

## *Chapter 4:*

# ***Complaint Handling Section***

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### **Overview of the work of the Complaint Handling Section**

The President of the Human Rights and Equal Opportunity Commission is responsible for the investigation and conciliation of complaints lodged under federal anti-discrimination and human rights law. Staff of the Commission's Complaint Handling Section (CHS) assist the President to investigate and resolve complaints. The CHS also provides information to the public about the law and the complaint process through the Complaint Information Service and a range of community education and training activities.

Complaint Information Officers within the CHS deal with telephone, TTY, post, e-mail and in-person enquiries from around Australia. Enquirers are often seeking information about whether they can lodge a complaint in relation to a particular situation they have experienced. Where the issue raised appears to be a matter that the Commission can deal with, the enquirer is provided with a complaint form or information about how to lodge a complaint via the Commission's online complaint facility. Where the issue appears to be outside the Commission's jurisdiction, enquirers are provided with contact details for other organisations that may be able to assist them. In 2005–06 11 336 enquiries were dealt with by the Complaint Information Service.

Investigation/Conciliation Officers within the CHS manage complaints that have been accepted by the Commission. The CHS aims to handle all complaints in a timely and effective manner. Actions taken by the CHS to ensure access to the Commission's complaint process and enable ongoing improvement in service delivery are outlined later in this chapter.

In many cases, the investigation of a complaint involves the President writing to the person or organisation being complained about to obtain their version of events. Where it is considered appropriate, complaints will then proceed to conciliation. In many cases conciliation involves the Investigation/Conciliation Officer facilitating a face-to-face meeting of the parties. Officers travel to various locations throughout Australia, including regional and remote areas, to hold these meetings. Conciliation may also be conducted by other means. For example,

officers may have telephone discussions with the parties and convey messages between them or hold a teleconference. If a matter can be satisfactorily resolved between the parties, the complaint is withdrawn and closed.

Where a complaint of unlawful race, sex, disability or age discrimination cannot be resolved through a conciliation process, the complaint is terminated. Complaints may also be terminated where the President is satisfied that an inquiry into the complaint should not be undertaken or continued because, for example, the complaint is lacking in substance or better dealt with by another organisation. Both parties to a complaint are advised in writing of the President's decision regarding a complaint. After a complaint is terminated, the complainant may apply to have the matter heard and determined by the Federal Court of Australia or the Federal Magistrates Court.

Complaints which allege a breach of human rights or discrimination under the *Human Rights and Equal Opportunity Commission Act 1986* cannot be taken to court for determination. Where complaints under this Act have not been declined or resolved and the President is of the view that the subject matter of the complaint constitutes discrimination or a breach of human rights, the President will report the findings to the Attorney-General for tabling in Parliament.

A diagram of the complaint handling process is provided at Appendix 4.

In 2005–06:

- 1 397 complaints were received by the CHS;
- 1 205 complaints were finalised by the CHS;
- 39 percent of finalised complaints were conciliated;
- 93 percent of complaints were finalised within 12 months of lodgement; and
- the average time from lodgement to finalisation of a complaint was 6 months.

### **Key performance indicators and standards**

The CHS has developed key performance indicators and standards which provide the basis for ongoing assessment of complaint handling performance.

- *Timeliness* – the section's stated performance standard is for 80 percent of complaints to be finalised within 12 months of date of receipt. In 2005–06, the CHS finalised 93 percent of matters within 12 months. A detailed breakdown of timeliness statistics by jurisdiction is provided in Table 12. There has been continual improvement in the timeliness of the complaint process over the past four years.

- *Conciliation rate* – the section’s stated performance standard is for 30 percent of finalised complaints to be conciliated. In 2005–06, the CHS achieved a 39 percent conciliation rate. There has also been a continual increase in the conciliation rate over the past four years.
- *Customer satisfaction* – the section’s stated performance standard is for 80 percent of parties to be satisfied with the complaint handling process. Data for the past year indicates that 93 percent of parties were satisfied with the service they received and 54 percent rated the service they received as ‘very good’ or ‘excellent’. Further details of survey results for this reporting year are provided below.

### **Customer satisfaction survey**

The CHS asks for feedback on the complaint process from people lodging complaints (complainants) and people responding to complaints (respondents). This feedback is obtained by means of a customer satisfaction survey which is usually conducted by telephone interview. In 2005–06, 56 percent of those who could be contacted (139 complainants and 150 respondents) agreed to participate in the survey. Survey results for this reporting year are summarised below:

- Ninety (90) percent of complainants and 96 percent of respondents felt that staff explained things in a way that was easy for them to understand;
- Ninety-one (91) percent of complainants and 96 percent of respondents felt that forms and correspondence from the Commission were easy to understand;
- Seventy-eight (78) percent of complainants and 77 percent of respondents felt that the Commission dealt with the complaint in a timely manner; and
- Eighty-eight (88) percent of complainants and 91 percent of respondents did not consider staff to be biased.

These results are generally consistent with results achieved in the previous reporting year.

### **Service Charter**

The CHS Charter of Service provides a clear and accountable commitment to service. It also provides an avenue through which complainants and respondents can understand the nature and standard of service they can expect and contribute to service improvement. All complainants are provided with a copy of the charter when their complaint is accepted by the Commission and respondents receive a copy when notified of a complaint. The Charter of Service can also be downloaded from the CHS page of the Commission’s website at: [www.humanrights.gov.au/complaints\\_information/charter\\_of\\_services/index.html](http://www.humanrights.gov.au/complaints_information/charter_of_services/index.html)

The Commission received one complaint about its service through this mechanism in the last reporting year.

### Access to complaint services

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

- **Complaint Information Service.** The Complaint Info line (1300 656 419 – local call charge), which is open Monday – Friday between 9.00 am and 5.00 pm, allows people to call and discuss allegations of discrimination. They can also e-mail [complaintsinfo@humanrights.gov.au](mailto:complaintsinfo@humanrights.gov.au)
- **CHS webpage:** [www.humanrights.gov.au/complaints\\_information/](http://www.humanrights.gov.au/complaints_information/). The webpage provides information about the Commission's complaint handling service and the complaint process. It includes information about how to lodge a complaint, answers to frequently asked questions and examples of complaints. The website also provides a conciliation register that contains de-identified information about the outcomes of conciliated complaints. The CHS webpage received **189 290** page views during this reporting year.
- **Simplified process brochure.** During this reporting year the CHS developed a brochure which provides an easy to read flow chart of the complaint process. This brochure can be accessed on the CHS webpage at: [www.humanrights.gov.au/pdf/complaints/complaint\\_process\\_flyer.pdf](http://www.humanrights.gov.au/pdf/complaints/complaint_process_flyer.pdf)
- **Publications in community languages.** During 2005–06 the CHS revised and updated the Concise Complaint Guide which can be downloaded from the CHS webpage in 14 community languages ([www.humanrights.gov.au/languages/index.html](http://www.humanrights.gov.au/languages/index.html)). During this reporting year the CHS also developed an information poster in 14 community languages and copies of this poster were distributed to 2 500 migrant and community centres around Australia. This poster can also be downloaded from the CHS webpage at: [www.humanrights.gov.au/pdf/complaints/translations\\_posterA3.pdf](http://www.humanrights.gov.au/pdf/complaints/translations_posterA3.pdf)
- **Interpreter and translation services.** In the past reporting year the CHS utilised a range of interpretation and translation services. The main language groups assisted in 2005–06 were Cantonese, Mandarin and Serbian. Auslan interpreters were used on four occasions.
- **Service provision in states and territories.** The Commission has formal arrangements with the Victorian Equal Opportunity Commission, the Queensland Anti-Discrimination Commission, the South Australian Equal Opportunity Commission, the Northern Territory Anti-Discrimination Commission and the Western Australia Equal Opportunity Commission whereby CHS publications are displayed by these agencies and CHS staff

use agency facilities for conciliation conferences and community education presentations. The Commission has similar informal arrangements with the Tasmanian Anti-Discrimination Commission and the Australian Capital Territory Human Rights Office.

