



Balancing The Act

Issue 28 Winter 2010

Working with family responsibilities

Workers are seeking more flexibility from their employers as families struggle to meet their financial and family obligations. With more women entering the workforce, more single parents working, more men taking on an active parenting role and more two income households, families are finding it increasingly difficult to meet the needs of both their work and home life.

‘Employees should not be asked to make a choice between their family and their job’, said Acting Commissioner Neroli Holmes.

‘Smart employers are recognising that employees genuinely need flexibility to attend to their family’s needs and are responding with a broad range of initiatives like flexible hours, part-time work, set shifts, shift swapping, work “buddies”, job sharing and working from home arrangements’.

The law in Queensland has long recognised the need for flexibility in employment to better cater for work-life balance.

Under the *Anti-Discrimination Act 1991* (the ADA), it is unlawful to discriminate against a person because they are planning a family, pregnant or because they have responsibility for the care of children or close relatives.



Because each employer’s and employee’s needs are different, the key to negotiating a flexible and productive workplace is good communication and mutual respect. It is important to ensure the flexible arrangement works for everyone.

‘With rights, go responsibilities’, says Ms Holmes. ‘Employers have



a right to expect a fair day’s work for a fair day’s pay and that the needs of their business are met. They also have a responsibility to listen to their employees and consider whether there are other ways the employee can meet their responsibilities to the job. Employees have a responsibility to do their job to the best of their ability, and also have the right to talk about possible flexible arrangements with their employer without fear of being punished in any way’.

Where a worker has sought a flexible work arrangement and it has been unreasonably refused, a discrimination complaint can be made to the Anti-Discrimination Commission Queensland (the ADCQ) on the basis of family responsibilities or parental status.

Employers shouldn’t be afraid of approaching the ADCQ for help and information, before or after a complaint is made.

‘Our job is to try to resolve complaints by helping both employers and employees understand their rights and responsibilities under the law’, Ms Holmes said. ‘We have a confidential telephone information service to assist employees and employers. If a complaint is made to us, our conciliators are impartial and are there to help all parties understand the law. They appreciate the pressures on both employers and employees and try to find solutions that suit all concerned’.

The ADCQ confidential telephone information service can be contacted by both employers and employees on 1300 130 670.

Brisbane Pride Festival: Celebrating Sexuality

Did you know?

IDAHO Day, the International Day against Homophobia is recognised in over 60 countries around the world. It is celebrated on the anniversary of 17 May 1990, the day the World Health Organisation removed homosexuality from its list of mental disorders.



Kristy Apps, local Brisbane entertainer at 2010 Pride Fair Day

Pride

Brisbane Pride Festival was held on Saturday 12 June 2010 in Musgrave Park, South Brisbane to celebrate pride in gay, lesbian, bisexual and transgender culture. The Commission held an information stall at this colourful and entertaining event to raise awareness of the rights of the community under the Act.



ADCQ staff member Coral Logan showed her support at Pride

Mackay Regional Council leads the way

Mackay Regional Council (MRC) has demonstrated an ongoing commitment to preventing discrimination and sexual harassment through regular training of staff. Since 2000, the Commission has conducted regular training for MRC employees.

In recent times, the focus has been on Contact Officer training and refresher courses. MRC conscientiously recruit and train new contact officers on a regular basis and offer refresher training for existing contact officers. The Council encourages the participation of a wide cross-section of employees in the contact officer role, with representatives from different departments, both genders, a range of age groups and backgrounds.

MRC has been looking at ways to better publicise the role of contact officer and promote the individuals who are contact officers. The use of photos and contact details on posters and on the intranet has been effective. The enthusiastic participants are keen to expand their knowledge and skills in this role and enjoyed networking with other contact officers.

'It is refreshing to see a local council with a strong and ongoing commitment to promoting a discrimination and harassment free environment' said Royalie Walters, Regional Manager, Anti-Discrimination Commission, Townsville.

Get training from the experts

The Anti-Discrimination Commission Queensland is an independent statutory authority established under the Queensland *Anti-Discrimination Act 1991* (the Act). The Commission resolves complaints of discrimination and other breaches of the Act, and promotes human rights in Queensland through its education programs and community engagement activities.

The education programs provided by the ADCQ aim to increase awareness of rights and responsibilities under the Act. The Commission offers sessions for business, government and community organisations.



