

anti-discrimination board of nsw

# ANNUAL REPORT

2010-11



# Anti-Discrimination Board of NSW

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20 October 2011

The Hon Greg Smith MP  
Attorney General  
Level 33, Governor Macquarie Tower  
1 Farrer Place  
SYDNEY NSW 2000

Dear Attorney,

In accordance with section 122 of the Anti-Discrimination Act 1977 (NSW), the Anti-Discrimination Board of NSW presents its Annual Report covering the period 1 July 2010 to 30 June 2011.

Yours sincerely

Stepan Kerkyasharian AO  
**President**



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# PRESIDENT'S REPORT

The Anti-Discrimination Board of NSW has continued its successful work in 2010-11. Our main activities reflect our statutory obligations to handle complaints and to inform people about their rights and responsibilities under anti-discrimination law.

The first step for many people experiencing discrimination is to consult the Board's website. This is constantly being updated and contains a wide range of easy-to-navigate information which quickly enables people to understand their rights and responsibilities in specific areas.

Others feel more comfortable contacting our Enquiry Service, which can also provide advice about more complex situations and suggest other ways to find assistance if the situation is not covered by anti-discrimination law. We still receive thousands of enquiries each year, although the numbers have gradually declined over the last decade due to increased use of the website.

2010-11 has seen a legislative change that enables people to lodge complaints by email. This means complaints can be submitted by post or email, or by using our complaint form. There are also other options for people with a disability. We are currently developing user-friendly options which will enable people to lodge complaints directly via our website.

The number of complaints we received this year increased by 14% from 2009-10, and slightly from 2008-09. Sex (including sexual harassment), disability, and race discrimination continue to be the most frequent grounds of complaint. Despite some unexpected staff

absences this year, the conciliation team continues to achieve excellent results, with an average time of 6.4 months to finalise complaints, and 88% finalised within twelve months.

A major update of the Board's Complaint Handling Manual was completed in 2010-11. This will serve as a practice guide for staff who are investigating and conciliating complaints. The electronic format means it can be easily updated to reflect any future changes in practice.

The Board's Education Service also continued its successful work in 2010-11. Demand for the services of our experienced workplace training team continued steadily this year, resulting in total revenue of \$655,603 – a 17% increase over 2009-10.

Community education is another important aspect of the Board's work. This year we worked with groups including homeless people, the Sudanese, Congolese and Nepalese communities, a number of different disability groups, and school, TAFE and university students,

The Education Service also ran our annual art competition for young people, this time to design a poster about celebrating diversity. As well as raising awareness, the competition generated some very strong entries, and the three winning designs have been published.

This year our publications staff produced a series of advertisements to increase awareness about the Board's role. As well as our regular newsletter and website activity, we have also revised a number of publications to improve accessibility and produced new promotional materials.



Our Aboriginal and Torres Strait Islander team also continued its excellent work in 2010-11. As previously, the team worked with other agencies to provide joint information sessions for community workers and leaders, provided training for real estate agents and attended a number of fairs and information days.

A major activity this year was the Board's participation in the Gay and Lesbian Mardi Gras for the first time in ten years. Marching under a colourful banner, the Board group had a great opportunity to raise awareness about our services.

We have also refined our procedures in two areas: services for people with a disability and privacy and information management. Information about how people with a disability can use our services has been updated and made available on our website. We also updated our privacy management plan and procedures, and undertook staff training on privacy issues and on the *Government Information (Public Access) Act 2009*.

Thanks to all the Board's staff, including our Legal Officers and Liaison and Support team, and to the members of our advisory committees. Thanks also to the Statutory Board for their advice and participation during the year, and to Director General Laurie Glanfield and the senior management of the Department of Attorney General and Justice for their support.

**Stepan Kerkyasharian AO**  
**President**

# REVIEW OF OPERATIONS

In 2010-11 the Board answered 5,638 enquiries and finalised 1,206 complaints.

We educated almost 9,000 people in 559 workplace training sessions, raising \$547,977 in training fees.

Our website received over 800,000 hits.