- **Video/DVD on conciliation.** The audio-visual resource, *Pathways to Resolution*, was developed to provide information about conciliation to the general public and those who may be involved in the complaint process. This video/DVD explains how conciliation is conducted as part of the complaint process, outlines how to prepare for conciliation and demonstrates positive approaches to discussing issues and negotiating resolution outcomes. Captioned and uncaptioned versions of the video/DVD are available from the Commission and are also provided on loan to complainants, respondents and advocates currently involved in complaints before the Commission. Sections of the video/DVD can also be viewed on the Commission's webpage at [www.humanrights.gov.au/pathways\\_to\\_resolution/index.html](http://www.humanrights.gov.au/pathways_to_resolution/index.html)
- **Conciliation circuits.** CHS officers travel throughout Australia to conduct face-to-face conciliation conferences. Along with conferences conducted in the greater Sydney area, officers conducted 30 conferences in regional NSW (including Wollongong, Newcastle, Nowra, Katoomba, Coffs Harbour, Lismore, Taree and Wagga Wagga); 56 in Melbourne, 54 in South Australia (including Adelaide and Port Adelaide); 44 in Queensland (including Brisbane, Mackay, Cairns, Bundaberg, the Gold Coast and Hervey Bay); 22 in Western Australia (including Perth and Albany); 15 in Canberra; two in Darwin and three in Hobart.

## Community education

The CHS contributes to the Commission's function of promoting an understanding and acceptance of human rights through its community education activities.

In this reporting year over 150 organisations throughout all states and territories either attended information sessions on the law and the complaint process run by CHS staff or were visited by CHS staff. These organisations included community legal centres, Aboriginal legal services, multicultural organisations, universities, disability groups, professional associations and unions. Locations visited included: Launceston and Hobart in Tasmania; Coffs Harbour, Grafton, Nowra, Moree, Tamworth and Narrabri in New South Wales; Brisbane; Melbourne; Darwin, Adelaide and Canberra.

## Training

The Commission has two specialised training programs which provide knowledge and skills in complaint investigation and resolution. All complaint handling staff are required to undertake these courses. The CHS also provides investigation and conciliation training for other organisations on a fee for service basis.

During 2005–06 two investigation training courses and two conciliation training courses were held for Commission staff. The conciliation training course held in June 2006 was also attended by staff from anti-discrimination agencies in New South Wales, Queensland, South Australia, Tasmanian and the Northern Territory.

In July 2005 the Commission facilitated a three-day conciliation training course in Darwin for staff from a number of Northern Territory government agencies. In May 2006 the CHS provided complaint investigation and resolution training for a large private education organisation. This course was held in Melbourne and attended by principals and other staff from schools in Victoria, South Australia and the Northern Territory.

The Commission also works in partnership with the Australian Public Service Commission to provide a two-day investigation training course for federal public servants. This course, which is a variation of the Commission's standard investigation training program, provides theory and skills that can be applied to the investigation of internal complaints and breaches of the Australian Public Service Code of Conduct. In the past year seven courses have been delivered in various locations around Australia including Brisbane, Sydney, Canberra and Melbourne.

During 2005–06, staff of the CHS attended various seminars and training courses relating to their work. These included seminars on employment law conducted by Sydney University, Australian Government Solicitor Law Group seminars, the Asia Pacific Forum of Human Rights Institutions Conference on Human Trafficking and National Human Rights Institutions, the Eighth LEADR International Mediation Conference, the National Conciliators and Legal Officers Conference and the Asia Pacific Mediation Forum Conference. In this reporting year two CHS officers completed their studies in Certificate IV accreditation in Assessment and Workplace Training.

## Research and conference presentations

The CHS regularly undertakes research with a view to better understand and improve the Commission's complaint handling work.

During 2005–06 the CHS published the paper *Five Years on: An Update on the Complaint Handling Work of the Human Rights and Equal Opportunity Commission*. This paper records the findings of two research projects undertaken

by the CHS in 2004–05. The first section of the paper outlines the findings of a project which further considered the impact of a court determination process on the Commission’s complaint handling function. The second section of the paper summarises the findings of a conciliator survey and provides current and detailed information about the Commission’s conciliation practice. This paper can be downloaded from the CHS’s webpage at: [www.humanrights.gov.au/complaints\\_information/publications/five\\_years\\_on.html](http://www.humanrights.gov.au/complaints_information/publications/five_years_on.html)

In this reporting year the CHS also presented papers at the following national and international conferences: the National Conciliators and Legal Officers Conference held in Melbourne in August 2005; the National Community Legal Centres Conference held in Canberra in October 2005; and the Asia Pacific Mediation Forum Conference held in Suva, Fiji in June 2006.

### **International training and consultation**

In 2005–06 the Commission’s CHS was awarded a tender by the Asia Pacific Forum of National Human Rights Institutions to provide training for staff of the National Human Rights Commission of Mongolia. This project involved the development and presentation of a three-day training course in human rights investigation. The training took place in Ulaanbaatar, Mongolia from 27–29 March 2006. Twenty-two staff from government departments and non-government organisations in Mongolia attended the program which was conducted in English with simultaneous translation into Mongolian.

In this reporting year two CHS officers were selected for, and successfully completed, the United Nation’s training program in conflict prevention. This program involved an eight-week distance learning program, a three-day workshop in Sri Lanka and eight weeks of post workshop mentoring.

The CHS is often called upon to provide placements for staff from overseas human rights institutions and to provide information about the Commission’s complaint handling work to visiting delegations. In January 2006 the CHS hosted a placement for an officer from the Danish Institute for Human Rights. During this reporting year CHS staff also provided information to representatives of human rights institutions and government departments visiting from Vietnam, Papua New Guinea, New Zealand and Denmark.

## Conciliation case studies<sup>1</sup>

### Racial Discrimination Act

In this reporting year the Commission received 259 complaints under the Racial Discrimination Act. The majority of these complaints related to employment (48%), the provision of goods and services (18%) and racial hatred (17%). The CHS finalised 196 complaints under this Act and 19 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Racial Discrimination Act are provided later in this chapter.

#### *1. Complaints of racial hatred, racial discrimination and victimisation in employment*

The two complainants, who are of Nigerian ethnic origin, advised they were employed as factory workers with the respondent manufacturing company. They alleged that their supervisor subjected them to racial hatred and racial discrimination in that he made comments such as *'Black idiot', 'Come here, you f..... African', 'Hey you, black man, you're rubbish', 'You eat like a monkey' and 'Go back to Africa'*. The complainants also alleged that their supervisor verbally and physically threatened them because of their complaints to the Commission. Additionally, the complainants claimed that the company did not respond appropriately to their internal complaints.