Colleen Wall and Grace Bond from ATSIWLAS at Tracking Your Rights training

The benefits of educating your workforce

The education programs offered by the ADCQ have multiple potential benefits for your organisation including:

- ensuring compliance with current legislation to ensure your workplace is free from discrimination, harassment and other unlawful conduct under the Act
- reducing claims of discrimination and sexual harassment
- reducing the risk of vicarious liability claims
- raising awareness of rights and responsibilities under the Act
- contributing to creating a fair and productive workplace
- retaining staff and reducing costs associated with recruitment and training.

Which education program suits you – private or public?

Education programs can be delivered at your premises for eight to twenty-five people, or staff can attend our public education sessions which are held in Brisbane in our state-of-the-art training rooms at 53 Albert Street, throughout the year. Education sessions are also offered by regional offices in Cairns, Townsville and Rockhampton.

Our education team will work with you to ensure your education needs are met. Packages can be tailored to your organisation's needs and particular industry setting.

Private education sessions

Fees for private education at your premises

- one day training session (up to 8 hours) \$1560.00
- half day training session (up to 4 hours) \$780.00
- two hour session \$390.00
- product tailoring/extra preparation/travel time etc (per hour) \$195.00

Prices valid 1 July 2010 to 30 June 2011.

Brisbane public education calendar - July to Dec 2010

Date	Time	Session
14 July 2010	9am – 1pm	Introduction to the Anti-Discrimination Act
21 July 2010	10am – 12pm	Tracking Your Rights (A&TSI training)
28 July 2010	9am – 1pm	Introduction to the Anti-Discrimination Act for Community Organisations
19 August 2010	8:30am – 12:30pm	The Contact Officer: Introductory
19 August 2010	1pm – 5pm	The Contact Officer: Advanced
25 August 2010	9am – 1pm	The Contact Officer: Refresher
9 September 2010	9am – 1pm	Introduction to the Anti-Discrimination Act for Community Organisations
30 September 2010	9am – 1pm	Introduction to the Anti-Discrimination Act
14 October 2010	9am – 1pm	Investigating Complaints under the Anti-Discrimination Act
21 October 2010	9am – 4pm	Fairness - Everyone's Business (Train-the-trainer session)
28 October 2010	9am – 1pm	Recruitment and Selection
4 November 2010	8:30am – 12:30pm	The Contact Officer: Introductory
4 November 2010	1pm – 5pm	The Contact Officer: Advanced
10 November 2010	10am – 12pm	Tracking Your Rights (A&TSI training)
18 November 2010	9am – 1pm	The Contact Officer: Refresher

Fees per person for public education sessions

- half day training session (up to 4 hours) \$155.00
- one day training session (up to 8 hours) \$310.00
- Tracking Your Rights (A&TSI training) No charge
- Introduction to the Anti-Discrimination Act for Community Organisations No charge

For more information or to enquire about booking education sessions Call 1300 130 670 and ask to speak with the education team.

Email info@adcq.qld.gov.au

Web www.adcq.qld.gov.au

Protecting Sexuality

This year, the Commission has put together an overview of Queensland sexuality vilification cases to help the lesbian, gay, bisexual, transgender and intersex community better understand how anti-vilification laws can help protect their rights.

Some of these case summaries are reproduced below.

***Wilson and McCollum v Lawson and Anor* [2008] QADT 27, 6 November 2008**

The complaint was one of sexuality vilification and sexual harassment related to an ongoing dispute between a same sex couple and their mother and son neighbours.

The Anti-Discrimination Tribunal found that some incidents amounted to sexuality vilification under the *Anti-Discrimination Act 1991* as they were public acts that were clearly designed to incite hatred towards, serious contempt for or severe ridicule of the complainants on the ground of their homosexuality, including:

- They were called 'faggots' to their faces, to their landlord and in circumstances where neighbours were potentially able to hear it.
- When Mr Wilson was in his driveway getting help from a mobile battery supplier, Mr Lawson peered over the fence and said 'Make sure those poofs pay you. They have a habit of not doing that'.

The Tribunal also found that some remarks amounted to sexual harassment as they were made with sexual connotations and with the intent of offending, humiliating or intimidating them, including:

- Mrs Lawson repeatedly described the complainants as 'faggots'.
- Mr Lawson referred to Mr Wilson and Mr McCollum repeatedly as 'princess' (accompanied by a wolf whistle), as 'ladies', as 'girls', and once as 'poofs'.

The Tribunal found that the use of the term 'wanker' was not sexual harassment as it did not contain a sexual connotation.

Compensation of \$9500 and \$11,500 was awarded to Mr McCollum and Mr Wilson, respectively for sexuality vilification and sexual harassment.

