



ANNUAL REPORT

04/05

adccq

ANTI DISCRIMINATION  
COMMISSION QUEENSLAND

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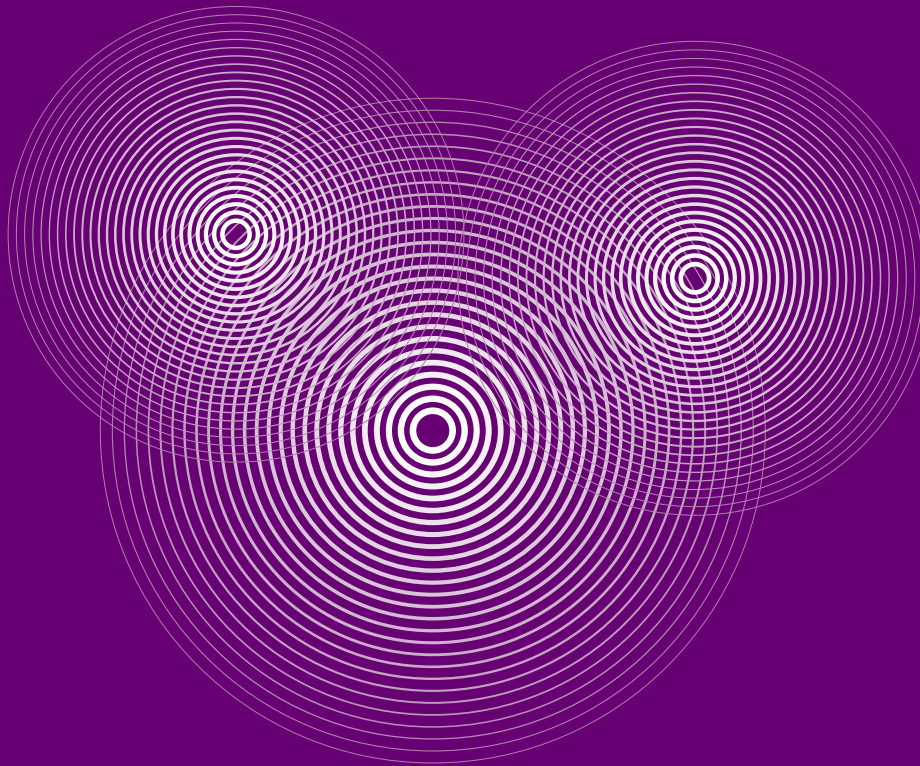
**Vietnamese:** Neáu quyù vò muoán chuùng toài thu xeáp ñeà còu ngöøi phieån dòch baùo caùo naøy, xin vui lòng goïi cho chuùng toài qua soá 1300-130-670

**Arabic:** ا رغبتم ا قو حن بتهنة مترجم لأغراض هذا آ تقرير فترجو ألاتصال بنا على رقم هاتف

**Farsi:** در صورت تمایل به داشتن ترجم برای ترجمه این متن، لطفا با ا با شماره تلفن ۱۳۰۰۱۳۰۶۷۰ تماس حاصل فرمائید.

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# Upholding and Advancing Human Rights

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## **Our Vision**

A society that embraces individual and cultural diversity and equality of opportunity for all. A system of justice which inspires the confidence of all in protecting and promoting human rights.

## **Our Mission**

To promote and uphold human rights through the Queensland *Anti-Discrimination Act 1991*

## **Our Services**

- human rights promotion
- enquiry and complaint management
- community relations
- advice and information services

## **Snapshot**

2004-05 highlights:

- managed an increased complaint workload
- delivered 218 training sessions throughout Queensland
- held the inaugural Mabo Oration
- worked with a range of other organisations on joint projects
- hosted the national meeting of the Australian Council of Human Rights Agencies (ACHRA)

## **Our Goals**

### **Human rights promotion**

- to be recognised and consulted as the leading human rights agency in Queensland

### **Enquiry and complaint management**

- to provide an accessible, fair, effective and timely complaint management process

### **Community relations**

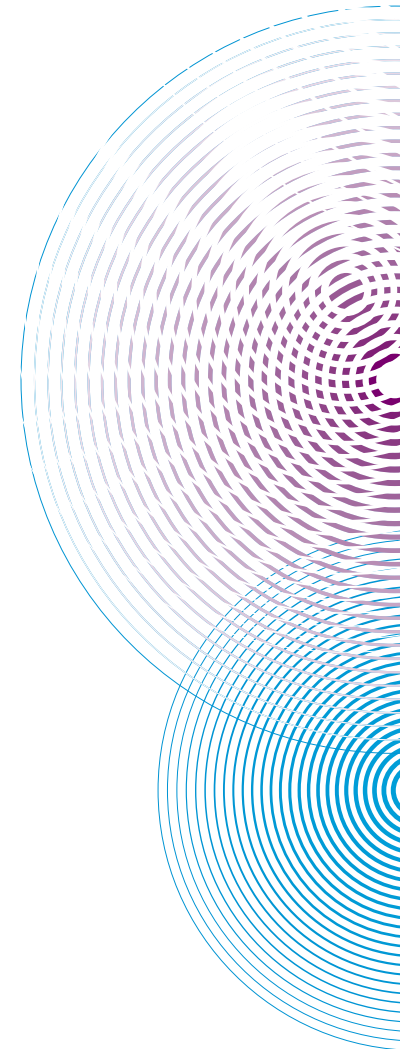
- to provide accessible, inclusive, educational activities and community liaison

### **Advice and information services**

- to ensure accurate expert advice and information on human rights and related services is provided to all in an accessible user-friendly way

### **Resource management**

- to provide responsive business support functions through the efficient and effective management of financial, human, information technology and asset resources.



## At a Glance

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The Anti-Discrimination Commission was established in December 1996, to administer the Queensland *Anti-Discrimination Act 1991*

The Commission employs 36.2 full-time equivalent staff, including a Commissioner, Susan Booth

We have an office in Brisbane, and run three regional offices in Rockhampton, Townsville and Cairns.

The Commission is an independent statutory body which administers the Queensland *Anti-Discrimination Act 1991*

The Commission and staff work to protect and promote human rights

In the 2004-05 financial year, we received a grant of \$3.923 million from the Queensland government.



## The Mabo Oration

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The Mabo Oration was named in honour and recognition of Eddie Mabo (1936-1992). It's hoped the event will be held bi-annually as a tribute to both the person and to his legacy of reconciliation based in law.

Eddie Mabo, born in the Torres Strait Islands, believed he owned the land on which he was born and where he lived. Legally however, it was Crown land, and so began the ten year legal dispute which changed the political and legal landscape of Australia forever. Eddie Mabo challenged the claim of *terra nullius* (no one's land). Central to his argument was the belief that the land had been stolen in the first place, and that he was the rightful heir and owner of the land on Murray Island in the Torres Strait.

The High Court brought down its decision in 1992, upholding Eddie Mabo's claim that Murray Islanders held Native Title to three islands on the eastern fringe of the Torres Strait.

This recognition by the High Court that Australia had been occupied prior to white settlement and that Aboriginal and Torres Strait Islander peoples had native title to those lands was an historic decision.

Eddie Mabo's legacy is more than the proper recognition of native title. It is his struggle, his enormous and unwavering belief in and understanding of his culture that requires a much greater recognition of his leadership.

The Mabo Oration is the Queensland beginning of the proper recognition of Eddie Mabo. The inaugural oration was delivered by Aboriginal leader Noel Pearson who spoke about 'Indigenous Governance and Leadership – a Shift to Permanent Sovereignty?'.  


A copy of his speech is available at [www.adcq.qld.gov.au](http://www.adcq.qld.gov.au)

Noel Pearson was part of the Indigenous negotiating team during the drafting of the Native Title Act in 1983, and continues to work as an advisor to various Indigenous organisations. His work draws widely on his thoughts on breaking down 'passive welfare dependency', and he is the author of numerous speeches on this issue and others of substance abuse and violence, child neglect and Indigenous affairs generally. Mr Pearson is a recognised leader in the area of public policy affecting Indigenous people.