In his written response to the Commission, the supervisor denied the allegations. The supervisor claimed that the complainants made their complaints in response to action taken to address their unacceptable workplace behaviour which included challenging his authority and making adverse comments about him in a different language. The company did not respond in writing to the allegations but agreed to participate in a conciliation process.

The complaints against the company were resolved with an agreement that the company would provide the complainants with written apologies and pay each complainant \$17 550. This amount represented compensation for hurt and embarrassment and reimbursement of medical and counselling costs. The company also agreed to establish an anti-discrimination policy and associated complaint process; to provide anti-discrimination training to all staff members; and to encourage the supervisor to attend training and counselling.

#### *2. Alleged race discrimination in the provision of service by an airline*

The complainant, who is of Chinese ethnic origin, alleged that when travelling with a group of students of the same ethnic background, a flight attendant acted in a rude and racist manner towards her and the students. The complainant claimed that when boarding the plane the flight attendant told her the group could not

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<sup>1</sup> *Complaints are generally resolved at conciliation on the basis of 'no admission of liability' by the respondent.*

have their allocated seats near the exit and when she queried this, the flight attendant asked her if she could speak English. The complainant said that despite advising the flight attendant that she had lived in Australia for approximately 30 years, the group was told they could not sit in an exit row and were moved to the back of the plane.

The airline advised that the flight attendant had asked the complainant and her associates if they could speak English because they were sitting in an exit row and she needed to explain the safety briefing card to them. The flight attendant said that she asked the party if they would mind moving from the exit seats because she felt they had not listened to her safety briefing or looked over the safety information cards.

The complaint was resolved through a conciliation process. The airline agreed to pay the complainant \$750 compensation for any embarrassment, provide her with a statement of regret and review staff training in light of the complaint.

### *3. Complaint of race discrimination by Indigenous employee*

The complainant, who is Indigenous, advised the Commission that he had worked in a customer service role with a Commonwealth government department for six months. He claimed that during his employment his immediate supervisor unjustly criticised his work and questioned him in relation to his personal leave even though he had provided medical certificates for the absences. The complainant said that he lodged an internal grievance about his supervisor and his subsequent probation report recommended termination of his employment. The complainant alleged race discrimination and victimisation by the respondent department.

The Commission prioritised the complaint and contacted the department to advise of the allegations. In response, the department undertook to conduct an internal review of the decision not to permanently appoint the complainant. The department contacted the Commission a few days later and advised that the complainant's ongoing employment had been confirmed. The department also advised that the complainant had been offered career counselling and the option of moving to a different work location.

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

### *4. Alleged race and age discrimination in employment*

The complainant, who is over 45 years of age and of Sri Lankan background, alleged discrimination on the basis of his race and age in his employment as a warehouse assistant with the respondent company. He claimed that another employee who was younger than him and of Anglo-Saxon background was given better hours and provided with more assistance than he was. The complainant also claimed that this employee of Anglo-Saxon background would stare at him

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and make comments such as Black bastards and Black arse holes whenever he walked by. Additionally, the complainant alleged that he had not been given promotions and salary increments due to him and had only been paid half of the bonuses paid to other staff.

The company denied discriminating against the complainant on the basis of his race or age. The company said that although the complainant and the Anglo-Saxon employee referred to in the complaint had the same job title, they had different duties and hours of work. The company claimed that the complainant was not treated any differently than his co-workers and was not financially disadvantaged at any time. The company also said that the complainant had not raised any concerns with management about race or age discrimination.

The complaint was resolved through a conciliation process. The complainant decided to resign from his employment and the company agreed to pay the complainant his resignation entitlements and \$10 000 general damages.

## Sex Discrimination Act

In this reporting year the Commission received 347 complaints under the Sex Discrimination Act. The majority of complaints related to employment (85%). Twenty percent of complaints alleged pregnancy discrimination and 19 percent alleged sexual harassment. The Commission finalised 314 complaints under this Act and 44 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Sex Discrimination Act are provided later in this chapter.

### *1. Alleged discrimination in employment on the grounds of sex and family responsibilities*

The complainant claimed that during her interview for a client service position with a Commonwealth government department, she was assured that she would be able to use flex time to attend to her family responsibilities. The complainant said that after the six-week training period she asked to leave work one hour early, two days each week but this request was refused. The complainant claimed she was advised to apply for part-time work but her subsequent request for part-time work was also refused. The complainant said she was told that she must choose between her family and her job and so she resigned.

The department advised the Commission that the complainant's request to leave early two days each week was refused because of phone roster arrangements. The department said the complainant was told that part-time work arrangements may be considered but could not be entered into during her employment probation period.

The complaint was resolved through a conciliation process with an agreement that the respondent would pay the complainant \$10 000 compensation.

### *2. Complaint of sexual harassment in employment*

The complainant was employed as an administrative assistant with the respondent automotive company. The complainant alleged she was sexually harassed by her manager and co-workers. She claimed she was sent e-mails of a sexual nature and asked questions about her boyfriend and sex life. The complainant also alleged that a co-worker pulled his pants down to show her his penis and on one occasion, pushed his penis against her car window as she was leaving the company car park. The complainant said she resigned because of this sexual harassment.

The company denied the allegations and said that the complainant had not made any complaint to management about such behaviour. The company claimed the complainant actively engaged in flirtatious sexual behaviour with her manager and work colleagues including e-mailing pornographic material, showing her bra strap and 'G string' and participating in conversations with sexual content.

The parties resolved the complaint through a conciliation process. The company agreed to provide the complainant with verbal and written apologies, a written reference and \$21 000 compensation.

### *3. Alleged discrimination after advising employer of pregnancy*

The complainant was employed full-time as a machinist with the respondent company. The complainant said that after she told her employer she was pregnant she was given more difficult jobs and fault was found with her work. The complainant also claimed that management made comments about how much she was eating and her weight gain and made her feel lazy when she needed to take breaks to use the bathroom or because she was feeling faint. The complainant resigned from her position.

The company denied the allegations and said that the complainant had asked for the particular jobs she referred to and had never made a request for more frequent breaks during her pregnancy. The company claimed the complainant's work had deteriorated and she had resigned after being given a verbal warning about her work performance and punctuality.

The complaint was resolved at a conciliation conference. The terms of the resolution included an agreement that the respondent would provide the complainant with a written apology, pay her \$2 000 compensation, implement an anti-discrimination policy and train staff in relation to this policy.

### *4. Complaint of sexual harassment in casual employment*

The complainant was employed on a casual basis with the respondent company as a fruit picker. The complainant alleged she was sexually harassed by a co-worker. She claimed that the co-worker regularly touched her without her consent, pinched her arms, kicked her shins, hugged her, attempted to lift up her skirt and on one occasion, pulled down her pants so that her underwear was showing. The complainant said she raised the matter with the general manager but the company failed to address her concerns. The complainant claimed she resigned because of the way she was treated.

The individual respondent denied the allegations. The company confirmed that the complainant had raised her concerns with the General Manager who then discussed the matter with the individual respondent. The company said that even though the individual respondent denied the allegations, the company took action to remind him about expected workplace behaviour.

The complaint was resolved at a conciliation conference. The individual respondent and the company each agreed to pay the complainant \$2 000 general damages and provide her with a letter of regret. The conciliation agreement also included a commitment by the company to further develop its sexual harassment policies and procedures and to provide staff with training in relation to these policies.