## Education service

### Objectives

- Educate employers, employees and service providers about their rights and responsibilities under anti-discrimination law.
- Educate the community of NSW about their rights under anti-discrimination law, and the role of the Anti-Discrimination Board.
- Develop quality information materials and website
- Develop networks with employer and community groups.
- Networked with other services and government agencies.
- Produced 3 issues of regular email newsletter, 2 issues of seminar calendar and annual report.
- Placed ads in various newspapers and other publications.
- Produced new postcards, posters, pens, bags and wallet cards.
- Continued to update publications and revise and update website.

### Future directions

### Outcomes

- Provided 559 workplace education sessions for nearly 9,000 people participants, generating \$547,977 in revenue.
- Ran 29 seminars for employers, employees and service providers (21 in Sydney and 8 in Newcastle), generating \$89,220 in revenue.
- Provided 29 community education sessions to groups including the Sudanese, Congolese, Swahili-speaking, Nepalese, Bhutanese and Vietnamese communities, carers, people who are deaf-blind, homeless people and students from TAFE, universities and schools.
- Participated in 8 community events such as the Gay and Lesbian Mardi Gras, Harmony Day, Law Week and Homeless Connect.
- Ran a poster competition for primary and secondary schools.
- Continue to provide and improve workplace education.
- Develop new markets for Board products and services, and new and improved training packages.
- Continue to develop contacts with employer and industry networks.
- Continue to run community training, participate in community events and develop community networks.
- Identify groups at particular risk of discrimination and develop relevant education campaigns.
- Continue to review and update publications, and produce new products where possible to address identified needs.
- Continue to develop website.
- Build partnerships with other departments and organisations.

## Enquiry and conciliation service

### Objectives

- Inform potential complainants and respondents about their rights and responsibilities under anti-discrimination law.
- Resolve complaints of discrimination, vilification and harassment.
- Improve complaint-handling processes to increase efficiency and timeliness.

### Outcomes

- Responded to 5,638 enquiries.
- Dealt with all enquiries immediately or within 24 hours.
- Dealt with 91% of enquiries in 14 minutes or less, which equalled last year's achievement.
- Received 1,332 new complaints (14% increase from 2009-10).
- Finalised 1,206 complaints (similar to last year).
- Finalised 88% of complaints within 12 months of receipt, exceeding the 85% target for this timeframe.

### Future directions

- Continue to provide an accurate and efficient information service and an effective complaint handling service.
- In conjunction with other branches of the Board, increase awareness about the right to make complaints under the Anti-Discrimination Act.
- Further increase the number of complaints resolved within timeframe targets.
- Further implement and refine procedural changes to increase efficiency.

## Aboriginal and Torres Strait Islander service

### Objectives

- Provide a culturally appropriate enquiry and complaint handling service for Aboriginal and Torres Strait Islander people.
- Educate Aboriginal and Torres Strait Islander people about their rights and responsibilities under anti-discrimination law.
- Provide advice on the impact of government policy and legislation on Aboriginal and Torres Strait Islander people.

### Outcomes

- 79 complaints lodged by Aboriginal and Torres Strait Islander people (included in the total under Enquiry and conciliation service at left)
- Ran information stalls at 15 events.
- Provided 20 education sessions for community and government organisations, and participated in 2 sessions for real estate agents and landlords, with NSW Fair Trading.
- Liaised with government and community organisations at interagency meetings in Sydney.

### Future directions

- Continue to advise the Aboriginal and Torres Strait Islander people about their rights and responsibilities.
- Continue to work in partnership with other government and non-government agencies.
- Continue to monitor relevant issues.
- Continue to develop contacts and networks in Sydney and rural NSW.

## Legal Officer

### Objectives

- Ensure that the Anti-Discrimination Act is correctly understood by all stakeholders.
- Provide legal advice to the Attorney General, President, Statutory Board and Board staff.
- Deal with legal matters including applications for exemptions from the Anti-Discrimination Act, Alcohol-Free Zones and subpoenas.