Mabo represented the best opportunity for resolution of the colonial grievance between Indigenous and non-Indigenous Australians



His speech, alleged that the Australian courts failed to understand at a fundamental level, that the law of native title was the law of reconciliation. He argued that the Australian judiciary had eroded the opportunity of Mabo and that 'it is their poor articulation of the statute and common law of native title that is short-changing Aboriginal rights'.

Mr Pearson said the principles established by Mabo represented the best opportunity for resolution of the colonial grievance between Indigenous and non-Indigenous Australians, and noted that he'd often referred to Mabo as 'the once in a nation's lifetime opportunity'. He believes Mabo is our 'cornerstone for reconciliation'.

The event, held in partnership with the Queensland Performing Arts Corporation (QPAC), was chaired by his honour Chief Justice de Jersey AC. It attracted a venue-filling 800 people, including many members of the Mabo family, Indigenous community leaders and members, dignitaries including former Prime Minister Gough Whitlam, judiciary, government ministers and Members of Parliament, community and business leaders, school and university students, and the general community.

**Feedback from attendees included comments such as:**

'What took place was a very symbolic event and I felt privileged to be present. The atmosphere was exciting and there were people from all walks of life present. (We) were absolutely amazed and encouraged at the number of young people present in addition to the students. It's good to see that much interest from youth because of the legacy being handed down to future generations'.

'My friends and myself thoroughly enjoyed the evening (speakers, performing artists and guest speaker Noel Pearson). It must have been a mammoth task coordinating all this which went extremely well. It was great that the Mabo family were able to attend'.

'I thoroughly enjoyed the evening. It was particularly pleasing to hear Noel in person rather than through the interpretation of the media. I look forward to studying in detail the transcript when it is available.'

'The last time I experienced such a wonderful 'reconciliation' feeling was during the Walk over the Bridge with my grandchildren... I believe I could also glean positive encouragement from his speech for spurring myself to continue to take responsibility and being active within my work, community and family environment.'

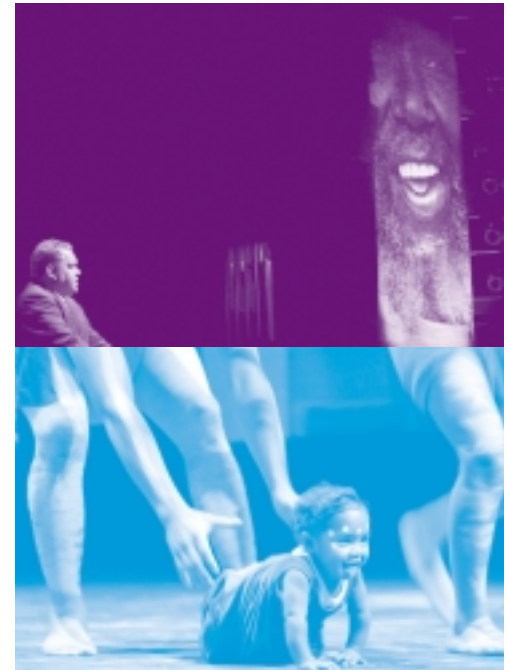


Photo: courtesy Courier Mail

## Commissioner's Report

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This year the ADCQ has had noteworthy successes. We have managed an increased complaint file load. At the same time we have sought to address some of the more systemic human rights issues through important occasions such as the inaugural Mabo Oration, by providing training about discrimination and strong community liaison.

Complaint numbers continue to increase yet at the same time we have been able to reduce times taken to allocate and conciliate complaints. This has been achieved through thoughtful and innovative complaint handling processes. Support and training for staff, as well as the implementation of a statewide complaint handling system has allowed the Commission to provide clients with timely, high quality complaint handling services.

This year, sexual harassment complaints have risen slightly. This is a disappointing result after trending downward last year after a decade prohibiting such behaviour. It is unsatisfactory that again these types of complaints are 12% of the total complaints made. As expected, complaints in the new area of family responsibilities have increased and we expect continued growth as increasing numbers of people care for family members.

The success of the statewide allocation of complaints has necessarily affected the capacity of regional staff to deliver training. We will be seeking further funds for an innovative approach of web-based training packages and train-the-trainer programs to complement the current regional training program. This will ensure that regional Queensland will have access to increased training options.

While complaint handling is the backbone of the work of the Commission, the long term goal of the Act, to eliminate discrimination, means that we must ensure that we also promote an understanding of human rights. I have for some time now believed that the Commission needed to take a leadership role to identify and outline what are important issues for Aboriginal and Torres Strait Islander peoples. Queensland has a large Aboriginal and Torres Strait population and strong Indigenous leadership. That Queensland needed an oration with an Indigenous focus, was a view shared by Mrs Bonita Mabo, Mr Eddie Mabo's wife. The idea that the Mabo Oration should both celebrate Aboriginal and Islander peoples cultures and contributions and also be a serious discussion about the future, made it plain to us that the inaugural orator should be Mr Noel Pearson. This report provides details of the oration and access to Mr Pearson's speech.

There is clearly more to do. Last year we noted that systemic discrimination cannot be addressed by individual complaint mechanisms. This year, allegations of systemic discrimination of women prisoners was raised in a submission by an advocacy group on behalf of women prisoners. The allegations were serious and if proved would indicate systemic discrimination. We have begun to investigate the matters raised and a report will be published at the completion of the review.

After a decade of operation we seek to ensure that our services provided to Queenslanders with the best that they can be for the funding that we receive. Next year we will do our first comprehensive review of operational services to ensure that funding and operational needs are aligned.

The Commission has always attracted staff of the highest calibre. Their achievements outlined in this year's annual report are remarkable and I congratulate them on their contribution and thank them sincerely for the efforts.



Susan Booth  
Commissioner  
Anti-Discrimination  
Commission Queensland

## Human Rights Promotion

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**Goal:** to be recognised and consulted as the leading human rights agency in Queensland.

### **Overview:**

2004-05 was a big year for the promotion of human rights in Queensland. The Commission undertook its most ambitious activity with the inaugural Mabo Oration, which attracted 800 people from throughout Queensland. The success of the event contributed significantly to discussion on Indigenous issues, the profile of the Commission, and our stated goal of being recognised as the leading human rights agency in Queensland.

Complaint numbers were up again on the previous year with 1118 grounds of complaint accepted.

The Commission also maintained and expanded the roles of the advisory committees, engaged in new and ongoing partnerships with other agencies, celebrated important events and represented the Commission views on a range of government and community committees and groups. Staff travelled the state for training, speaking and consultative commitments, engaged the media on 97 occasions across a huge range of issues, and lodged five submissions on subjects as

varied as discrimination in employment on the basis of criminal record, Queensland multicultural policy, the national plan of action on decent work, employment and disability, and a review of Queensland Aboriginal and Torres Strait Islander Justice Agreement.

### **Women in Prison Review**

In June last year, a submission was made to the Commission from the advocacy/service organisation, Sisters Inside, requesting an inquiry into issues of alleged discrimination faced by women in prison.

Discrimination was alleged on the basis of sex, disability and race, and particular examples included the classification system, the number of low security beds, conditional and community release, work and other programs, and stripsearching.

The Commission considered the request and agreed to conduct a review into issues affecting women in prison.

The review team drafted terms of reference, placed ads in newspapers calling for submissions, developed a proforma submission and other information for the website, sent letters to specific stakeholders, conducted research on best practice in both Australia and overseas, visited every prison in

Queensland housing women inmates, and organised meetings with specific groups, such as ex-prisoners..

We are currently developing a draft report with recommendations for release later this year.

## Community Relations

**Goal:** to provide accessible, inclusive educational activities and community liaison

### Strategies

- develop new innovative training, education and information services which target client and stakeholder needs
- increase the level of community liaison by staff
- undertake research and project activities in human rights to identify service gaps and unrepresented groups
- establish formal and regular liaison mechanisms with other complaint agencies
- establish community networks to assist identify potential service delivery gaps, improvements and successes.

### Overview

Community relations is a broad term for the non-complaint work carried out by the Commission. Our work includes project management, training delivery, publications development and distribution, community liaison, Indigenous outreach, website management, policy advice provision, community advisory committee organisation and support and other specific tasks and functions.