## Disability Discrimination Act

In this reporting year the Commission received 561 complaints under the Disability Discrimination Act. The majority of these complaints concerned employment (58%) and the provision of goods, services and facilities (17%). The Commission finalised 512 complaints under this Act and 46 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Disability Discrimination Act are provided later in this chapter.

### *1. Alleged disability and race discrimination in employment*

The complainant advised that he had entered into a two-year contract as a trainee bus driver with a government owned transport service. During the training he developed a non-work related knee problem which required surgery and this meant he was unable to drive buses for several months. The complainant said that during this time he was provided with light duties and was able to complete the requirements of his training contract. He alleged that the employer's occupational health and safety officer did not like him because of his Indian ethnic origin. He claimed that this officer told him to look for another job because he would reactivate his knee problem if he recommenced driving buses. The complainant said that at the end of the training period he was not offered permanent employment even though his medical report said he was fit to return to full duties. He claimed that all other trainees were offered permanent employment. The complainant alleged he was not offered continuing employment because of his race and because of a disability that he may have in the future.

The respondent service denied discriminating against the complainant on the grounds of his race or disability. The respondent advised that the complainant had been engaged on a two-year contract with no guarantee of continuing employment at the conclusion of this period.

The complaint was resolved through a conciliation process. It was agreed between the parties that the respondent would employ the complainant as a bus driver and reinstate all his entitlements as if his employment had been continuous. The respondent also agreed to pay the complainant four months salary that he had lost and \$15 000 in general damages.

### *2. Complaint of disability discrimination in secondary education*

The complainant lodged a complaint against a private secondary school on behalf of her son who has a vision impairment. The complainant said that when her son enrolled she advised the school of her son's disability and the school assured her that it was equipped to deal with this. The complainant claimed that by the second year at school her son was experiencing difficulty reading notes on the board and was not being given work at his desk as requested. She also claimed that due to bullying by other students, her son refused to use equipment he required for his disability. The complainant said she removed her son from the school because the

school had not taken adequate steps to ensure a safe and secure environment for him and had not appropriately accommodated his disability.

In reply, the school acknowledged that the complainant's son had been bullied because of his disability but said that all reasonable steps had been taken to address this issue. The school also claimed that the complainant's son had been provided with reasonable adjustments for his disability throughout his time at the school.

The matter was resolved through a conciliation process. The school agreed to develop an anti-bullying policy specifically dealing with disability and train staff in relation to this policy. The terms of resolution also included an agreement that the school would waive the complainant's debt of \$3 300 and pay the complainant \$4 000 in general damages.

### *3. Alleged disability discrimination in the provision of travel services*

The complainant advised that his wife has a physical disability and uses an electric wheelchair. The complainant lodged the complaint on behalf of his wife, and on his own behalf, as an associate of a person with a disability. The complainant claimed he and his wife had booked a cruise with the respondent company and the company confirmed they had been assigned a wheelchair accessible cabin and that his wife's wheelchair could be used on board. The complainant claimed that on the cruise his wife was unable to leave the ship at a number of ports as the disembarkation platform was unsafe for people using wheelchairs and her wheelchair could not be used on shore. The complainant said he stayed on board with his wife and therefore also missed visiting these ports. Additionally, the complainant alleged that his wife was unable to independently access the main lift on the ship, that toilets outside their cabin were not accessible and that there was a lack of safety and emergency egress instructions for people using mobility aides.

The company denied discriminating against the complainants but agreed to participate in a conciliation process.

The complaint was resolved through a conciliation process. The company agreed to provide the complainants with a written apology and refund their fares and costs. The company also agreed to organise a meeting between the complainants and the company's disability officer to discuss how this situation could have been avoided and to provide information about assistance that could be provided, should they wish to travel again.

### *4. Complaint of discrimination on the ground of mental illness in employment*

The complainant applied for a position as a social worker with a Commonwealth agency and was offered a six month contract, subject to a medical assessment. The complainant said that when she told the agency she had previously undergone

treatment for a mental illness, she was required to undergo a psychiatric assessment. The complainant claimed that the psychiatrist's report said she was fit for the position provided she was closely supervised by a senior social worker. The complainant said that the agency subsequently withdrew the offer of employment saying it could not ensure the required level of supervision. The complainant claimed the required level of supervision would not impose hardship on the respondent as the National Practice Standards for social workers require that new social workers receive a minimum of one hour per week individual supervision and this would be sufficient to comply with the psychiatrist's recommendation.

In reply to the complaint the agency claimed it could not comply with the medical recommendation regarding supervision of the complainant. The agency said this was because supervision must be provided by a Level 2 social worker and they could not guarantee that a Level 2 social worker would be located in the same office as the complainant.

The complaint was resolved by conciliation with an agreement that the respondent would pay the complainant \$5 500 in general damages and ensure that human resources staff participate in EEO training specifically referring to mental health issues.

## Age Discrimination Act

In this reporting year the Commission received 106 complaints under the Age Discrimination Act. The majority of these complaints concerned employment (74%). The Commission finalised 80 complaints under this Act and 34 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Age Discrimination Act are provided later in this chapter.

### *1. Complaint of age discrimination in recruitment process*

The complainant, who is 55 years of age, applied for a graduate Information Technology position with a large government department via a private employment agency. The complainant said that despite having worked for the department for 10 years and having over 30 years relevant experience, his application was rejected. The complainant claimed the employment agency told him that he should not be applying for graduate positions. The complainant alleged discrimination on the basis of his age.

The department denied discriminating against the complainant. The department said it was unaware of the complainant's application as it only became involved in the recruitment process once candidates were short listed by the employment agency, and the complainant did not reach that stage of the process. The employment agency also denied discriminating against the complainant on the basis of his age. The agency said that data in relation to an applicant's age or age group is not sought or considered relevant. The agency claimed that the complainant's application for the graduate position was rejected because of a mistaken belief that he was employed with the department at the time of his application.

The complaint was resolved through a conciliation process with the employment agency agreeing to pay the complainant \$2 000 general damages and contribute \$4 500 towards legal costs he has accrued in relation to the complaint.

### *2. Alleged age and disability discrimination in the provision of goods and services*

The complainant advised the Commission that she is seventy-eight years old and has a range of disabilities which put her at an increased risk of falling. In her complaints against the local council and a building certification authority she claimed that due to building works in a nearby street, the cul-de-sac where she lives is often blocked by trucks and other machinery and she has difficulty accessing the footpaths around her home. She also alleged she was harassed because of her age and disability by builders working on the site and that the local council had ignored her complaints about the matter.

In response, the council advised that it did not have direct responsibility for the building work but had acted on some of the complainant's concerns. The council said it carried out daily patrols and inspections, met with the complainant and

also issued the builders with an infringement notice on the basis of photographic evidence provided by the complainant.

The complaint was resolved at a conciliation meeting. The council agreed to provide the complainant with a statement of regret and pay her \$100 to reimburse costs she incurred in providing the photographic evidence. The council also agreed to formally advise the complainant of its procedures for responding to complaints and invited the complainant to speak about the impact of development activities on aged people with disabilities at the council's next Access and Disability Committee meeting.

### *3. Complaint of age discrimination in termination of employment*

The complainant, who is 66 years of age, said he had worked as a hairdresser with a large retail chain for over 10 years prior to the business being taken over by the respondent company. The complainant claimed that when the new company commenced operations he was placed on a three-month probationary contract and his employment was terminated three weeks later. The complainant alleged he was dismissed because of his age and so that the employer could avoid paying him entitlements due from his previous employment.