### Outcomes

- Advised President, Statutory Board and Board staff on issues arising during the year.
- Answered queries and advised the Statutory Board on applications for exemptions.
- Facilitated the approval of 18 exemption applications.
- Reviewed 6 compliance reports in relation to exemption orders.
- Prepared responses to 18 requests for comment on policy and law reform issues.
- Briefed external legal advisors on 8 matters.

### Future directions

- Continue to provide legal advice and support.
- Continue to process exemptions and deal with other legal matters.

## REVIEW OF OPERATIONS CONTINUED

### Regional offices

#### Objectives

- Enquiry service: inform potential stakeholders in the region about their rights and responsibilities under anti-discrimination law.
- Complaint handling service: investigate and attempt to resolve complaints of discrimination, vilification and harassment lodged with the office.
- Education service: provide professional education services to inform employers, employees and service providers about their rights and responsibilities under anti-discrimination law and the role of the Anti-Discrimination Board.

#### Outcomes – Newcastle

- Received 221 new complaints (compared to 181 in 2009-10).\*
- Finalised 185 complaints (compared to 209 in 2009-10).\*
- Settled 59 complaints (compared to 74 in 2009-10).
- Finalised 45% of complaints within 6 months and 90% within 12 months.
- Provided 53 on-site training sessions to 17 organisations, reaching around 763 participants and producing \$100,384 in income.#
- Ran 8 public seminars reaching around 48 participants and producing \$19,030 in income.#

#### Outcomes – Wollongong

- Received 211 new complaints (compared to 232 in 2009-10).\*
- Finalised 214 complaints (compared to 219 in 2009-10).\*
- Finalised 62% of complaints within 6 months and 94% within 12 months.
- Provided 10 on-site training sessions to 6 organisations, reaching around 119 participants and producing \$10,856 in income.#
- Achieved 100% satisfaction rate with training sessions.

#### Future directions

- Continue to develop networks with local agencies.
- Continue to provide an accurate and efficient information service.
- Continue to monitor and improve complaint-handling processes.
- Maintain and improve current level of complaints throughput.
- Continue staff development and team building to ensure objectives are met.
- Target new markets for education services.

### Liaison and support

#### Objective

- Enable the Board's core business of complaint handling and education services to operate with maximum efficiency.

#### Outcomes

- Provided support services including finance, human resources, information technology, asset management and administration.
- Liaised with business centres in the Department of Attorney General and Justice to coordinate support services provided to the Board by the Department.
- Further enhanced management system for support services.

#### Future Directions

- Upgrade telephone system.
- Continue to refine and enhance in-house databases and systems for complaint, education customer, file and support management.
- Continue to liaise with Department of Attorney General and Justice to coordinate support services.
- Continue to review and improve internal procedures.

\* These figures are included in the totals given under Enquiry and conciliation service on page 4.

# These figures are included in the totals given under Education service on page 4.

# ABOUT THE ANTI-DISCRIMINATION BOARD

The Anti-Discrimination Board is an independent statutory body which was set up under the Anti-Discrimination Act 1977 (NSW) to administer that Act. Our role is to promote anti-discrimination and EEO (equal employment opportunity) principles and policies throughout NSW. We are a business centre within the NSW Department of Attorney General and Justice.

## Functions of the Board

The Anti-Discrimination Board has three main roles.

1. We work to prevent discrimination from occurring. We inform people about their rights and responsibilities under anti-discrimination law, and explain how they can prevent and address discrimination.

We do this through consultations, education programs, seminars, talks, participating in community functions, publications and our website.

2. We handle discrimination complaints. We provide an enquiry service for people who want information about their rights or responsibilities under anti-discrimination law. We investigate complaints of discrimination and conciliate complaints when appropriate.

3. We advise the Government on discrimination issues, and make recommendations to the President of the Anti-Discrimination Board and the Attorney General about applications for exemption from the Anti-Discrimination Act.

## The President and the Board

Stepan Kerkyasharian AO became the President of the Anti-Discrimination Board on 15 September 2003. He also continues as the CEO and Chair of the Community Relations Commission.