***GLBTI v Wilks and Anor* [2007] QADT 27, 30 November 2007**

A complaint of sexuality vilification was brought by Sharon Isle on behalf of the Gay Lesbian Bisexual Transgender Intersex Anti-Violence Committee Inc. The GLBTI Committee is entitled to make a complaint of vilification because its purpose is to promote the welfare and interests of gay, lesbian, bisexual, transgender and intersex people under section 134(5) of the *Anti-Discrimination Act 1991* (the ADA).

The complaint relates to a letter published in the *Mission Beach Advertiser* headed 'POOFTERS BEWARE!!!', demanding that homosexuals leave local beaches. It also invited members of the public to assault people if they do not move on.

The complaint was made against both the editor of the newspaper and the author of the letter. The author of the letter did not appear at hearing.

The Anti-Discrimination Tribunal found that the publication of the article was a public act that had the capacity to incite the ordinary reasonable person to hate homosexuals.

The Tribunal ordered that:

- each respondent make a published public apology, in words decided by the Tribunal, in the *Mission Beach Advertiser* and another local paper; and
- the respondents pay the legal costs of the GLBTI Committee.

***Peters v Constance* [2005] QADT 9, 23 May 2005**

Mr Peters worked as a drag queen, Tamara Tonite, and hosted a well known television show.

He alleged vilification on the basis of his sexuality by the respondent who was employed by a debt collection agency and attended Mr Peters' home, in his line of his work. When Mr Peters refused to open his door to the respondent, it is alleged that the respondent loudly abused him from the front of his home, calling him a 'gutless wonder', a 'paedophile' and saying that he would see him at the Wickham Hotel - a well known gay hotel in Brisbane. Neighbours in the vicinity were likely to have heard what went on outside Mr Peters' house that morning.

The Anti-Discrimination Tribunal was satisfied that paedophilia is a characteristic often wrongly attributed to homosexual men. Together with the reference to the Wickham Hotel, the Tribunal was satisfied that the comments were made on the grounds of the complainant's sexuality.

The acting President Jean Dalton, SC decided that there was incitement, saying:

'I bear in mind that an accusation of paedophilia is a very serious accusation and one likely to cause serious damage to the complainant's relations with anyone who overheard it.'

\$3000 was awarded to Mr Peters for his distress, after taking into account that Mr Peters had settled a claim with the respondent's employer at the Anti-Discrimination Commission prior to the hearing.

Community engagement in the North Queensland Region

ADCQ Townsville has conducted several courses and community visits in Mackay over the past few months with local unions, community organisations, legal services, local politicians, Mackay Regional Council (MRC) and the Chamber of Commerce. The visits focussed on raising awareness of the role and services offered by the Commission and to discuss discrimination related issues. A strong interest in accessing our expert training service was evident, with community organisations particularly keen to engage minority groups in future training opportunities.

On 19 March 2010, Royalie Walters was invited as a guest speaker to the Townsville Intercultural Centre's 2010 International Women's Day and Harmony Day event in Townsville.



Royalie Walters and Cassandra Ketchup at IWD stall



Attendee at Harmony Day function

Ms Walters focused on the issues women face in our society, with a specific focus on sex discrimination and sexual harassment.

Women from a diverse range of ethnic backgrounds and cultures attended the event along with students from local schools. The Commission also held an information stall at the event, providing general information and brochures on discrimination and sexual harassment, the role of the Commission, the complaint process and community education services.

Townsville public education calendar

Mark your diaries for Townsville's annual public education to be held in the Townsville office from 24-26 August 2010 offering training in Anti-Discrimination Law, Contact Officer (Introduction and Advanced) and Investigations. If you would like to attend one of the training sessions or get on our email training alert list please contact the Townsville office on 4799 7020 or 1300 130 670.

Date	Time	Course	Cost
Tuesday 24 August	9am-1pm	Introduction to the <i>Anti-Discrimination Act 1991</i>	\$155
Wednesday 25 August	9am-5pm	Investigating complaints under the <i>Anti-Discrimination Act 1991</i>	\$310
Thursday 26 August	9am-5pm	Contact Officer Introduction and Advanced	\$310

Welcome to Ben Cooke, Regional Manager for Central Queensland

Ben shares his profile:

I have worked in many different roles in Queensland Courts over the last 20 years, having started in the Supreme and District Courts in Brisbane and in Gladstone, Maroochydore and Cairns. My most recent position was in Rockhampton in the role of Registrar, Central Sheriff and Deputy Marshall of the Supreme and District Courts.

