Commissioners	11						
ASO and related	103	63	80				
Senior Officer	30	26	18				
Professional	10	10					
Total	154	106	110	10			
NOTES:							

NESB1 Persons born overseas
 NESB2 Australian born with parents born overseas
 ATSI Aboriginal and Torres Strait Islander
 PWD Persons with a disability

EXTERNAL CONSULTANTS ENGAGED 1992-93**APPENDIX 2**

Research

Mr Karim Barbara	10,000
Conduct Arab outreach campaign	
Ms Susan Coles	5,500
Research, Mental Illness Inquiry	
Mr Chris Cunneen	5,420
Research, Mornington Island Inquiry; Community Relations Strategy data project	
Ms Rebecca Peters	22,300
Research, Mental Illness Inquiry	
The Public Practice	18,301
Research, South Sea Islander project	
Mr Phil Raskall	10,030
Research, Overaward Payments Inquiry	
Ross and Hunt Consultancy Pty Ltd	27,000
Research, Mental Illness Inquiry	
Ms Jane Innes	7,500
Research, Overaward Payments Inquiry	
Mr Warren Simmons	2,523
Research, homeless children; prepare speeches (for HRC and RDC)	
Ms Dale Spender	3,300
Prepare paper on gender equity in education	
Total	111,874

Privacy**Audit**

Deloitte Touche Tohmatsu*	45,602
Conduct Privacy audits	
Duesburys*	59,992
Conduct Privacy audits	
Price and Newman Management*	7,615
Conduct Privacy audits	

Policy

Mr Don Brech 3,060
Prepare advice on Privacy and personnel practices

Elliott & Shanahan* 21,982
Conduct privacy awareness survey

Total 138,251

Training

Paul Jones and Associates 2,000
Conduct performance appraisal training workshops

Total 2,000

Community Relations Strategy

JMG Consulting 10,398
Develop Community Relations Strategy
ATSI training package

Social Change Media 33,914
Community Relations Strategy Different Colours
One People project

The Change Agency 35,000
Community Relations Strategy racist violence project

Ms Elizabeth de Rome 1,000
Prepare report on Community Relations Strategy data project

The Research Team Pty Ltd 11,139
Finalise Commission's Community Relations Strategy program

Yamine and Associates 12,200
Evaluate Commission's Community Relations Strategy program

Total 103,651

Policy

Bill Bowtell 10,000
Prepare draft Disability Discrimination Act

Total 10,000

Media

Brookman Media Services Pty Ltd 70,112
Media Adviser to the Commission

The Rea Francis Company 4,142
Provide media services for UN Conference on Racism

Total 74,254

General

Dr Jeannie Martin 4 500
Review South Sea Islander report;
NESB State of the Nation report

Oxley International Pty Ltd* 71,810
Undertake review of Commission structure

Oxus Pty Ltd 25,000
Prepare publication on sex discrimination
and superannuation

Mr Geoff Langford 4 253
Review report on NT Alcohol project

Total 105,563

Legal

Mr Phillip Tahmindjis 22,375
Provide legal advice to the Commission

Ms Barbara Pearson 5 500
Provide legal advice

Total 27,875

GRAND TOTAL \$573,468

* Denotes consultancies which were tendered

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A

AUSTRALIAN NATIONAL AUDIT OFFICE

Level 7
130 Elizabeth Street
Sydney New South Wales 2000

our ref;

N93/514

IS November 1993

Mr Brian Burdekin
Human Rights Commissioner
Human Rights and Equal Opportunity Commission
GPO Box 5218
SYDNEY NSW 2001

Dear Mr Burdekin

FINANCLAL STATEMENT 30 JUNE 1993
AUDIT REPORT

The audit of the above statement 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 financial statements.

Yours sincerely



Allan Thompson
Executive director

v.:attach.