The members of the Board are the President as Chair, and four members appointed by the Governor of NSW. The members in 2010-11 were Michael Chistodoulou, Sigrid Patterson, Christine Regan and Peter Wertheim.

See page 9 for more information about the Board members.

## The Board's structure

The Board has three branches:

- **Enquiries and Conciliation Branch**  
– responsible for handling initial enquiries about discrimination, and for investigating and conciliating discrimination complaints received by the Board. The Manager in 2010-11 was Elizabeth Wing LLB, EMPA.
- **Education Services Branch**  
– oversees the Board's provision of training, community education, information, publication and website services. The Managers in 2010-11 were Margaret White LLB CertIV Workplace Training and Assessment (acting to August 2010) and Sharmalee Elkerbout MA, MBA (equivalent), CertIV Workplace Training and Assessment.
- **Liaison and Support Branch**  
– provides support services such as financial control and information technology. The Managers in 2010-11 were Darryl Brown CertComm, MIPA, Susan Innes-Brown, Molly Pang and Scott Hipwell BBus, FIPA, SA FIN.

The Board's Aboriginal and Torres Strait Islander team includes complaint handling and education staff who provide culturally specific services for Aboriginal and Torres Strait Islanders. The Team Leader in 2010-11 was Felicity Huntington.

The Board has regional offices in Newcastle and Wollongong that provide services to Northern and Southern NSW. The Newcastle Managers in 2010-11 were Paul Santone BA(Hons), LLB and Steven Lord DipGov, DipCommServ (acting from April



## ABOUT THE ANTI-DISCRIMINATION BOARD CONTINUED

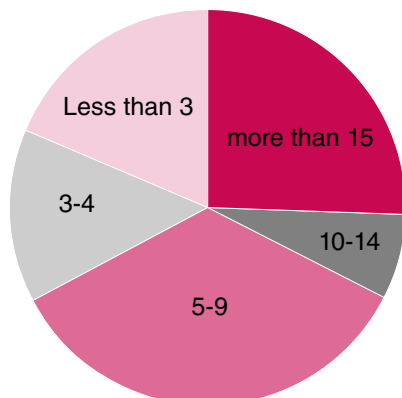


**Back row, L-R: Elizabeth Wing (Manager Enquiries and Conciliation), Stepan Kerkyasharian (President), Gerardo de Liseo (Manager Wollongong Office). Front row: Steven Lord (Manager Newcastle Office), Felicity Huntington (Aboriginal and Torres Strait Islander Team Leader), Scott Hipwell (Acting Manager, Liaison and Support), Sharmalee Elkerbout (Manager Education Services).**

2011), and the Wollongong Manager was Gerardo de Liseo *BA, DipEd, DipTESOL, DipLaw, GdipLegPrac, Cert Mediation*.

The Board also employs a Legal Officer who advises the President, Board and staff on legal matters.

**Staff tenure (years)**



### Staff profile

The Board has 39.2 full time equivalent positions, of which 29.1 are located in Sydney and 10.1 in the two regional offices. At 30 June 2011 the Board employed 43 people, some of whom worked part-time. Two positions were held vacant for at least part of the year to contribute to budget savings.

- **Employment status:** of the 43 employees at 30 June, 31 (74%) were permanent employees, 9 (19%) were permanent employees in temporary appointments, and 3 (7%) were temporary appointees.
- **Turnover:** one staff member left the Board permanently during 2010-11 after over 10 years service.
- **Tenure:** 11 staff have been with the Board for 15 or more years (25%), 3 for 10-14 years (7%), 15 for 5-9

years (35%), 6 for 3-4 years (14%), and 8 for less than 3 years (19%).

- **Gender:** 8 staff were male (18%), and 35 were female (82%).
- **Diversity:** 29% of staff identify English as their second language, 10% identify as Aboriginal and Torres Strait Islanders, 40% are from culturally and linguistically diverse backgrounds, and 17% identify as having a disability.

### Training and development

The Board encourages a high level of participation in training and development, in accordance with the policy of the Department of Attorney General and Justice.