During the next twelve months I would like to raise awareness of the role of the Commission throughout Central Queensland. ADCQ Central Queensland will increase its presence in the community by promoting our services, resolving complaints of discrimination and harassment in an impartial manner providing information to employers and employees about rights and responsibilities under the *Anti-Discrimination Act 1991* and delivering high quality training to individuals and organisations to help them promote the principles of dignity and equality for their staff and clients.



Ben in Brisbane for Orientation

Community events calendar - July to December 2010

Community activities promoting human rights are an enjoyable part of the Queensland calendar. Below are some of the interesting and diverse events in which you may want to participate.

Month	Date	Event	For More Information:
July	1	Coming of the Light Festival	http://www.tsra.gov.au/the-torres-strait/events/coming-of-the-light.aspx
	4-11	NAIDOC week	http://www.naidoc.org.au
Aug	1-7	World Breast Feeding Week	http://worldbreastfeedingweek.org
	2-8	National Homeless Persons Week	http://www.homelessnessaustralia.org.au/site/index.php
	9	International Day of World's Indigenous People (UN)	http://www.un.org/depts/dhl/indigenous
	12	International Youth Day (UN)	http://www.un.org/esa/socdev/unyin/iyouthday.htm
	14-22	Seniors Week	http://www.communityservices.qld.gov.au/seniors/events/seniorsweek
	22-26	Hearing Awareness Week	http://www.hearingawarenessweek.org.au
Sep	13-19	Disability Action Week	http://www.disability.qld.gov.au/actionweek
	18	Eidfest (First day of Ramadan 11 Aug)	http://www.qldmuslims.org.au
Oct	1	International Day of Older Persons	http://www.un.org/depts/dhl/olderpersons
	10-17	Mental Health Week World Mental Health Day	http://www.health.qld.gov.au/mentalhealth/news/mhwweek.asp
	17	Queensland Multicultural Festival	http://www.multicultural.qld.gov.au
Nov	16	International Day of Tolerance (UN)	http://www.un.org/depts/dhl/tolerance
	20	Universal Children's Day (Anniversary of CROC)	http://www.un.org/depts/dhl/children_day/index.html
	25	International Day for Elimination of Violence against Women (White Ribbon Day)	http://www.whiteribbonday.org.au
Dec	1	World AIDS Day (UN)	http://www.worldaidsday.org.au
Dec	3	International Day of People with a Disability (UN)	http://www.un.org/disabilities
	10	International Human Rights Day (UN)	http://www.un.org/events/humanrights/2008
	18	International Migrants Day (International Convent on Protection of Rights of Migrant Workers & their Families) (UN)	http://www.un.org/depts/dhl/events/migrants

Focus on the Somali community

Members of the Somali Community in Brisbane attended an information session on discrimination and harassment held by the Commission in February. This information session was called to address the issue of intensified vilification and discrimination towards local Somali Australians.

'The Commission is particularly concerned about the high level of vilification experienced by Somali and other recently arrived migrants. We wanted the community to know that there is somewhere they can go for help when this occurs.' said Acting Commissioner Neroli Holmes.

Community members who had experienced discrimination or vilification were invited to talk about their personal experiences. Conciliators from the Commission and legal advisors from the Legal Aid Office were on hand to provide information on how to go about making a complaint to the Commission with Legal Aid assistance. Interpreters were also available to support the community.

Our thanks go to the leaders of the Somali community who assisted in promoting the session to their community members, to the Ethnic Communities Council who helped organise the event and to the Multicultural Development Association for allowing us to use their community hall.

The Commission has also been working closely with ACCES Services Inc and the Multicultural Development Association to deliver regular information sessions on discrimination and harassment to migrant and refugee participants of their *Get Set for Work* and traineeship programs.