Work is carried out statewide by both regional staff and a Brisbane-based team of four. This year was a good one in terms of both meeting ongoing goals, and setting new objectives for ourselves.

### Highlights included:

- delivery of 218 training sessions throughout Queensland to almost 5000 people
- consolidation of the structure and operation of five advisory committees
- the launch of one of three new visual resources produced during the year.
- progress with the CHEER (Complaints on Health and Employment – Equity and Rights) Project.
- development of a new visual identity for the Commission.
- the inaugural Mabo Oration

### Resource launch

Early in the year, the Commission launched its latest resource to assist people who are involved in a complaint. *Working it Through* (in DVD, CD or video format) focuses on the complaint process, and in particular the conciliation conference. In six minutes, viewers visually walk through the process, get tips on how to prepare for the conference and how to negotiate an outcome. The resource was launched by the Minister for Justice and Attorney-General, Rod Welford, the General Secretary of Queensland Council of Unions,

Grace Grace, and Susan Booth, Anti-Discrimination Commission Commissioner.

All praised the production and encouraged anyone involved in a complaint to take six minutes to have a look at how conferences operate, and how to get the best from them.

Copies of the resource are being offered to all parties in a complaint, and feedback so far indicates it's a valuable, cost-effective and timely resource in the complaint process.



Photo: courtesy David Hoggood

*Fair Go* is a ten minute video/CD/DVD explaining the Anti-Discrimination Act, and how it works. It uses a series of six 'snapshot' scenarios within a larger disability case study to explore coverage of the Act, lodgement of a complaint, the conciliation conference, and possible outcomes.

As training commitments have grown over the years, we've relied on commercially produced visual resources to 'get the message across'. For some time however, it's been apparent that Commissions and trainers in particular are in the best position to develop the most useful resource. This video/DVD incorporates fifteen brief scenarios covering grounds under the Act, the work of Contact Officers and issues which might not be discrimination or vilification. One of the strengths of the resource is the inclusion of subtle examples of inappropriate behaviour, situations which may, depending on individual circumstances, breach the legislation.

### **The CHEER (Complaints on Health and Employment – Equity and Rights) Project**

This Commission partnered with the Health Rights Commission and the Multicultural Development Association to develop a project to raise awareness of, and improve access to our complaints processes. The successful submission sought funds to employ a project officer to work with people from culturally and

linguistically diverse backgrounds in an advocacy, awareness-raising and training role.

A project officer, appointed halfway through the year, has been working with communities and Commission staff in several ways. Contact has been made with various communities to explain the role of Commissions (and in particular, how the complaints process works), advocacy services have been offered to those with a grievance, and training resources are being developed for workers in agencies dealing with communities.

It's hoped that by providing this training and resources to people, the project will have a lasting effect within culturally and linguistically diverse communities.

### **'Re-branding' the Commission**

A major undertaking this year has been the 're-branding' of the Commission. Work on the project began some time ago, to review our publications and introduce more consistency in content and presentation. Since then, we've engaged a design firm to develop a new 'visual identity', which will then be incorporated into everything produced by the Commission. Work on the design has almost been completed – work on the new content for our identity is about to start.

## Indigenous Unit

The Unit was formally established and launched in November 2003. Staff established a range of priorities to ensure Indigenous issues stay on the human rights agenda.

This year, achievements included:

- providing advice, and contributing to the organisation of the Mabo Oration
- assisting in writing the guidelines on 'identified positions' being developed by the Office of Public Service Merit and Equity
- lodging a submission on the issue of 'move on' powers, to the Townsville City Council
- visiting Indigenous communities throughout Queensland, including Palm Island, Cairns, Yarrabah, Old Mapoon and Weipa
- participating in significant Indigenous events such as Reconciliation Week, National Day of Healing, 1967 Referendum Remembrance Day and NAIDOC Week
- conducting training and information sessions in Indigenous communities
- participating in a range of committees and advisory groups and attending regular community relations meetings
- providing support and advice to the Commission and staff on Indigenous issues involved in complaints, cross-cultural training and current issues
- contributing to the 'Women in Prison' review being conducted by the Commission.

## Combined Commissions project

This project has been ongoing for close to two years now. This Commission, the Health Rights Commission, the Crime and Misconduct Commission, the Ombudsman and the Commission for Children and Young People and Child Guardian have been meeting, both at Commissioner and officer level, to develop and implement a range of strategies designed to make access to our complaints processes more accessible to people from culturally and linguistically diverse (CALD) backgrounds.

The project theme is 'It's OK to complain', and a number of resources have been developed on the issue.

So far, initiatives have included:

- development of a brochure in eleven community languages
- community service announcements and interviews with a local radio station
- a joint presence at the inaugural multicultural festival
- consultation with a community reference group
- engaging with individual communities to raise awareness of and access to the complaints process.

The group is currently producing a poster for distribution to community groups and agencies working within CALD communities, and is

planning a joint presence at the second multicultural festival to be held in October.

## Community Advisory committees

The committees are the cornerstone of community engagement for the Commission. Five advisory committees were established last year. The committees aim to consult in a timely and meaningful way on issues of discrimination and human rights.

The committees are:

- Disability Advisory Committee
- Youth Advisory Committee
- Unions Advisory Committee
- Advocates and Employer Organisations Advisory Committee
- Lesbian, Gay, Bisexual Transgender and Intersex (LGBTI) Advisory Committee

One issue nominated by the LGBTI Committee resulted in the organisation of a half day forum called *Voices at Work : Sexuality and Gender Identity Discrimination in the Workplace*. The forum was supported by the state Department of Industrial Relations, and targeted human resource practitioners in the public and private sector, as well as organisations and individuals within the sector.

Approximately 100 people attended the forum to hear about and discuss issues of legislative progress in other states, systemic

discrimination, union perspectives on LGBTI issues, attitudes to HIV and people living with AIDS, and suggestions for how employers and employees can support workers in the workplace during and after transition to their new gender identity.

The forum provided an opportunity, the first for many attendees, to consider LGBTI and employment issues and their impact on individuals and the workplace.

Other Committees have also undertaken specific activities. The Disability Advisory Committee, for example, asked that they be provided with an update on the Standards, in particular the Access to Buildings Standard. The Commission organised for Graeme Innes (Deputy Disability Commissioner, Human Rights and Equal Opportunity Commission) to visit Brisbane to speak to Committee members on the status of the Standards.

The Committees provide a unique opportunity for the Commission to seek the views of specific sectors and to work co-operatively on issues of mutual importance, and provide the communities with a unique opportunity to get the 'ear' of the Commission, to help inform the direction and focus for our work.

### **Play by the Rules (PBTR)**

[www.playbytherules.com.au](http://www.playbytherules.com.au) is an online training and information resource for sport and recreation clubs and associations. The website promotes fun, safe and fair play across all sports and recreation, and encourages organisations to eliminate discrimination, harassment and vilification.

We've been working co-operatively with other states to promote and develop *Play by the Rules*. Over the year, staff have attended regular meetings to discuss the upgrade of the website to make it a national resource, and the development of a national suite of training programs to be delivered by individual states to sport and recreation associations.

A launch of the resource is being planned, in partnership with Queensland Sport and Recreation, for later in the year.

### **Online**

Accessing online information continues to be an increasingly important way of providing information about the Commission and its activities. During the year, 188,713 people visited our website, 31186 of those visiting the community languages page, where we have brief information in 18 community languages. The most popular languages used were Arabic, Russian, Japanese, Chinese and Farsi.

This website is a vital communication tool and is fully accessible for people with a range of disabilities. It's essential for access to justice for many people who could not otherwise obtain information on their rights and current activities of the Commission.

Further plans, which are subject to successful budget submissions, will include complaint filing on-line, and more information on the Commission and Tribunal processes to ensure parties have reasonable expectations of the processes of conciliation. On-line training programs about discrimination, harassment and vilification will complement existing services.

### **Special Events**

Queenslanders celebrate and embrace the diversity of our State through many festivals and events. The Commission supports these events to ensure the human rights and anti-discrimination message reaches communities. This year we participated in Pride Week, NAIDOC Week, International Women's Day, Disability Action Week and the Multicultural Festival.