INDEPENDENT AUDIT REPORT

To the Honourable the Attorney-General

Scope

I have audited the financial statement of the Human Rights and Equal Opportunity Commission for the year ended 30 June 1993.

The statement comprises:

- Aggregate Statement of Transactions by Fund
- Detailed Statement of Transactions by Fund
- Statement of Supplementary Financial Information
- Notes to and forming part of the Financial Statement, and
- Certificate by the Human Rights Commissioner and Principal Accounting Officer.

The Human Rights Commissioner and the Commission's Principal Accounting Officer are responsible for the preparation and presentation of the financial statement and the information contained therein. I have conducted an independent audit of the financial statement in order to express an opinion on it.

The Commission employs a cash basis of accounting whereby revenue is recorded when it is received and expenses are recorded when they are paid. Certain assets and liabilities are reported by way of schedule to the financial statement (Statement of Supplementary Financial Information) as required by the Financial Statement Guidelines for Departmental Secretaries (Modified Cash Reporting).

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 statement is free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statement, 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 statement is presented fairly in accordance with Australian accounting concepts and standards applicable to public sector reporting entities employing a cash basis of accounting, and statutory requirements, so as to present a view which is consistent with my understanding of the Commission's operations and certain assets and liabilities.

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, I now report that the financial statement, in my opinion:

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

is in accordance with the financial statements guidelines made by the Minister for Finance, and

presents fairly, in accordance with Statements of Accounting Concepts and applicable Accounting Standards and with the Guidelines, the transactions of the Commission for the year ended 30 June 1993 and certain assets and liabilities as at that date.

A handwritten signature in black ink, appearing to read 'W. G. Elson', is written over a rectangular area with a light grey, textured background.

W. G. elson
Acting Auditor-General

10 November 1993

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STATEMENT BY THE HUMAN RIGHTS COMMISSIONER

AND

PRINCIPAL ACCOUNTING OFFICER

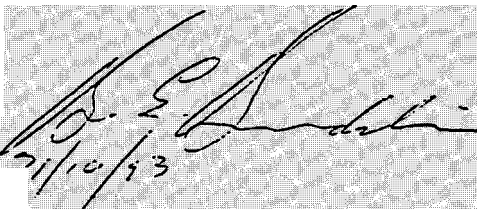
CERTIFICATION

We certify that the financial statements for the year ended 30 June 1993 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 (Modified Cash Reporting) last amended 22 April 1993.


Signed
Date

Handwritten signature of Brian Burdekm and the date 7/10/93.

Brian Burdekm
Human Rights Commissioner

Signed

Dated

Handwritten signature of Sema Varova and the date 1/11/93.

Sema
Varova Executive
Director

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

AGGREGATE STATEMENT OF TRANSACTIONS BY FUND
FOR THE YEAR ENDED 30 JUNE 1993

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

1991-92 ACTUAL	1992-93 Notes	BUDGET	1992-93 ACTUAL	
\$		\$	\$	
CONSOLIDATED REVENUE FUND (CRF)				
905.163	RECEIPTS	2	1,031,000	1,252,781
	Expenditure from Special			
Nil	Appropriations	Nil	Nil	Nil
	Expenditure from			
12,639,071	Annual Appropriations	14,516,000	13,001,145	
Nil	Expenditure - Section 35	1 031 000	Nil	
12 639.071	Total Expenditure from CRF	15,547.000	13,001,145	
LOAN FUND				
Nil		Nil	Nil	
TRUST FUND				
Nil	Balance 1 July 1992	Nil	Nil	
1,002	Plus: Receipts	Nil	4,011	
1 002	Less: Expenditure	Nil	2 629	
Nil	Balance 30 June 1993	Nil	1a1a	
Represented by:				
Nil	Cash	Nil	1,382	
Nil	Investments	Nil	Nil	
		a	122	

The above Aggregate Statement of Transactions by Fund is to be read in conjunction with the accompanying Notes and Glossary.