The company denied that the complainant's age was a factor in terminating his employment. The company said that the complainant's employment was terminated because of unsatisfactory behaviour which included inconsistent pricing, poor workmanship, being uncooperative and taking extended breaks. The company claimed the complainant had been counselled on several occasions and provided with a written warning.

The complaint was resolved through a conciliation process. The terms of agreement included the company providing the complainant with a statement of regret and \$3 000 in general damages.

### *4. Alleged age discrimination in selection for redundancy*

The complainant, who is over 60 years of age, advised that the small automotive company he worked for was taken over by new management in May 2005. He claimed that four weeks before the takeover the new General Manager conducted interviews with all staff and during his interview, the General Manager told him that he would not be offered a position with the new company because of his age and other reasons. The complainant said that in October 2005 he was advised that his position was to be made redundant and as he was the last person employed, he would be the first to be made redundant. The complainant claimed that when he referred to another person who had commenced employment after him, the General Manager said that this person would not be made redundant as in comparison with the complainant, he was much younger and had a more important job. The complainant alleged that he was selected for redundancy because of his age.

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In reply to the complaint the General Manager of the company denied making any reference to the complainant's age in the interview and denied that age was a factor in determining whether the complainant would be offered a position with the company. The company maintained that the complainant's redundancy was due to business needs and performance issues.

The complaint was resolved through a conciliation process with the company agreeing to pay the complainant \$2 500 in general damages.

## Human Rights and Equal Opportunity Commission Act

In this reporting year the Commission received 124 complaints under the Human Rights and Equal Opportunity Commission Act. The majority of these complaints concerned alleged breaches of the International Covenant on Civil and Political Rights (28%) and discrimination in employment based on criminal record (26%). The Commission finalised 103 complaints under this Act and 25 percent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Human Rights and Equal Opportunity Commission Act are provided later in this chapter.

### *1. Alleged discrimination on the ground of criminal record*

The complainant applied for a client service position with a Commonwealth department and was advised that her application was unsuccessful because she had a criminal record. The complainant claimed she had only been convicted for traffic offences and the court had taken relevant mitigating circumstances into account at that time. The complainant said she had a long history of responsible high level employment which included working as a manager, being promoted and receiving letters of commendation. The complainant alleged that the department had discriminated against her on the ground of her criminal record.

The department advised the Commission that the complainant's criminal record included an offence of driving whilst disqualified. The department contended that the nature and repetition of the offences on the complainant's criminal record demonstrated a lack of responsibility and respect for the legal system. The department claimed the complainant would be unable to fulfil the inherent requirements of the position which required honesty and integrity, accountability to the community, ethical behaviour and compliance with lawful and reasonable directions.

The parties agreed to participate in a conciliation process. As a result of this process the department agreed to offer the complainant the position she had applied for.

### *2. Complaint of discrimination on the ground of trade union activity*

The complainant advised that he had been employed as a pattern maker with the respondent industrial company for 13 years before being made redundant about seven years ago. He claimed that during his previous employment with the company he had been an active trade union member and union delegate. Over the past years the complainant had made three separate applications for employment with the company but was not offered a position. The complainant alleged that he was refused employment because of his trade union activity during his previous employment with the company. The complainant also claimed that he was told he would not be offered employment because he had cost the company a lot of money and because he 'had a history'.

The company denied the alleged comments had been made to the complainant. The company said that in relation to the three positions the complainant applied for, either a more suitable applicant had been appointed or the position had been deemed unnecessary and no-one appointed.

The complaint was resolved through a conciliation process with the company undertaking not to make disparaging remarks about the complainant and agreeing to provide the complainant with a statement of regret. The company also confirmed that the complainant was able to apply for future positions with company.

### *3. Alleged discrimination in employment on the ground of sexual preference*

The complainant is employed by a Commonwealth department in a client service position. The complainant claimed that the department has a policy whereby e-mails containing particular words identified as 'profanities' are blocked for security purposes. The complainant said that the word 'lesbian' is on this list and that e-mails sent to her containing this word have been blocked. The complainant advised that she is a lesbian and said she was offended by the inclusion of this word on the list.

In response to the complaint the department advised that the word 'lesbian' was on the list of blocked words because employees were receiving inappropriate spam e-mails which included this word.

The parties agreed to try to resolve the complaint through a conciliation process. The complaint was successfully resolved and the terms of resolution included an agreement that the department would remove the word 'lesbian' from the list of blocked items and provide the complainant with a letter of regret.

### *4. Complaint of discrimination in employment on the ground of criminal record*

The complainant was offered a position as a Product Manager with a large bank and required to undergo a police record check. The complainant claimed that at a subsequent meeting he was told that an offence had appeared as a result of this police check. The complainant said he told the bank the only offence he was aware of related to a traffic incident that occurred when he was a teenager about thirteen years ago which resulted in loss of his driver's licence for six months. He claimed that the bank said the police check showed a criminal conviction around 1997–1998 and therefore he could not be employed in the Product Manager position. The complainant said he contacted the Australian Federal Police and was told that no offences had appeared as part of his criminal record check.

The bank denied that the complainant's criminal record was the reason why he was not employed. The bank said it did not proceed with the offer of employment because events following the preliminary police check raised concerns about the complainant's honesty and integrity. The bank was of the view that the

complainant could not be trusted in a role where he would have access to confidential customer information.

The complaint was resolved through a conciliation process. The terms of resolution included an agreement by the bank to provide the complainant with \$10 500 in general damages and a verbal apology. The bank also undertook to review its procedures regarding criminal record and recruitment.

## Complaint handling statistics

### Preliminary comments

The following statistical data provides information on enquiries handled by the Commission this reporting year, an overview of complaints received and finalised and specific details on complaints received and finalised under each of the Acts administered by the Commission.

When comparing complaint data between different agencies and across reporting years, it is important to consider that there may be variations in the way the data is counted and collected. Some additional information explaining the Commission's approach to statistical reporting is footnoted. Further clarification about complaint statistics can be obtained by contacting the CHS.

### Summary

#### *(i) Enquiries received and complaints received and finalised*

There has been a 17 percent increase in the number of enquires received over the past three years and in comparison with the previous reporting year, there was a 14 percent increase in the number of enquires received in 2005–06. In the previous reporting year 15 percent of the issues raised by enquirers related to employment. In 2005–06 this increased to 22 percent.

Over the past three reporting years there has been a 25 percent increase in the number of complaints received. In comparison with the previous reporting year, there was a 13 percent increase in the number of complaints received in 2005–06. Forty percent of complaints received in 2005–06 were lodged under the Disability Discrimination Act, 25 percent under the Sex Discrimination Act, 18 percent under the Racial Discrimination Act, 9 percent under the Human Rights and Equal Opportunity Commission Act and 8 percent under the Age Discrimination Act. This is generally consistent with the distribution of complaints in previous years.

As in previous years, employment was the main area of complaint under all federal anti-discrimination legislation. In 2005–06 complaints regarding employment constituted: 48 percent of complaints under the Racial Discrimination Act; 85 percent of complaints under the Sex Discrimination Act; 58 percent of complaints under the Disability Discrimination Act; and 74 percent of complaints under the Age Discrimination Act. In 2005–06 there was an increase in the number of employment related complaints lodged under all of these Acts.