## Training

Delivery of information sessions on a range of issues associated with anti-discrimination legislation is part of the Commission's core business. Sessions include both standard and tailored training courses, addresses to conferences and meetings, and consultations and liaison with various communities and organisations.

We have a suite of nine courses which can be delivered either 'on-site' or 'in-house'. About 90% of our work is delivered at the client's premises, usually a workplace, and we offer on average one course a month from the Commission's training facility in Brisbane.

This year in the South-East Queensland region, we exceeded our targets for revenue and had a small increase in numbers of sessions presented, although this was slightly under our targeted figure. The most popular course was the general overview of the legislation, followed by contact officer training. Average length of session was just under 3 hours, and nearly 5000 people undertook training during the year.

In our regions we prioritised complaint handling work with the introduction of a statewide complaint handling system. As a result we reduced the number of training sessions this year. As complaint numbers

continue to rise, further funding is needed to meet ongoing training needs in the regions. An innovative approach using train-the-trainer model, on-line training programs and some use of part-time trainers next year will ensure that we have the resources to meet regional training demands.

As with previous years, participants were surveyed about the quality of the training. About 2000 people responded. 99% rated the training as either 'excellent' or 'very good'.



## Training

### Delivery of training

By sector

	SE Qld	Central	North	Far North	Total
Private	72	22	1	6	101
Public	62	6	11	4	83
Community	12	-	2	8	22
Various (in-house)	7	1	4	-	12
<b>Totals</b>	<b>153</b>	<b>29</b>	<b>18</b>	<b>18</b>	<b>218</b>

### Type of training

Number of sessions

	SE Qld	Central	North	Far North	Total
The law	113	11	14	13	151
Contact Officer	31	16	2	4	53
Investigating complaints	4	1	1	-	6
Recruitment and selection	2	1	1	-	4
Other	3	-	-	1	4
<b>Totals</b>	<b>153</b>	<b>29</b>	<b>18</b>	<b>18</b>	<b>218</b>

## Complaint handling

**Goal:** to provide an accessible, fair, effective and timely complaint management process.

### Overview

It has been two years since major procedural changes were introduced in the Act. While some changes in our complaint handling processes were successfully introduced last year, resulting in better timelines, the successful implementation of a statewide complaint handling system has further reduced timelines. Other changes including appropriate use of early intervention assists to ensure complaints are dealt with in a timely manner.

This year, there has been a further increase in the number of complaints accepted. This increase in workload cannot be absorbed by current resourcing. The need for further conciliation staff will be addressed in future budget submissions.

### Early Intervention

The Commission has developed an early intervention model for dealing with complaints which are relatively straight forward, particularly where there is a need for urgent action to preserve the relationship between parties. Early intervention will be voluntary for all the parties involved.

Early intervention will involve the conciliator conducting shuttle telephone negotiations between the parties to try to resolve the complaint at the earliest opportunity. If the complaint cannot be resolved, the parties may be given an opportunity for a conciliation conference.

The Commission has begun to trial early intervention and the early signs are positive. Early intervention will be available in all suitable complaints from August 2005.

### Trends

Following a trend in the last two years, there has been a further increase in the number of complaints lodged in the 2004-05 year.

As well, the complexity of complaints has significantly increased as indicated by the rise in the number of accepted grounds of complaints, up to 1118 this year from 908 in 2003-04.

The number and rate of acceptance of complaints has increased compared with previous years, to 66% of complaints lodged.

### Main grounds of complaint

The main grounds of accepted complaints included impairment, sex, sexual harassment, race, age and family responsibilities.

Impairment complaints continued to make up a significant proportion of the accepted complaints in Queensland, at 27% this year. This follows an upward trend in impairment complaints from 241 in 2003-04 to 303 in 2004-05.

61.5% of accepted complaints were in the area of work (including pre-work) which is consistent with past years.

Impairment complaints remained a significant issue in the work area, representing 24.5% of work related complaints.

Following a decline in the number of sexual harassment complaints in 2003-04, numbers have increased marginally from 11% last year to 12% of accepted complaints this year. Of these, a large proportion still occurred within the workplace, with sexual harassment complaints making up 14% of work related complaints.

Since April 2003, the Act has covered family responsibilities, gender identity, relationship status and sexuality. Of these, family responsibilities is the most common ground of complaint, making up 5% of all accepted complaints, rising from 3.1% in 2003-04. We expect this trend to continue in coming years with more people caring for family members.

Since April 2003 vilification on the grounds of race, religion, sexuality or gender identity have been covered. Twenty four vilification complaints were accepted in 2004-05, comprising 2% of accepted complaints. Racial vilification complaints remained the most common with 16 accepted complaints this year, a slight rise from last year.

Of the new grounds of vilification the Commission accepted five sexuality vilification complaints and two gender identity vilification complaints. The small number of these complaints does not truly reflect their significance as vilification complaints may affect large groups of people identified by a particular attribute.

### **Discrimination in the work area**

Consistent with previous years, the main area of complaint is work which represented 61.5% of complaints this year, compared with 61.6% last year. The area of goods and services remained the second most common, representing 16% of complaints this year.

Following a trend last year, there has been a further increase in the number of complaints in the area of state laws and programs to 7%, up from 4.8%.

Interestingly there has been an increase in the number of complaints in the pre-work area,

with more people complaining about the outcome of recruitment processes and the questions asked in interviews. 7.6% of accepted complaints arise in the area of pre-work, which is an increase from 5.8% of accepted complaints in the 2003-04 year.

The number of complaints in the education area has declined from 3.9% to 2%.

### **South-East Queensland**

Reflecting the increase in the overall complexity of complaints being lodged, there was a 7% increase in the grounds of accepted complaints in South-East Queensland in 2004-05 to 690, up from 645 in 2003-04.

Compared to the 2003-04 year there were increases in the number of complaints accepted on the grounds of impairment, sex, sexual harassment, victimisation and family responsibilities. Of those the most significant increases were in the number of impairment complaints which rose from 186 to 211 and victimisation complaints which rose from 23 to 42 including 31 in the work area.

### **Conciliation Conferences**

During the year, there was a 9.6% increase in the number of conciliation conference held. Of a total of 565 conferences held across the state, 385 were held in South-East

Queensland. 45% of complaints resolved by conciliation compared to 40% in 2003-04.

Overall 71% of accepted complaints were finalised within the Commission in 2004-05 with the remaining 29% being referred to the Tribunal, which is consistent with recent years.

What targets were set for 2004-05?

- introduction of a statewide complaint handling system
- the complaint handling process to be reviewed to improve its effectiveness in promoting the objects of the Act
- the standard conciliation agreement to be reviewed to ensure it is easily understood by all parties and enforceable
- review processes for dealing with complaints lodged outside the 1 year time limit.

### **Statewide complaint handling system**

Complaints are now distributed on a statewide basis. This ensures they are dealt with quickly by available staff across all regions. Although this has resulted in more conciliation conferences being conducted by telephone particularly through regional offices, there has still been a 6% increase in the rate of settlement across the State and fewer complaints have been lapsed or withdrawn.

50% of accepted complaints were finalised within three months of acceptance and a total of 81% of accepted complaints were finalised within six months.

87% of clients indicated that they were satisfied with the complaint handling service of the Commission, up from 81% last year.

### **Conciliation Agreement**

A new standard conciliation agreement written in plain English has been developed and implemented to improve the understanding and enforceability of agreements reached through conciliation. The standard agreement contains a range of clauses which reflect the wide variety of outcomes which can be reached, ranging from apologies to compensation to training programs and policy changes.

While it is still relatively early days, the standard agreement has received positive feedback.

### **Out of time complaints**

People have one year to lodge a complaint under the Act. This time limit can be extended where there is a good reason.

The process for deciding whether to accept out of time complaints has been reviewed and streamlined, however, because of the necessity

to afford all parties natural justice, these decisions still require considerable time and resources.

A review of out of time complaints indicated that 75% of complaints lodged out of time were lodged less than two years late. The most common reasons for late lodgment included a lack of awareness of the right to complain to the Commission, ill health, concern for employment and attempting to settle the complaint in other ways.

The information gathered in the review will be valuable in assessing alternative approaches to dealing with complaints lodged out of time.