DETAILED STATEMENT OF TRANSACTIONS BY FUND
FOR THE YEAR ENDED 30 JUNE 1993

This statement shows details of cash transactions for which the Commission is responsible in respect of Consolidated Revenue Fund (CRF) and the Trust Fund. (The Commission was not responsible for any transactions of the Loan Fund).

CONSOLIDATED REVENUE FUND(CRF): - EXPENDITURE

The Constitution requires that an appropriation of moneys by the Parliament is required before any expenditure can be made from CRF. Appropriations follow two main forms, namely, Special Appropriations (Standing Appropriations) and Annual Appropriations.

The Commission is responsible for the following expenditure items:

1991-92 ACTUAL	SUB- PROGRAM	Notes	1992-93 APPROPRIATION	1992-93 ACTUAL
	3.1			
EXPENDITURE FROM CRF				
11,560,571	Appropriation Act No 1		14,453,636	12,133,814
Nil	Appropriation Act No 5		348,000	Nil
1,078,500	Appropriation Act No 2		1,244,000	867,331
Nil	Appropriation Act No 6		Nil	Nil
<u>12,639,071</u>	Total Annual Appropriations	2	<u>16,045,636</u>	<u>13,001,145</u>
Running Costs (174.1)				
5,014,531	- Salaries and Related Expenses		5,689,000	5,286,629
91,000	Section 35 receipts		550,000	550,000
3,406,050	- Administrative Expenses		5,292,000	3,495,203
795,163	Section 35 receipts		519,636	519,636
1,967,533	- Property Operating Expenses (POE)		2,162,000	1,813,147
Nil	Section 35 receipts		112,000	112,000
Nil	- Legal Services		18,000	13,437

1991-92 ACTUAL \$	SUB- PROGRAM 3.1	Notes	1992-93 APPROPRIATION \$	1992-93 ACTUAL \$
	Other Services (174.3)			
286,294	- Community Relations Strategy		459,000	343,762
	Payment to or for the States And the Territories (819.01)			
1,078,500	Payment under co-operative arrangements with the States		864,000	864,000
	Other Services (821.1)			
— Nil	Aboriginal Deaths in Custody - Legal and Field Officer Training		<u>380,000</u>	3,331
12,639,071	<u>Total Expenditure from CRF 2</u>		16,045,636	13,001,145

		BUDGET	ACTUAL
OUTLAYS			
12,639,071	Total Expenditure from CRF	15,547,000	13,001,145
<u>905,163</u>	Less Receipts to be Offset Within Outlays	L031,000	1,252,781
11,733,908	Total Outlays From CRF	14,516,000	11,748,364
RECEIPTS TO CRF			
886,163 19,000	Section 35 Receipts Miscellaneous	1,031,000 Nil	1,181,636 71,145
905,163	Total Receipts to CRY	1,031,000	1,252,781

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.

1991-92 ACTUAL	SUB- PROGRAM 3.1	1992-93 BUDGET	1992-93 ACTUAL
Nil	Balance 1 July 1992	Nil	Nil
1,002	Receipts	Nil	4,011
1,002	Expenditure	Nil	2,629
_III	Balance 30 June 1993	Nil	1 382
	Represented by:		
Nil	Cash	Nil	1,382
V11	Investments	Nil	

The above Detailed Statement of Transactions by Fund is to be read in conjunction with the accompanying Notes and Glossary.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION
STATEMENT OF SUPPLEMENTARY FINANCIAL INFORMATION
AS AT 30 JUNE 1993

1991-92 \$'000	Notes	1992-93 \$'000
CURRENT ASSETS		
2	Cash on Hand and at Bank	41
139	Prepayments	208
NON-CURRENT ASSETS		
1,303	Property, Plant and Equipment	1,540
CURRENT LIABILITIES		
273	Creditors	37

The above Statement of Supplementary Financial Information is to be read ' in conjunction with the accompanying Notes and Glossary.