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

### ***(ii) Conciliation of complaints***

Of the complaints finalised in 2005–06, 39 percent were conciliated. This represents a slight increase in the conciliation rate in comparison with the previous reporting year. Of those matters where conciliation was attempted in 2005–06, 67 percent were able to be resolved. The conciliation success rate has remained the same over the past two reporting years.

Complaints under the Disability Discrimination Act had the highest conciliation rate (46%) and the second highest conciliation success rate (72%). Complaints under the Sex Discrimination Act had a conciliation rate of 44 percent and a conciliation success rate of 61 percent. Complaints under the Age Discrimination Act had a conciliation rate of 34 percent and a conciliation success rate of 87 percent while complaints under the Racial Discrimination Act had a conciliation rate of 19 percent and a conciliation success rate of 46 percent. In this reporting year, 25 percent of finalised complaints under the Human Rights and Equal Opportunity Commission Act were successfully resolved and under this Act complaints had the highest conciliation success rate (74%).

### ***(iii) Demographic data***

Information on the geographical location and ethnicity of complainants is provided in Tables 7, 9 and 10 below.

Demographic data obtained during the complaint process indicates that 49 percent of complaints were lodged by individual females, 47 percent by individual males and four percent by other categories, for example, multiple complainants.

Forty-four percent of complainants reported that they knew about the Commission prior to lodging their complaint. The main sources of information for others were legal centres and lawyers (12%) and family members, friends or support people (11%).

The majority of complainants (65%) indicated that their main source of income at the time of the alleged act was from full, part-time or casual employment.

Approximately 36 percent of complainants were represented in the complaint process. Of this group, 39 percent were represented by privately funded solicitors. Other forms of representation were community legal centres such as Indigenous or disability legal services (20%), other advocacy groups such as working women's centres or disability advocacy services (20%), family members or friends (13%) and trade unions or professional associations (8%). Further data on representation in the complaint process is provided in articles on the CHS webpage at: [www.humanrights.gov.au/complaints\\_information/papers.html](http://www.humanrights.gov.au/complaints_information/papers.html).

Data collected on respondent categories indicates that in the last reporting year approximately 44 percent of complaints were against private enterprise, 13 percent against Commonwealth departments/statutory authorities and 10 percent against state departments/statutory authorities. These have been the main respondent organisation categories for the last three reporting years. Complete information on respondent categories is provided in Table 11 below.

## Complaint Information Service

<b>Table 1: Website enquiries</b>	
Complaint Handling Section webpage views	189 290

<b>Table 2: Telephone, TTY, e-mail, in-person and written enquiries received</b>	
<i>Enquiry type</i>	<i>Total</i>
Telephone	9 627
TTY	9
E-mail	973
In-person	122
Written	605
<b>Total</b>	<b>11 336</b>

<b>Table 3: Enquiries received by issue</b>	
<i>Issue</i>	<i>Total</i>
Race	1 042
Race – racial hatred	364
Sex – direct	548
Sexual harassment	690
Sex – marital status, family responsibilities, parental status, breast feeding	264
Sex – pregnancy	464
Sexual preference, transgender, homosexuality, lawful sexual activity	148
Disability – impairment	1 760
Disability – HIV/AIDS/Hepatitis	30
Disability – workers compensation	135
Disability – mental health	428
Disability – intellectual/learning disability	142
Disability – maltreatment/negligence	25
Disability – physical feature	59
Age – too young	90
Age – too old	422

<b>Table 3: Enquiries received by issue (con't)</b>	
Age – compulsory retirement	11
Criminal record/conviction	238
Political opinion	18
Religion/religious organisations	163
Employment – personality conflicts/favouritism	581
Employment – union/industrial activity	375
Employment – unfair dismissal/other industrial issues	1 353
Employment – workplace bullying	809
Human rights – children	132
Human rights – civil, political, economic, social	395
Immigration – detention centres	30
Immigration – visas	127
Prisons/prisoners	114
Police	118
Court – family court	122
Court – other law matters	161
Privacy – data protection	107
Neighbourhood disputes	86
Advertising	26
Local government – administration	63
State government – administration	233
Federal government – administration	237
Other	1 752
<b>Total*</b>	<b>13 862</b>

\* One enquiry may have multiple issues.

<b>Table 4: Enquiries received by state of origin</b>		
<i>State of origin</i>	<i>Total</i>	<i>Percentage (%)</i>
New South Wales	4 736	42
Victoria	2 066	18
South Australia	779	7
Western Australia	645	6
Queensland	1 652	14
Australian Capital Territory	239	2
Tasmania	180	2
Northern Territory	162	1
Unknown/overseas	877	8
<b>Total</b>	<b>11 336</b>	<b>100</b>

## Complaints Overview

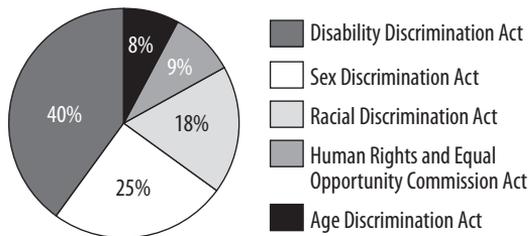
	<i>2002–03</i>	<i>2003–04</i>	<i>2004–05</i>	<i>2005–06</i>
Received	1 236	1 113	1 241	1 397
Finalised	1 308	1 229	1 233	1 205

	<i>2002–03 (percent)</i>	<i>2003–04 (percent)</i>	<i>2004–05 (percent)</i>	<i>2005–06 (percent)</i>
Terminated/declined	56	51	46	44
Conciliated	32	38	38	39
Withdrawn	11	10	16	16
Reported (HREOCA only)	1	1	–	1

<i>State of origin</i>	<i>Total</i>	<i>Percentage (%)</i>
New South Wales	564	40.0
Victoria	275	20.0
South Australia	168	12.0
Western Australia	135	9.5
Queensland	183	13.0
Australian Capital Territory	40	3.0
Tasmania	13	1.0
Northern Territory	11	1.0
Unknown/overseas	8	0.5
<b><i>Total</i></b>	<b><i>1 397</i></b>	<b><i>100</i></b>

<i>Act</i>	<i>Received</i>	<i>Finalised</i>
Racial Discrimination Act (RDA)	259	196
Sex Discrimination Act (SDA)	347	314
Disability Discrimination Act (DDA)	561	512
Age Discrimination Act (ADA)	106	80
Human Rights and Equal Opportunity Commission Act (HREOCA)	124	103
<b>Total</b>	<b>1 397</b>	<b>1 205</b>

**Chart 1: Complaints received by Act**



	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Total (%)</i>
Born in Australia	31	71	63	55	52	58
Born outside of Australia	62	13	15	32	29	25
Unknown	7	16	22	13	19	17

	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Total (%)</i>
Aboriginal	22	2	2	–	3	5
Torres Strait Islander	1	–	–	–	–	–
None of the above	77	98	98	100	97	95

**Table 11: Respondents by category**

	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Total (%)</i>
Individual male	23	26	7	4	4	15
Individual female	11	3	5	6	5	6
Private enterprise	36	53	44	53	30	44
Commonwealth government department / statutory authority	11	9	11	16	41	13
State government department / statutory authority	10	3	15	10	13	10
Local government	1	1	2.5	2	2	2
Educational institution	3	2	8	2	1	4
Trade union / professional association	1	0.5	1	1	1	1
Not for profit organisation / non government	1	1	2.5	2	1	2
Clubs/incorporated associations	1	0.5	2.5	2	1	2
Other	2	1	1.5	2	1	1