For the future: 2005-06

- develop a database of conciliated outcomes and Tribunal decisions to better inform parties to complaints
- develop and implement a best practice model for conciliation conferences
- develop and implement early intervention strategies



### Grounds of accepted complaints Queensland-wide\*

	2004-05	%	2003-04	%
Impairment	303	27.1	241	26.5
Sex	150	13.4	116	12.8
Sexual harassment	136	12.2	100	11.0
Race	96	8.6	83	9.1
Victimisation	80	7.2	39	4.3
Age	69	6.2	79	8.7
Family responsibilities	61	5.5	28	3.1
Pregnancy	44	3.9	55	6.1
Parental status	38	3.4	21	2.3
Unnecessary information#	37	3.3	13	1.4
Sexuality	24	2.1	25	2.8
Relationship status	17	1.5	19	2.1
Racial vilification	16	1.4	13	1.4
Religious belief	10	.9	24	2.6
Trade union activity	10	.9	7	.8
Association with/attribute	8	.7	14	1.5
Gender identity	6	.5	10	1.1
Sexuality vilification	5	.4	1	.1
Gender identity vilification	2	.2	-	-
Political belief or activity	2	.2	4	.4
Encouraging contravention	2	.2	-	-
Lawful sexual activity	1	.1	4	.4
Religious vilification	1	.1	4	.4
Breastfeeding	-	-	1	.1
Discriminatory advertising	-	-	1	.1
<b>Totals</b>	<b>1118</b>	<b>100</b>	<b>908</b>	<b>100</b>

\*complaints may include multiple grounds

#not a ground, but an offence under the Act

**Areas of accepted complaints Queensland-wide\***

	<b>2004-05</b>	<b>%</b>	<b>2003-04</b>	<b>%</b>
Work	411	53.9	559	61.6
Goods and services	122	16.0	141	15.5
Pre-work	58	7.6	53	5.8
State laws and programs	56	7.3	44	4.8
Other (no area required)	44	5.8	23	2.5
Accommodation	25	3.3	34	3.7
Education	21	2.7	35	3.9
Pre-accommodation	14	1.8	5	.6
Club membership and affairs	5	.6	5	.6
Insurance	4	.5	5	.6
Local government	2	.2	-	-
Superannuation	-	-	1	.1
Disposal of land	-	-	3	.3
<b>Totals</b>	<b>762</b>	<b>100</b>	<b>908</b>	<b>100</b>

\*complaints may include multiple areas

**South-East Queensland  
Main grounds of accepted complaints**

	<b>2004-05</b>	<b>%</b>	<b>2003-04</b>	<b>%</b>
Impairment	211	30.6	186	28.8
Sex	97	14.0	84	13.0
Sexual harassment	75	10.9	69	10.7
Race	54	7.8	53	8.2
Age	42	6.1	70	10.9
Family responsibilities	37	5.3	21	3.3
Victimisation	42	6.1	23	3.6

690 grounds accepted in 2004-05

645 grounds accepted in 2003-04

**Main grounds accepted in area of work (including pre-work) statewide**

	<b>2004-05</b>	<b>%</b>	<b>2003-04</b>	<b>%</b>
Impairment	194	17.3	139	22.7
Sex	131	11.7	84	13.7
Sexual harassment	108	9.6	87	14.2
Victimisation	60	5.4	33	5.4
Race	50	4.5	41	6.7
Age	47	4.2	63	10.3
Family responsibilities	46	4.1	23	3.7

792 grounds accepted in area of work in 2004-05

612 grounds accepted in area of work in 2003-04

## Conciliated outcomes

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The following cases are examples of complaints settled in conciliation conferences. To maintain confidentiality, some details may have been changed.

### **Sex and sexual harassment in work**

An employee alleged she'd been subjected to sexual comments, some of which were directed to her, and some of which were more general. She said she'd made the complaint to the Anti-Discrimination Commission because she had no faith in the grievance process at her own workplace.

The individual respondent said that he had done what was alleged by the woman, and he apologised unequivocally.

At the conference, the employer advised that they had grievance processes in place that could have been used by the woman, but she'd chosen not to. The employer asked how they could fix something if they weren't aware it was broken.

The employer offered to transfer and retrain the respondent, and to provide the woman with alternative work arrangements until this had taken place. The respondent agreed to the transfer, offered the woman compensation and made a public apology to the woman.

### **Pregnancy and victimisation in work**

A woman alleged that after she'd told her employer she was pregnant, her hours were reduced. She also said that after she advised the employer she was making a complaint to the Anti-Discrimination Commission, she was told to leave.

The employer denied these allegations, saying he was simply concerned for her health during the pregnancy.

The complaint settled at the conference with the woman's full long service leave being paid, full wages being paid and \$400 being offered as compensation.

### **Parental status and family responsibilities in goods and services**

A parent with a child in a stroller was told to leave a shop because of possible damage to the stock.

The owner denied the specific allegation and any wrongdoing, saying she'd asked the man to leave the stroller at the door and to carry the child. The owner said that stock was damaged all the time by strollers, and with new stock in the shop, there was even less room to manoeuvre the stroller. At the conference, the owner apologised and agreed to undertake training.

### **Impairment in work**

A health worker acting in an educator's role applied for the permanent position. She had just been diagnosed with a medical condition requiring treatment. While in hospital she was told she was unsuccessful. The job was readvertised and although she was the only applicant, she was again unsuccessful.

The employer said they assumed the complainant would be off sick for a long time, and so not capable of doing the job.

At the conciliation it was agreed to interview the woman for the job, which she was then offered and accepted.

### **Impairment in access to goods and services**

Wheelchair access to a business in a country town was the subject of a complaint. The Respondents raised the issue of cost and Council planning permission for alterations, given the limited area they had to work with.

At conciliation, the Respondents agreed to apply for planning permission with construction completed within 6 months. If not approved they agreed to a more expensive option, with a ramp to be constructed within 12 months.

### **Age in (pre) accommodation**

A parent booked and paid a deposit for a unit in a tourist area, for five students who were finishing school at the end of the year.

The parent alleged that when the unit owner realised the tenants were 'schoolies', he returned the deposit saying that the room wasn't big enough for five people, and that he didn't take 'schoolies'.

A complaint was lodged.

In response, the unit owner said the dispute wasn't over 'schoolies', but about the size of the room. He said the room was too small for five people, although the room originally booked was big enough. That room was no longer available.

He also claimed 'schoolies' caused a lot of damage and that he and other unit owners felt affronted that they were being forced to accommodate them. He said he wanted each of the tenants to pay \$1000 up front as a bond.

Agreement was reached at a conference that the tenants would be accommodated.

### **Race in work**

A complaint was lodged by a man who said he'd been ridiculed and abused because of

his race. He said his co-workers would make jokes about his colour and his culture, and would use racial terminology in his hearing. He said he'd gone to the union but nothing had been done.

The allegations were denied by the employer, who said the man would use terms such as 'honky' and 'white trash' all the time. The employer said any comments made to the man would have been in response to those made by him.

The complaint was settled at a conference, with payment of \$10,000 to the man, an apology and a statement of service.

### **Gender identity in goods and services**

A transgendered woman lodged a complaint against a women-only club, alleging she wasn't allowed to join until after she'd completed her gender re-assignment surgery.

She also alleged that while she was allowed to use the club's facilities, access was restricted to after hours when it was less crowded.

The respondents didn't deny these allegations, but argued they didn't have the facilities for pre-operative transgendered women. They said they were in a difficult position, and believed some of their members would be uncomfortable in this situation. They said

they weren't aware that the complainant had any issues with not being allowed to join the club, and noted they'd tried to offer her some options so she could achieve her desired results.

At the conference, both parties agreed it was a difficult situation. After some frank and honest discussions, they agreed the club would offer membership after the woman had completed her surgery.

### **Sexuality in (pre)work**

A woman alleged that comments were made about her 'dykeish' haircut during a work trial. She said her haircut was also given as the reason she was unsuccessful in getting the job.

The respondents said the woman didn't have any experience in the work area, and she was unable to demonstrate adequate skills during the work trial. They admitted the comment about her haircut had been made, and said the individual had been counselled as a result.