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 1993

NOTE 1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

- (a) The financial statements have been prepared in accordance with the Financial Statements Guidelines for Departmental Secretaries (Modified Cash Reporting) last amended by the Minister for Finance, 22 April 1993.
- (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 take account of changing money values or, except where state current values of non-current assets.
- (c) Amounts shown in the Aggregate Statement of Transactions By Fund and the Detailed Statement of Transactions by Fund have been rounded to the next lower, or the next higher dollar. Amounts in the Statement of Supplementary Financial Information have been rounded to the nearest \$1,008.
- (d) Non-current assets are valued at cost of acquisition. Minor assets having a unit cost less than \$2,000 have not been accounted for in the Statement of Supplementary Financial Information. Computer software valued at over \$2,000 has not been capitalised and is not included in the Statement of Supplementary Information.
- (e) Inventories held as consumable stores are brought to account in the Statement of Supplementary Financial Information if the individual item value exceeds \$1,000 and include goods and other property which as at 30 June 1993 are,
- held for sale
other property or services for sale, or
held as consumable stores.
- (0) Liabilities relating to salaries, wages and related benefits payable to officers and employees of the Commission have not been accounted for in the Statement of Supplementary Financial Information.

NOTE 2: RUNNING COSTS

The appropriation was annotated pursuant to Section 35 of the Audit Act 1901 to include the crediting of certain receipts including those from sale of publications and

training packs and the Queensland and ACT Governments under cooperative arrangements.

The nature of the cooperative arrangements were that receipts were **fully retained** by the Commission to directly offset expenditure incurred. The total annotation for running costs under the Queensland and ACT cooperative arrangements in 1992-93 was **\$1,008,862**. (\$617,014 in 1991-92).

Net appropriation	\$14,864,000
Add Receipts deemed appropriated	<u>\$1,181,636</u>
Gross appropriation	<u>\$16,045,636.</u>
Amount expended	<u>\$13,001,145</u>

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 1993. The depository **bank was** not open for business on 30 June 1993 **due to** industrial action.

	1992-93	1991-92
Cash on hand	\$11,344	\$1,631
Cash at bank	<u>\$29,409</u>	Nil
Total cash on hand and at <u>bank</u>	\$40,754	

NOTE 4: PREPAYMENTS

The Commission's prepaid accounts consist **of the following:**

	199293	1991-92
Rent	\$148,282	\$129,157
Subscriptions -library & other	\$19,209	\$9,789
Maintenance and Other Services	\$21,644	Nil
Furniture & Computers	\$12,165	Nil
Courses	\$6,435	Nil
Total	<u>\$207,735</u>	<u>\$138,946</u>

NOTE 5: PROPERTY, PLANT AND EQUIPMENT

All assets have been valued at the purchase price and comprise as follows:

	1992-93	1991-92
Furniture and Fittings	\$61,269	\$47,637
Computer Equipment	\$991,577	\$802,625
Office Equipment	\$235,849	\$205,740
Leasehold Improvements	<u>\$251,771</u>	<u>\$247,322</u>
Total	\$1 540 466	\$1,303,324

The Commission replaced a number of computers during June 1993 as part its equipment replacement strategy. As at 30 June 1993 computer equipment items amounting to \$167,395 were not in use. These were held in storage pending the implementation of the Commission's proposed computer network.

NOTE 6: CREDITORS

As at 30 June 1993, an amount of \$36,759 was owed to creditors (\$273,380 in 1992). This did not contain any overdue amounts.

NOTE 7: FORWARD OBLIGATIONS

The Commission has the following commitments as at 30 June **1993 and 1992** which are payable as follows:

Item	Not later than 1 year		1 year to 2 years		Later than 2 years			Total
	\$,000		\$,000		\$,000			
	92-93	91-92	92-93	91-92	92-93	91-92	92-93	91-92
POE Capital	87	288	Nil	84	Nil	Nil	87	372
POE Current	1,077	1,645	285	907	2		<u>1,649</u>	2,979
	1,166	1,933	285	991	<u>285</u>	427	1,766	3,351

NOTE 8: ACT OF GRACE PAYMENTS

No payments were made for the financial years 1992-93 and 1991-92 pursuant to authorisation given under section 34A of the Audit Act 1901.