**Table 12: Time from receipt to finalisation for finalised complaints**

	<i>RDA (%)</i>	<i>SDA (%)</i>	<i>DDA (%)</i>	<i>ADA (%)</i>	<i>HREOCA (%)</i>	<i>Cumulative Total</i>
0 – 3 months	22	19	18	27.5	17	19
3 – 6 months	25	38	35	49	33	54
6 – 9 months	32	28	29	17.5	21	82
9 – 12 months	12	10.5	12	2	9	93
More than 12 months	9	4.5	6	4	19	99
More than 24 months	–	–	–	–	1	100

## Racial Discrimination Act

<b>Table 13: Racial Discrimination Act – complaints received and finalised</b>	
	<i>Total</i>
Received	259
Finalised	196

<b>Table 14: Racial Discrimination Act – complaints received by ground</b>		
<i>Racial Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Colour	112	18
National origin/extraction	140	22
Ethnic origin	54	9
Descent	8	1
Race	226	36
Victimisation	8	1
Racial hatred	79	13
Aids, permits or instructs	–	–
Association	1	–
<b>Total*</b>	<b>628</b>	<b>100</b>

\*One complaint may have multiple grounds.

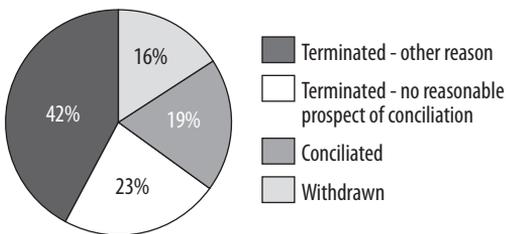
<b>Table 15: Racial Discrimination Act – complaints received by area</b>		
<i>Racial Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Rights to equality before the law	4	1
Access to places and facilities	5	1
Land, housing, other accommodation	18	3
Provision of goods and services	111	18
Right to join trade unions	–	–
Employment	305	48
Advertisements	–	–
Education	13	2
Incitement to unlawful acts	10	1
Other – section 9	55	9
Racial hatred	107	17
<b>Total*</b>	<b>628</b>	<b>100</b>

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

<b>Table 16: Racial Discrimination Act – outcomes of finalised complaints</b>	
<i>Racial Discrimination Act</i>	<i>Total</i>
<b>Terminated</b>	<b>120</b>
At complainants request – s.46PE	1
Not unlawful	1
More than 12 months old	3
Trivial, vexatious, frivolous, misconceived, lacking in substance	73
Adequately dealt with already	–
More appropriate remedy available	–
Subject matter of public importance	–
No reasonable prospect of conciliation	42
<b>Withdrawn</b>	<b>29</b>
Withdrawn, does not wish to pursue, advised the Commission	27
Withdrawn, does not wish to pursue, settled outside the Commission	2
<b>Conciliated</b>	<b>36</b>
<b>Administrative closure*</b>	<b>11</b>
<b>Total</b>	<b>196</b>

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

**Chart 2: Racial Discrimination Act – outcomes of finalised complaints**



## Sex Discrimination Act

<b>Table 17: Sex Discrimination Act – complaints received and finalised</b>	
<i>Sex Discrimination Act</i>	<i>Total</i>
Received	347
Finalised	314

<b>Table 18: Sex Discrimination Act – complaints received by sex of complainant</b>		
<i>Sex Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Female	284	82
Male	60	17
Joint/multiple	3	1
<b>Total</b>	<b>347</b>	<b>100</b>

<b>Table 19: Sex Discrimination Act – complaints received by ground</b>		
<i>Sex Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Sex discrimination	418	51
Marital status	34	4
Pregnancy	165	20
Sexual harassment	155	19
Parental status/family responsibility	25	3
Victimisation	15	2
Aids, permits, instructs – s. 105	3	1
<b>Total*</b>	<b>815</b>	<b>100</b>

\*One complaint may have multiple grounds.

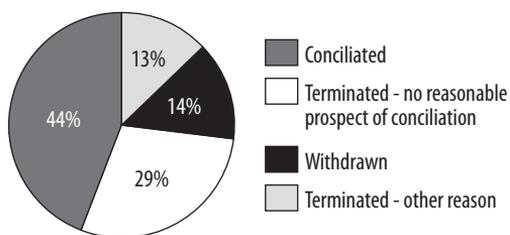
<i>Sex Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Employment	697	85
Goods, services and facilities	67	8
Land	–	–
Accommodation	4	–
Superannuation, insurance	–	–
Education	13	2
Clubs	5	1
Administration of Commonwealth laws and programs	23	3
Application forms etc.	–	–
Trade unions, accrediting bodies	6	1
<b>Total*</b>	<b>815</b>	<b>100</b>

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

<i>Sex Discrimination Act</i>	<i>Total</i>
<b>Terminated</b>	<b>124</b>
At complainants request – s.46PE	–
Not unlawful	5
More than 12 months old	4
Trivial, vexatious, frivolous, misconceived, lacking in substance	27
Adequately dealt with already	1
More appropriate remedy available	1
Subject matter of public importance	–
No reasonable prospect of conciliation	86
<b>Withdrawn</b>	<b>43</b>
Withdrawn, does not wish to pursue, advised the Commission	38
Withdrawn, does not wish to pursue, settled outside the Commission	5
<b>Conciliated</b>	<b>134</b>
<b>Administrative closure*</b>	<b>13</b>
<b>Total</b>	<b>314</b>

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

**Chart 3: Sex Discrimination Act – outcomes of finalised complaints**



### Disability Discrimination Act

<b>Table 22: Disability Discrimination Act – complaints received and finalised</b>	
<i>Disability Discrimination Act</i>	<i>Total</i>
Received	561
Finalised	512

<b>Table 23: Nature of complainant’s disability</b>		
<i>Disability Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Physical disability	174	26
A mobility aid is used (e.g. walking frame or wheelchair)	74	11
Physical disfigurement	11	2
Presence in the body of organisms causing disease (e.g. HIV/AIDS)	12	2
Presence in the body of organisms causing disease (other)	8	1
Psychiatric disability	103	15
Neurological disability (e.g. epilepsy)	40	6
Intellectual disability	22	3
Learning disability	24	4
Sensory disability (hearing impaired)	21	3
Sensory disability (deaf)	13	2
Sensory disability (vision impaired)	26	4
Sensory disability (blind)	17	3
Work related injury	47	7
Medical condition (e.g. diabetes)	48	7
Other	30	4
<b>Total*</b>	<b>670</b>	<b>100</b>

\*One complainant may have multiple disabilities.

<b>Table 24: Disability Discrimination Act – complaints received by ground</b>		
<i>Disability Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Disability of person(s) aggrieved	1 147	88
Associate	99	7
Disability – person assisted by trained animal	13	1
Disability – accompanied by assistant	8	1
Disability – use of appliance	6	–
Harassment	12	1
Victimisation	10	1
Aids, permits or instructs	9	1
<b>Total*</b>	<b>1 304</b>	<b>100</b>

\* One complaint may have multiple grounds.