The matter was settled at a conference with compensation of \$1500, written and verbal apologies, and an undertaking that recruitment and selection processes would be improved.

## Report from the regions

The Commission, with a total staff of 36, has four offices throughout Queensland. These are located in Brisbane, Rockhampton, Townsville and Cairns. While each office delivers a full range of services, some, by their nature, need to be located in Brisbane.

Regional offices, each staffed by three, offer complaint handling, community relations and training services to their region. There is real value of having a local presence, an 'ear to the ground', a regional profile, in terms of being able to respond quickly to issues, to deal locally with enquiries, and to provide training and information in an area familiar to people.

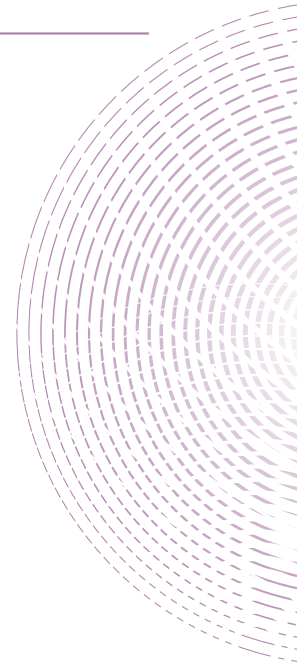
Generally, regional offices manage about a third of the total work of the Commission. In complaint handling, the regions this year have dealt with an increased number of complaints following the introduction of a statewide complaint handling system. This year, 38% of all complaints lodged, up from 29% last year, were dealt with by regional staff.

Training session numbers have been correspondingly reduced so that regional staff could assist with dealing with complaints according to mandated statutory timelines. This financial year, regional staff delivered 65

sessions, 30% of the 218 presented statewide. This is a reduction of 15% compared to last year. We will be seeking some further funding to address training needs regionally. This will be innovative and cost-efficient training, appropriate for regional centres, including train-the-trainer and web-based training.

### A summary of regional work for the financial year shows:

	Central Qld	North Qld	Far North Qld	Total
Complaints managed	160	151	117	428
Training sessions	29	18	18	65



## Central Queensland

### Community relations

One of the highlights of the year was a visit from the Commissioner, Susan Booth, who used the opportunity to speak about issues which had particular significance not only for the region, but for the state. These issues included move-on powers, the inclusion of recognition of Indigenous people in the state constitution, and other race related issues. Staff also attended and participated in numerous meetings and functions during the year. These included NAIDOC week activities, Sorry Day commemorations and Harmony Day celebrations.

### Training and education

Twenty nine training sessions were delivered during the year, mainly within the mining sector. \$13607 was generated in fees.

### Complaint handling

As mentioned in the overview, complaint numbers were up significantly this year. In 2004-05, 160 grounds of complaint were accepted compared with 66 last year. This represents a significant increase in the complaint workload.

While some of the main grounds of complaint were consistent with those of last year, there were significant increases in numbers of complaints on the basis of age and family responsibilities. Work was again the main area of complaint.

#### Central Queensland Main grounds of accepted complaints

	2004-05	%	2003-04	%
Impairment	33	20.6	20	30.3
Sex	20	12.5	7	10.6
Sexual harassment	20	12.5	10	15.2
Victimisation	14	8.7	7	10.6
Race	13	8.1	5	7.6
Age	12	7.5	2	3.0
Family responsibilities	12	7.5	1	1.5

160 grounds accepted in 2004-05

66 grounds accepted in 2003-04

## Northern Queensland

### Community relations

The issue of 'move on' powers for the Queensland Police Service has been an ongoing discussion point, and during the year, the Minister for Police and Corrective Services approved eight new notification areas declared under the *Police Powers and Responsibilities Act 2000*. The Commission had opposed the proposal on the grounds that the majority of the areas were chosen because Indigenous people met there, and that sufficient powers existed to deal with unlawful behaviour in public.

The Commissioner Susan Booth and other staff also visited Palm Island during the year to consult with the community.

### Training and education

Training session numbers have been reduced this year with the focus on complaint handling. Eighteen sessions were presented and \$12,200 was raised.

### Complaint handling

A total of 151 grounds of complaint were accepted in 2004-05, compared with 112 last year, an increase of more than 30%.

Sexual harassment, impairment and sex discrimination were again the main types of

complaint. Victimization complaints doubled this year, from 6 to 12, following legislative changes that broaden the scope for lodgement of such complaints.

Work was again the main area of complaint, comprising more than 50% of accepted matters, while goods and services accounted for more than 10%.

### Northern Queensland Main grounds of accepted complaints

	2004-05	%	2003-04	%
Sexual harassment	30	19.8	13	11.6
Impairment	29	19.2	17	15.2
Sex	25	16.5	17	15.2
Victimisation	12	7.9	6	5.4
Race	10	6.6	10	8.9
Pregnancy	10	6.6	15	13.4

151 grounds accepted in 2004-05

112 grounds accepted in 2003-04

## Far North Queensland

### Training and education

This year, 18 sessions were presented, generating \$5280 in revenue. Although this figure is less than the 23 sessions presented last year, we focused on training within the community sector, with most sessions being presented in Indigenous communities.

### Complaint handling

Accepted grounds of complaint increased from 83 last year to 117 this year.

Impairment complaints almost doubled this year, and again victimisation complaints increased significantly.

#### Far North Queensland

##### Main grounds of accepted complaints

	2004-05	%	2003-04	%
Impairment	30	25.6	18	21.7
Race	19	16.2	15	18.1
Victimisation	12	10.2	3	3.6
Sexual harassment	11	9.4	8	9.6
Pregnancy	9	7.7	9	10.8

117 grounds accepted in 2004-05

83 grounds accepted in 2003-04

## Resource Management

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### We aim to:

- implement human resource and industrial practices that encourage staff participation, promote diversity, recognise individual needs and provide flexible workplace policies
- develop and maintain effective financial management systems and procedures to ensure compliance with Government fiscal objectives
- develop and maintain an efficient and effective information management framework that promotes the delivery of quality, timely and accessible services.

### Targets for 2004-05

- update the CHARMS system
- establish a Commission intranet
- conduct a cost-benefit analysis on asset leasing options
- consider the impact of the draft Access to Premises Standard on future accommodation needs for the Commission

### Resource management - Overview

The Support Services Unit provides the Commission with effective resource management through the provision of financial, human resource, information technology and asset services.

Provision of these services ensures a high quality of overall service provided by the Commission through its four offices.

### Financial Summary

The Complaint Management database, CHARMS, was updated to the XP version, action steps were streamlined, reports were written to directly match performance measures and training of staff continued.

Construction of the Commission's intranet has begun. The site will provide staff with up to date information and easily accessible information in relation to policies, procedures, precedents and industry developments.

An Asset Replacement Plan was developed to ensure Commission assets are aligned with and contribute to the delivery of outcomes. This plan also enables the Commission to identify the need for new assets, develops strategies for disposal of obsolete and surplus assets and helps in the preparation of budget planning.

A submission was lodged as part of the 2004-05 mid-year review process, seeking funding to relocate the Brisbane office to more suitable accommodation. The Cabinet Budget Review Committee subsequently requested that the Commission work with the Department of Public Works to identify suitable accommodation options.

For the future – 2005-06

- continue staff training in the upgraded CHARMS system and roll-out reporting functions
- finalise the development of the intranet site, and provide training to staff
- conduct a review of records management functions, including e-records
- implement the Commission-specific Retention and Disposal schedule, which was developed in conjunction with State Archives to manage complaint-based files.

## Anti-Discrimination Tribunal Queensland

The Tribunal hears complaints of discrimination, harassment, vilification or victimisation which have been referred to it by the Commission.

The Tribunal operates like a court but seeks to keep its processes informal and straightforward. Hearings are public, and people often have legal representation in their cases.

This year, 210 complaints were referred to the Tribunal by the Commission and 184 were finalised. This represents an increase of approximately 13% on the 162 complaints finalised the previous year.

Of those matters finalised, the great majority (93%) were resolved by conciliation, settlement or withdrawal prior to public hearing. This represents an increase of 3% in the settlement rate.