NOTE 9: WAIVER OF RIGHTS TO PAYMENT OF MONEYS

No payments were waived during the financial years 1992-93 and 1991-92 under subsection 70C(2) of the Audit Act 1901.

NOTE 10: AMOUNTS WRITTEN OFF

No amounts were written off during the financial years 1992-93 and 1991-92 under subsection 70C(1) of the Audit Act 1901.

NOTE 11: LOSSES AND DEFICIENCIES IN PUBLIC MONEYS AND PROPERTY

There were no losses or deficiencies recorded during the financial years 1992-93 and 1991-92 under Part XII of the Audit Act 1901.

NOTE 12: RESOURCES RECEIVED FREE OF CHARGE

During the 1992-93 and 1991-92 financial years the Commission received services free of charge from some Commonwealth departments and agencies. It was not practical to estimate the cost of the services. The expenditure for the services was met from the appropriations of the departments and agencies concerned. The major services received include the following:

Department of Finance: The provision of accounting and budgetary services in the form of the computerised finance ledger and payroll services.

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 'above 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. items less than \$250,000) which is considered part of ordinary annual services; it does not include, inter alia, major capital 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: Authorisation by Parliament to expend public moneys from the Consolidated Revenue Fund or Loan Fund for a particular purpose, or the amounts so authorised. All **expenditure** (ie outflows of moneys) from the Commonwealth Public Account must be appropriated ie authorised by the Parliament. The authority for expenditure from individual trust accounts is provided under the Audit Act 1901 or an Act establishing the trust account and specifying its purposes. See also 'Annual Appropriations' and 'Special Appropriations'.

Appropriation Act (No 1): An act to appropriate moneys from the Consolidated Revenue Fund for the ordinary annual services of Government.

Appropriation Act (No 2): An Act to appropriate moneys from the **Consolidated** Revenue Fund for other than ordinary annual services. Under existing **arrangements between the two Houses of Parliament this Act includes appropriations in respect of new policies (apart from those funded under Special Appropriations), capital works and services, 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 falling due in a financial year**, additional appropriation may be provided in a further Appropriation Act (No **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. Finance Regulations 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**).

Consolidated Revenue Fund (CRF); Loan Fund; Trust Fund: The three Funds comprise the Commonwealth Public Account (CPA):

CRF - 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:

() annual appropriations consisting of Supply Acts (nos I and 2), the Supply (**Parliamentary Departments**) **Act, the Appropriation** Acts (Nos 1-4) **and** the Appropriation (Parliamentary Departments) Acts (Nos 1 and 2) (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 Audit 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 s.60 of the Audit Act (ie moneys held **in trust for the benefit of persons or bodies other than the Commonwealth**); **trust accounts established under s.62A of the Audit Act** (ie working accounts covering certain government agencies and **certain other accounts in the nature of 'suspense accounts'**); **and trust accounts established under other Acts to meet future expenditure.**

Payments into the Trust Fund may be by way of appropriation from the CRF or Loan Fund or direct credit of private moneys. Expenditure from the Trust Fund is appropriated for (and limited to) the specific purposes of **each trust account, or head of trust, by the Audit Act or the Act establishing the trust account or head of trust. Unlike the used portion of annual appropriations, trust account balances - as with 'special' or 'standing' appropriations - do not lapse at the end of the financial year.**

Legal advice is to the effect that investments, and the liquidation of those investments, involve 'expenditure' and 'receipts' for the purposes of subsection 50(2) of the Audit Act and that the balances of the Trust Fund should be reduced by the amount of investments outstanding at 30 June. In the interests of informative reporting, the financial statements have been designed so as to include explicit investment information. In particular,

information concerning expenditure and receipts has been split as between investment and non-investment activities so as to provide 'notional' balances taking into account the value of the investments, and a 'cash' balance after account is taken of investment transactions.