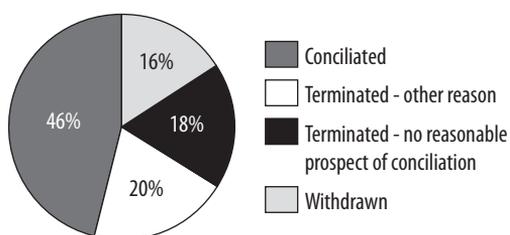
<b>Table 25: Disability Discrimination Act – complaints received by area</b>		
<i>Disability Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Employment	752	58
Goods, services and facilities	227	17
Access to premises	111	9
Land	–	–
Accommodation	45	3
Incitement to unlawful acts or offences	3	–
Advertisements	–	–
Superannuation, insurance	13	1
Education	90	7
Clubs, incorporated associations	27	2
Administration of Commonwealth laws and programs	25	2
Sport	3	–
Application forms, requests for information	–	–
Trade unions, registered organisations	–	–
Unlawful to contravene Disability Standard	8	1
<b>Total*</b>	<b>1 304</b>	<b>100</b>

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

<b>Table 26: Disability Discrimination Act – outcomes of finalised complaints</b>	
<i>Disability Discrimination Act</i>	<i>Total</i>
<b>Terminated</b>	<b>191</b>
At complainants request – s.46PE	–
Not unlawful	10
More than 12 months old	1
Trivial, vexatious, frivolous, misconceived, lacking in substance	87
Adequately dealt with already	1
More appropriate remedy available	3
Subject matter of public importance	–
No reasonable prospect of conciliation	89
<b>Withdrawn</b>	<b>80</b>
Withdrawn, does not wish to pursue, advised the Commission	67
Withdrawn, does not wish to pursue, settled outside the Commission	13
<b>Conciliated</b>	<b>229</b>
<b>Administrative closure*</b>	<b>12</b>
<b>Total</b>	<b>512</b>

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

**Chart 4: Disability Discrimination Act – outcomes of finalised complaints**



## Age Discrimination Act

<i>Age Discrimination Act</i>	<i>Total</i>
Received	106
Finalised	80

<i>Age Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
0 – 14 years	5	5
15 – 24 years	6	6
25 – 34 years	2	2
35 – 44 years	3	3
45 – 54 years	25	23
55 – 64 years	24	22
> 65 years	19	18
Unknown	22	21
<b><i>Total</i></b>	<b><i>106</i></b>	<b><i>100</i></b>

<i>Age Discrimination Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Employment	155	74
Goods, services and facilities	30	14
Access to premises	2	1
Land	–	–
Accommodation	4	2
Incitement to unlawful acts or offences	–	–
Advertisements	–	–
Superannuation, insurance	8	4
Education	4	2
Clubs, incorporated associations	–	–
Administration of Commonwealth laws and programs	6	3

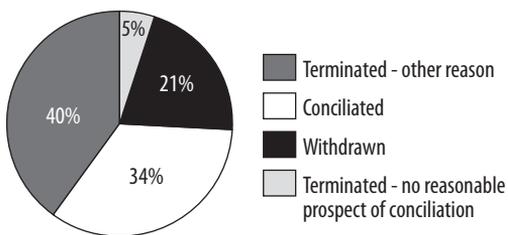
<b>Table 29: Age Discrimination Act – complaints received by area</b>		
Application forms, requests for information	–	–
Trade unions, registered organisations	–	–
<b>Total*</b>	<b>209</b>	<b>100</b>

\* One complaint may have multiple and different areas.

<b>Table 30: Age Discrimination Act – outcomes of finalised complaints</b>	
<i>Age Discrimination Act</i>	<i>Total</i>
<b>Terminated</b>	<b>34</b>
At complainants request – s.46PE	–
Not unlawful	6
More than 12 months old	–
Trivial, vexatious, frivolous, misconceived, lacking in substance	24
Adequately dealt with already	–
More appropriate remedy available	–
Subject matter of public importance	–
No reasonable prospect of conciliation	4
<b>Withdrawn</b>	<b>16</b>
Withdrawn, does not wish to pursue, advised the Commission	14
Withdrawn, does not wish to pursue, settled outside the Commission	2
<b>Conciliated</b>	<b>26</b>
<b>Administrative closure*</b>	<b>4</b>
<b>Total</b>	<b>80</b>

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

**Chart 5: Age Discrimination Act – outcomes of finalised complaints**



## Human Rights and Equal Opportunity Commission Act

<b>Table 31: HREOCA – complaints received and finalised</b>	
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>
Received	124
Finalised	103

<b>Table 32: HREOCA – complaints received by ground</b>		
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Race (ILO 111)	–	–
Colour (ILO 111)	–	–
Sex (ILO 111)	–	–
Religion (ILO 111)	16	12
Political opinion (ILO 111)	8	6
National extraction (ILO 111)	–	–
Social origin (ILO 111)	–	–
Age (ILO 111)	5	4
Medical record (ILO 111)	–	–
Criminal record (ILO 111)	34	26
Impairment (including HIV/AIDS status) (ILO 111)	–	–
Marital status (ILO 111)	–	–
Disability (ILO 111)	2	2
Nationality (ILO 111)	–	–
Sexual preference (ILO 111)	6	5
Trade union activity (ILO 111)	15	11
International Covenant on Civil and Political Rights	37	28
Declaration on the Rights of the Child	–	–
Declaration on the Rights of Mentally Retarded Persons	–	–
Declaration on the Rights of Disabled Persons	1	1
Convention on the Rights of the Child	3	2
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	3	2
Not a ground within jurisdiction	–	–
Not a human right as defined by the Act	2	1
<b>Total*</b>	<b>132</b>	<b>100</b>

\* One complaint may have multiple grounds.

<b>Table 33: HREOCA – complaints received by area</b>		
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Acts or practices of the Commonwealth	43	33
Employment	87	66
Not act or practice of the Commonwealth (not employment cases)	2	1
<b>Total*</b>	<b>132</b>	<b>100</b>

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

<b>Table 34: HREOCA – non-employment complaints received by sub-area</b>		
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>	<i>Percentage (%)</i>
Prisons, prisoner	9	20
Religious institutions	–	–
Family court matters	–	–
Other law court matters	5	11
Immigration	9	20
Law enforcement agency	1	2
State agency	–	–
Other service provider (private sector)	–	–
Local government	–	–
Education systems	–	–
Welfare systems	7	16
Personal or neighbourhood conflict	–	–
Health system	5	11
Other	9	20
<b>Total</b>	<b>45</b>	<b>100</b>

<b>Table 35: HREOCA – Outcomes of finalised complaints</b>	
<i>Human Rights and Equal Opportunity Commission Act</i>	<i>Total</i>
<b>Declined</b>	<b>67</b>
Does not constitute discrimination	9
Human rights breach, not inconsistent or contrary to any human right	6
More than 12 months old	3
Trivial, vexatious, frivolous, misconceived, lacking in substance	29
Adequately dealt with already	–
More appropriate remedy available	1
Withdrawn, does not wish to pursue, advised the Commission	15
Withdrawn, does not wish to pursue, settled outside the Commission	4
Withdrawn or lost contact	–
<b>Conciliated</b>	<b>26</b>
<b>Referred for reporting*</b>	<b>9</b>
<b>Administrative closure**</b>	<b>1</b>
<b>Total</b>	<b>103</b>

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

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

**Chart 6: Human Rights and Equal Opportunity Commission Act – outcomes of finalised complaints**