Twenty final hearings were held, and 8 matters were finalised by a decision. Of these final hearings, 6 complaints were upheld and 2 complaints were dismissed. A further 7 matters were heard, with decisions pending, and 2 matters have been part heard, but not finalised.

### Matters received

	2003-04	2004-05
Complaints referred	225	210
Exemption application	6	6
Request for opinion	1	2
Interim application	3	4
Interlocutory applications	30	43
Miscellaneous	6	0
<b>Total</b>	<b>271</b>	<b>265</b>

### Matters finalised

	Dismissed	Upheld	Settled/ conciliated/ withdrawn prior to hearing	Other	Total
Complaints referred	2	6	159	2	169
Exemption application		1	3		4
Request for opinion				1	1
Interim application	1	1	1		3
Interlocutory applications	15				15
<b>Total</b>	<b>18</b>	<b>8</b>	<b>163</b>	<b>3</b>	<b>192</b>

The Tribunal also hears and decides applications for exemptions from the operation of particular provisions of the Act. Six applications for exemption were received in 2004-05, with 4 being finalised. Of these 4, one was allowed and 3 were withdrawn. The one exemption granted involved a young women's resource centre which was granted an exemption from complaints of age and sex discrimination, to enable it to recruit young women and to provide sexual assault counseling and accommodation for disadvantaged young women.

Three applications for exemption are awaiting finalisation.

A further role for the Tribunal is to provide opinions on the application of the Act if requested by the Commissioner. During this year, the Commissioner made two requests for an opinion. One opinion, which involved the development of manufactured homes for people aged over 50, has been provided, while a response to the other is being considered.

The Tribunal can make orders prohibiting a person from doing something that might prejudice the investigation or conciliation of a complaint or an order made after a hearing. Three applications for interim orders were received during 2004-05. One was granted

by the Tribunal, one settled between the parties and one was dismissed.

### **Projects**

In 2004-05 the Tribunal reviewed its procedures and case management techniques. This resulted in improved efficiency in managing matters referred to it.

Work was completed on the development of a self-help kit and it is being trialled with self-represented parties prior to its official launch next year.

Projects for 2005-06 include:

- development of a manual for Tribunal staff
- a meeting of Tribunal members to discuss a range of issues including the process for considering applications for exemptions.

## Case notes of some matters determined by the Tribunal

### **Du Bois-Hammond v Ariel, Cole and Raging Thunder Pty Ltd**

Heard by: Member Tracy Fantin

The complainant was a 36 year old woman who had worked for an adventure tourism operator in Cairns for about three years. She took maternity leave and a week before her proposed return, was advised that her former position no longer existed due to a restructure. The restructure was said to be for economic and operational reasons. Two newly created positions emerged from the restructure, but she was not considered for either. It was contended that there was no offer of suitable alternative work. A complaint of discrimination on the grounds of pregnancy and parental status was lodged.

Member Tracy Fantin described the human resource processes employed by the respondent in the return to work issue as 'far from ideal'. She also accepted that 'although there may be some criticism of the way in which the redundancy was effected from an industrial perspective, that did not of itself render the conduct discriminatory.'

It was the failure to consider the complainant

for one of the newly created positions that the Member found discriminatory. The second named respondent was found to be not responsible for this.

She said: 'The only reasonable inference which can be drawn, considering all the evidence, is that Mr Ariel failed to select or even to consider the complainant for the 2IC position because she was absent from the office on maternity leave... There is no other probable or credible explanation for Mr Ariel's conduct available on the evidence.'

The Member also found that the taking of maternity leave shortly before the birth of a child is a characteristic of pregnancy - but not of parental status. The taking of parental leave is a characteristic of parental status and family responsibilities.

Member Fantin found direct discrimination on the grounds of pregnancy and parental status by failing to consider employing the complainant in one of the newly created positions, or offering a suitable alternative position.

A total award of \$26,750.00 was made against the first and third respondents, comprising :

- general damages \$10,000 ,
- loss of income \$14,547and interest \$2,209
- future economic loss was declined.

### **Molesworth v Campbell and Patcono Pty Ltd**

Heard by Member Jean Dalton

The complainant was an Aboriginal man who lived in a small country town of about 50 inhabitants. The respondent ran the hotel which was in fact owned by the company Patcono Pty Ltd of which his wife was a director.

The complainant went to the hotel one morning to discuss with the respondent the possibility of setting up a progress association or committee aimed at attracting tourists to the town. During the course of the conversation the respondent flew into a rage and took a meat cleaver from under the bar and said words to the effect that he was going to split Mr M down the middle. He did not actually touch Mr M, but said that he was barred from the hotel in future. The respondent pleaded guilty to a charge of possessing a knife in a public place at a hearing in the Magistrates Court.

The complainant submitted that the respondent called him 'abo' or 'an abo' or 'Martin the Abo' on many occasions over a period of about two years. Member Dalton found that use of the term 'abo' and the incident with the meat cleaver constituted discrimination on the grounds of Mr M's race and the attributes Mr C presumed him to have because of his race.

The Member noted that both parties bore a deep enmity towards each other, attempting to besmirch each other's character generally. However Mr M was found to be the more reliable witness. Mr C constantly taunted the complainant with sarcasm and insinuation, accused him of mental instability and yet provided almost no substantive factual material by way of evidence. This hearing had been delayed for a considerable time because the respondent claimed to be unfit to attend the hearing. The Member noted that he appeared to be very alert and completely cognisant during the hearing, as evidenced by 'his verbal sparring, sarcasm and wordplay..'.

Compensation of \$30,000 was awarded as well as interest of \$1,500 on this amount. A further amount of \$450 (being \$154 airfare and \$296 accommodation expenses) was awarded.

## **Peters v Constance**

Heard by A/President Jean Dalton

The complainant works as a drag queen, Tamara Tonite, and hosts a well-known television show. He alleged vilification on the basis of his sexuality.

The respondent worked for a debt collection agency and went to Mr Peters' home in the course of his work. Mr Peters alleged that when he refused to open the door, the respondent loudly abused him from the front of his suburban home, calling him a 'gutless wonder' and a 'paedophile'. Mr Peters also alleged the respondent said he would see him at a well-known gay hotel in Brisbane.

A/President Dalton accepted Mr Peters' version of events, and was satisfied that paedophilia is a characteristic often wrongly attributed to homosexual men. Together with the reference to the hotel, she was satisfied that the comments were made on the grounds of the complainant's sexuality.

In determining whether the acts were public, she accepted that 'the neighbours in the vicinity were likely to have heard what went on outside the front of his house that morning'.

In considering whether the comments were capable of inciting hatred, serious contempt for, or severe ridicule of Mr Peters, Ms Dalton said:

'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. It is sufficient to incite hatred, serious contempt or severe ridicule of the person to whom it was directed'.

\$3000 was awarded to the complainant for his distress. In awarding this amount Ms Dalton was mindful that the complainant had settled a claim with the respondent's employer at the Anti-Discrimination Commission prior to the hearing at the Tribunal.

## Lang v Nutt

Heard by Member Peter Roney

The complainant alleged that she had been sexually harassed by the general manager of the club where she was employed. The complaint against the club which was the employer of both parties was resolved prior to hearing and proceeded against the individual respondent only. She said he had made unsolicited demands for sexual favours, made remarks with sexual connotations and engaged in an unsolicited act of physical intimacy resulting in a charge of common assault with the police. Her attendance at a trade fair in Sydney was said to have been conditional on her agreeing to share 'a room and bed' with the general manager. When she was asked - on a daily basis - what she had decided, the complainant said she acted in a haughty, confident or dismissive way to get around the issue, or tried to laugh it off.

The respondent flatly denied the allegations, claiming that any comments he may have made with a sexual connotation were 'throwaway lines' and 'normal office things', and were reciprocated by the complainant.

Member Roney stated 'Although there may have been a level of sexual banter and innuendo engaged in by both the complainant and the respondent, I find that none of that

conduct amounted to solicitation or encouragement of Nutt, in any legitimate way, for his conduct toward the complainant. It would have been obvious to him that his advances were unwelcome and that he was attempting to use a position of influence over her to persuade her to engage in consensual sexual activity with him. I find that the respondent's conduct caused the complainant distress, humiliation and embarrassment and that it brought on a bout of panic attacks. The necessity to recount the incidents in question to various medical practitioners, and in the course of preparing this matter for hearing, has been an emotional experience and caused additional distress for the complainant.' It was found that the conduct caused the complainant to suffer distress, humiliation, embarrassment and panic attacks.