Expenditure: The total or gross amount of money spent by the Government on any or **all of** its activities (ie the total outflow of moneys from the Commonwealth Public Account including both 'above the line' and 'below the line' transactions) (c.f. 'Outlays'). All expenditure must be appropriated ie authorised by the Parliament, (see also 'Appropriations'). Every **expenditure** item is **classified to one** of the economic concepts of outlays, 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 functionally related to the repayment of loans or comprise transactions involving financial assets or liabilities. They are also referred to as 'below the-line' transactions. They mainly comprise repayments of principal on loans (the interest repayments on loans are 'above the 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 represent the difference between outlays and revenue and **hence** involve the investment of Budget surpluses or 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 memoranda 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 a 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: An economic concept which shows the net extent to which resources are directed through the Budget to other sectors of the economy after offsetting recoveries and repayments against relevant expenditure items ie outlays consist of expenditure net of associated receipt items. Outlays are 'above the line' transactions. The difference between outlays and revenue determines the Budget balance (ie surplus or deficit). See also 'Appropriations'; 'Expenditure from appropriations classified as revenue'; 'Expenditures from appropriations classified as financing transactions'; and 'Receipts offset within outlays'.

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 economic 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 ie 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 legislatively-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 somewhere between Standing and

ual Appropriations: while a specified amount 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 trust account balances. Outlays measure the net extent to which resources are directed from the Commonwealth Public Account (i.e. through the Budget) to other sectors of the economy. Accordingly, the transactions of the CRF, the Trust Fund and Loan Fund are consolidated and inter-fund transfers disregarded. Thus expenditure from the CRF under an appropriation to a trust account would not in itself contribute to outlays, but the expenditure undertaken from the trust account to outlays, but the expenditure undertaken from the trust account would. Consequently, in reconciling 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'.

HUMAN RIGHTS

Pamphlets

A Guide to 'Our Homeless Children'
Convention on the Rights of the Child (text only)

Reports

Our Homeless Children
Our Homeless Children: Their Experiences
The UN Children's Convention and Australia

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

DISABILITY DISCRIMINATION

Pamphlet

Disability Discrimination
Disability Discrimination Act

Poster

ACT against Disability Discrimination

RACE DISCRIMINATION

Pamphlets

Racial Discrimination Act 1975
"You Don't Have to Put Up with Racism"

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**

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 (SDA) **No. 1** .A Guide to the Law

SDA No. 2 .**Sex Discrimination in the Workplace**

SDA No. 3 - Sexual Harassment in the Workplace

SDA No. 4 - The Rights and Responsibilities of Pregnant Workers

Booklets

Superannuation Guidelines

Women, Sport and Sex Discrimination

Reports

Review of Permanent Exemptions under Sex Discrimination Act 1984

Insurance and the Sex Discrimination Act

Just Rewards .Sex **Discrimination -Overaward Payments**

Occasional Papers

No. 4 - Ten Years of the Convention on the Elimination of All Forms of Discrimination Against

Women

Poster

Women, Sport and Sex Discrimination

Kit

"Eliminating Sexual Harassment from the Workplace" - training pack, including video.

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

Privacy Commissioner's Annual Report

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**

Protection Against Discrimination in Employment and Occupation

Reports

HREOC Annual Report

Posters

What Are Human Rights?