Racial vilification in public is against the law

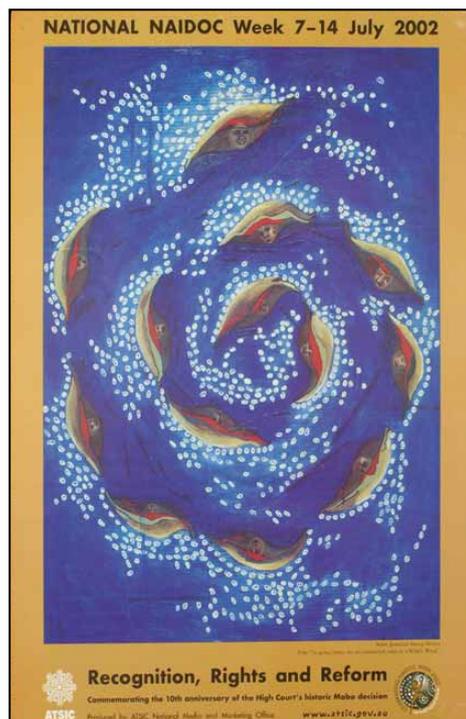
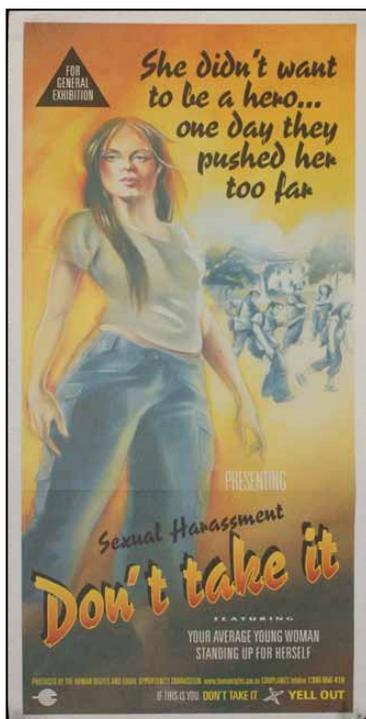
If you think you have been vilified contact the ADCQ on 1300 130 670 to find out what you can do about it

Brisbane Human Rights and Arts Film Festival

On Friday 12th March the Brisbane Human Rights and Arts Film Festival (HRAFF) team kicked off their events for 2010 with the annual *Feed the Future* fundraiser. Guests enjoyed delicious Eritrean cuisine at the Mu'ooz Restaurant in Moorooka, were entertained by local Brisbane performer, Joe Castellana and enjoyed an inspirational exhibition of posters lent from the Queensland Anti-Discrimination Commission's Library.

The HRAFF team would like to say a huge thank you to all the people who supported us in putting together this fantastic night and our generous guests who attended. Approximately \$1400 was raised, for the Human Rights Arts and Film Festival which was held in May 2010 at the Brisbane Powerhouse.

Some posters on display at the HRAFF *Feed the Future* fundraiser





An Introduction to the Queensland Civil and Administrative Tribunal

by Clare Endicott, Senior Member, Queensland Civil and Administrative Tribunal.

On 1 December 2009 twenty-three tribunals and other bodies, including the Anti-Discrimination Tribunal Queensland, were amalgamated into the Queensland Civil and Administrative Tribunal (QCAT).

From that date, the Anti-Discrimination Tribunal Queensland ceased to exist and QCAT was provided with jurisdiction to hear and decide complaints about contraventions of the *Anti-Discrimination Act 1991* (the Act), grant exemptions and provide opinions about the application of the Act.

QCAT is led by its President, Justice Alan Wilson of the Supreme Court and Deputy President, Judge Fleur Kingham from the District Court. There are one hundred and thirty-seven members including four senior members, ten permanent members, six adjudicators and one hundred and seventeen sessional members.

When hearing a matter under the Act, the Tribunal must be constituted by a legally qualified member. The senior member responsible for anti-discrimination matters is Clare Endicott. Clare has a strong background in human rights law – as a Tribunal member; and as a legal practitioner she acted for parties involved in anti-discrimination complaints since the 1990's.

Matters referred to QCAT from the Anti-Discrimination Commission Queensland are initially scheduled for a directions hearing. Directions are made requiring the applicant to file 'contentions' which are comprised of information identifying the

issues in the complaint, details of the facts about those issues and information about how that person contends that the facts will establish a contravention of the provisions in the Act. The respondent will be directed to file 'contentions' in response.

The parties will then be directed to attend a compulsory conference conducted by a member of the Tribunal, or a mediation conference conducted by a mediator. These conferences are held to enable the parties to discuss the issues in dispute with each other and to seek to find a resolution.

If the conference results in a complete resolution of the issues in dispute, an agreement can be reached that is recorded in writing by the Tribunal. If the issues are not resolved, further directions can be made to progress the complaint in an orderly fashion to a hearing. For example, the parties may need to file statements of evidence, produce medical reports or disclose documents relevant to the issues identified.

Parties need permission of the Tribunal to be legally represented in QCAT proceedings, except for children and persons with impaired capacity who have a right to be legally represented. Permission is not generally granted unless the proceeding is likely to involve complex questions of fact or law.

QCAT will continue the excellent work previously managed by the Anti-Discrimination Tribunal Queensland and benefits from a wealth of experience from its staff and from senior member Susan Booth, who is the previous Queensland Anti-Discrimination Commissioner.

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