The complainant left work and received WorkCover benefits for several months and was later assessed as having an adjustment disorder with depressed mood, for which she received a lump sum payment of \$6055. The adjustment disorder was found to be the result of sexual harassment at work.

It was acknowledged by the complainant that she had a history of panic attacks, but had been free of them for 6 years prior to the events complained of. The Member noted that the complainant had a 'special susceptibility to

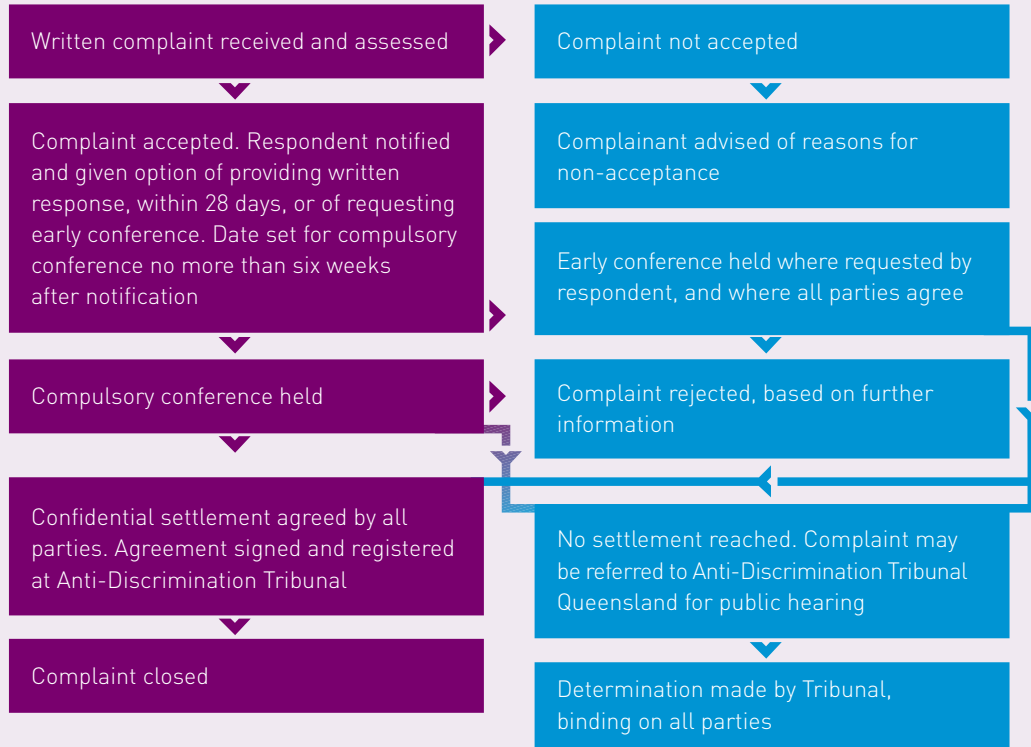
anxiety or panic attacks'. He went on to state: 'that does not either excuse the respondent, or diminish his responsibility for the consequences of his action. Applying the so-called "eggshell skull" rule, the respondent must take the complainant as he finds her. The fact that she had a special susceptibility does not reduce the compensation she ought receive'.

Damages of \$40505 were awarded to the complainant, less statutory refunds due to WorkCover and Centrelink. Of this, \$24700 comprised economic loss, while the remainder was an award for general damages plus interest.

# Organisational Chart

		COMMISSIONER		
TRIBUNAL			EXECUTIVE ASSISTANT	
STATE DIRECTOR (COMPLAINT MGMT)			DEPUTY COMMISSIONER	
PRINCIPAL CONCILIATOR	MANAGER SUPPORTSERVICES	SENIOR LEGAL OFFICER	CO-ORDINATOR INDIGENOUS UNIT	MANAGER COMMUNITY RELATIONS
SENIOR CONCILIATOR	IT ADMINISTRATOR			COMMUNITY RELATIONS OFFICER
CONCILIATORS x 4	SNR ADMINISTRATION OFFICER			LIBRARIAN
INTAKE OFFICERS x 2	ADMINISTRATION OFFICER			
	ADMINISTRATION OFFICER X 2			
		REGIONAL MANAGER ROCKHAMPTON	REGIONAL MANAGER TOWNSVILLE	REGIONAL MANAGER CAIRNS
		CONCILIATOR	CONCILIATOR	CONCILIATOR (IDENTIFIED)
		ADMINISTRATION OFFICER	ADMINISTRATION OFFICER	ADMINISTRATION OFFICER

## Complaint Handling Process at the Anti-Discrimination Commission Queensland



# Appendices

## Appendix 1

### Location of Commission Offices

#### Brisbane

Level 1, 189 Coronation Drive Milton  
PO Box 2122 Milton Q 4064

Telephone 1300 130 670 (statewide)  
TTY 1300 130 680 (statewide)  
Facsimile (07) 3247 0960

#### Rockhampton

1st floor, James Larcombe Place  
209 Bolsover Street Rockhampton Q 4700  
PO Box 1390 Rockhampton Q 4700  
Telephone 1300 130 670 (statewide)  
TTY 1300 130 680 (statewide)  
Facsimile (07) 4938 4459

#### Townsville

Level 2, St James Place, 155-157 Denham Street  
Townsville Q 4810  
Telephone 1300 130 670 (statewide)  
TTY 1300 130 680 (statewide)  
Facsimile (07) 4799 7021

#### Cairns

McLeod Chambers  
78 Spence Street Cairns Q 4870  
PO Box 4699 Cairns Q 4870  
Telephone 1300 130 670 (statewide)  
TTY 1300 130 680 (statewide)  
Facsimile (07) 4039 8609

**Website** <http://www.adcq.qld.gov.au>

### Location of the Anti-Discrimination Tribunal

#### Brisbane

Level 1, 189 Coronation Drive Milton Q 4064  
GPO Box 487 Brisbane Q 4001  
Phone (07) 3239 6408  
TTY (07) 3239 0718  
Facsimile (07) 3239 6397  
Email [ADT@adcq.qld.gov.au](mailto:ADT@adcq.qld.gov.au)

## Appendix 2 Publications

Guides for employers: available from the website

- Discrimination in employment
- Discrimination in the provision of goods and services
- Discrimination in the provision of accommodation
- Discrimination in the provision of education services

#### Brochure series

- Your guide
- Legislative changes
- Making a complaint
- Responding to a complaint
- All about conciliation conferences
- Sexual harassment
- Gender identity and sexuality vilification
- Lawful sexual activity
- Family responsibilities discrimination
- Breastfeeding discrimination
- Sexuality discrimination
- Training and other Commission work
- Racial and religious vilification
- Impairment discrimination
- Race discrimination
- Age discrimination
- Pregnancy discrimination
- Sex, relationship and parental status discrimination

#### Brochures (in partnership with other Commissions)

'It's OK to complain' – in Amharic, Arabic, Mandarin, Croatian, Dari, English, Farsi, Samoan, Somali, Spanish, Tigrinya, Vietnamese

**Posters**

- Race discrimination
- Impairment discrimination
- Pregnancy discrimination
- Sexual harassment
- Universal Declaration of Human Rights
- "It's OK to complain" – in partnership with other Commissions)

**Postcards**

- Race discrimination
- Sexual harassment

**Rights Cards**

- Aboriginal and Torres Strait Islander communities
- Sexual harassment
- Young people
- LGBTI (lesbian, gay, bi-sexual, transgender) communities
- Racial and religious vilification (in Arabic, Bosnian, Indonesian, Farsi and English)

**Video/CD/DVD series**

- 'Fair Go' (captioned format)
- 'Working it Through' - the conciliation process (captioned format)

**Newsletter**

- 'Balancing the Act' – issues 1 to 21

**Appendix 3**

Organisational Chart

**Appendix 4**

Complaint handling process

NOTES or Staff photos



ANTI DISCRIMINATION  
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