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HUMAN RIGHTS COMMISSIONER

- 15 Jul 92 National Mental Illness Inquiry Moves to Northern Territory
- 20 Jul 92 Human Rights Commissioner Supports Aradale Move
- 8 Aug 92 Alzheimer's Awareness Week
- 4 Dec 92 Federal Human Rights Commissioner Condemns Human Rights Violations in Townsville Correctional Centre
- 10 Dec 92 **Australia's** Mental Health Laws in Breach of UN Standards
- 23 Dec 92 Human Rights Accountability

DISABILITY DISCRIMINATION COMMISSIONER

- 15 Oct 92 New Disability **Legislation** Welcomed as a Landmark
- 18 Dec 92 Australia's First Disability Commissioner
- 22 Feb 93 New Disability Law "Good for Business"
- 1 Mar 93 New Law Says "No Go" to Unfair Treatment of People with Disabilities

RACE DISCRIMINATION COMMISSIONER

- 12 Aug 92 First Ever Census of South Sea Islanders
- 23 Aug 92 Census Day Tomorrow for South Sea Islanders
- 3 Dec 92 Commissioner Urges Government to Reconsider Northland Closure
- 6 Apr 93 Major UN Conference to be Held in Sydney
- 16 Apr 93 UN Conference on Racism Starts in Sydney on Monday
- 19 Apr 93 UN Conference on Racism Starts Today
- 23 Apr 93 Resolutions From UN Conference
- 27 Apr 93 Release of Human Rights Report on Mornington Island
- 6 May 93 Human Rights Report on South Sea Islanders

ABORIGINAL AND TORRES STRAIT ISLANDER SOCIAL JUSTICE COMMISSIONER

- 22 Jan 93 Historic Task Ahead for Australia's First Aboriginal Social Justice Commissioner
- 31 Jan 93 Aboriginal Social Justice Commissioner Welcomed
- 29 Jun 93 Coalition Response Ignores Aboriginal Rights - Commissioner Dodson

SEX DISCRIMINATION COMMISSIONER

- 2 Jul 92 Compensation Ordered on Sex Harassment Complaint
- 31 Aug 92 Women, Sport and Sex Discrimination
- 17 Sep 92 Edna Ryan to be Honoured at Women's Conference
- 20 Oct 92 \$6,000 Order on Sexual Harassment Complaint
- 16 Dec 92 New Report - Women Lose Out on Pay Equality 16.12.92
- 4 Feb 93 New Sex Discrimination Commissioner
- 8 Feb 93 \$5,000 Order on Sexual Harassment Complaint
- 18 Mar 93 \$4,000 Awarded in Brisbane Sexual Harassment Case
- 29 Mar 93 \$5,000 Award on Pregnancy Complaint
- 7 Apr 93 Brisbane Woman Awarded \$11,000 Damages for Sexual Harassment
- 4 Jun 93 Helping Companies Deal with Sexual Harassment
- 8 Jun 93 Training Managers to Deal with Sexual Harassment
- 28 Jun 93 Eliminating Sex Discrimination in Superannuation

PRIVACY COMMISSIONER

- 12 Aug 92 Privacy Commissioner Welcomes ICAC Report
- 29 Sep 92 Report on Privacy and HIV/AIDS to be Released Tomorrow
- 30 Sep 92 Release of HIV/AIDS Report
- 23 Oct 92 Sydney Hosts International Privacy Conference
- 1 Dec 92 Release of Privacy Videos for **Employers**
- 14 Dec 92 New Guide to Federal Privacy Laws to be Launched Tomorrow

OTHER

- 20 Aug 92 **Final** Call for Human Rights Medal and Media Awards
- 18 Nov 92 1992 Human **Rights Medal** to be **Announced** on Sunday
- 22 Nov 92 "Mabo Case" **Islanders** Win Human **Rights** Medal
- 22 Nov 92 Human Rights Awards for Media
- 22 Nov 92 **Corporate Human** Rights Award
- 22 Nov 92 **Human Rights Awards** for the Arts

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The Contact Officer to whom inquiries or comments about this report may be made is:

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

This officer also receives suggestions or complaints about the operations of the Commission.

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