All staff engaged in some form of training or development during the year, involving a total of 110 days. Training undertaken this year included: corruption awareness; legal seminars, first aid; financial management; effective team communication; writing skills; legal terminology; preventing and managing grievances; disability awareness; emotional intelligence; telephone techniques; assertiveness skills; networking; dignity and respect – appropriate workplace behaviour; negotiation and conflict resolution; occupational health and safety committee training; risk and injury management for managers and supervisors; and the *Government Information (Public Access) Act 2009* (GIPAA).

The Board also promotes expressions of interest from staff to act in temporary roles that provide opportunities for training and development.



# STATUTORY BOARD 2010-11

## **Stepan Kerkyasharian AO President**

Attendance at meetings: 9/11

Stepan has been President of the Anti-Discrimination Board since 2003, and is also CEO and Chair of the NSW Community Relations Commission. He became a Member of the Order of Australia in 1992, received the Olympic Order in 2000, and was promoted to Officer of the Order of Australia in 2011. In June 2007 he received Doctor of Letters (honoris causa) from the University of Sydney.

## **Michael Christodoulou**

AM, DO, DC, ND, DBM

Attendance at meetings: 11/11

A chiropractor and osteopath, Michael has a long history of community involvement. He is a commissioner of the NSW Community Relations Commission, President of the Cyprus Community of NSW, Vice-President of the World Federation of Cyprus Communities, Treasurer of the World Council of Hellenes, Coordinator of the United Nations Human Rights Day Committee, and a Board member of the Stanmore Hawks Football Club.

## **Sigrid Patterson**

BA, MPH

Attendance at meetings: 7/11

As Director of the NSW Office for Ageing, Sigrid coordinates the development and implementation of the NSW government's strategy to address the ageing of the population. Originally a youth worker, she has worked in health planning and is now a specialist in public health, policy and economics. She has lived on the NSW North Coast for the last 20 years and currently has a small acreage.

## **Christine Regan**

AssocDipCommOrgs

Attendance at meetings: 10/11

Christine is a Senior Policy Officer with the NSW Council of Social Service, focussing mainly on disability. She has worked for many years in the NSW community sector. Christine is current Vice-President of the National Council on Intellectual Disability and Chairperson of local advocacy group Dare to Care. She has three children including a daughter, Erin, who has Down syndrome.

## **Peter Wertheim**

AM, BA, LLB, LLM

Attendance at meetings: 5/11

Currently the Executive Director of the Executive Council of Australian Jewry, Peter was appointed to the Australian Multicultural Advisory Council in 2010. Prior to this, he was a lawyer for 32 years, with major clients including not-for-profit organisations. He also acted as honorary solicitor for a number of charities. He has successfully represented the Jewish community in a number of racial vilification cases.

*Back row (L-R): Sigrid Patterson, Peter Wertheim, Michael Christodoulou.  
Front row: Stepan Kerkyasharian, Christine Regan.*



**Discrimination occurs when a person with a particular personal characteristic is treated less favourably than a person who does not have that characteristic, or they are harassed because of that characteristic.**

The *Anti-Discrimination Act 1977 (NSW)* (ADA), makes it unlawful to discriminate on certain grounds, in certain circumstances.

### Grounds of discrimination

Discrimination and harassment based on any of the following characteristics is unlawful in NSW:

- sex (includes pregnancy and breastfeeding);
- race;
- age (includes compulsory retirement);
- marital or domestic status;
- homosexuality;
- disability (includes physical, intellectual and psychiatric disabilities, learning and emotional disorders and infectious diseases);
- transgender status;
- carer's responsibilities.

It is also against the law to discriminate against or harass someone because their relatives, friends or associates have any of these characteristics, and to sexually harass a person.

### Areas of discrimination

All these types of discrimination (apart from discrimination based on carer's responsibilities), are unlawful in five main areas of public life:

- employment;
- provision of goods and services;
- state education, including schools, TAFEs and universities (sexual harassment and race discrimination are also unlawful in private education);
- the provision of accommodation;
- registered clubs (any club that sells alcohol or has gaming machines).

Carer's responsibilities discrimination is only against the law in employment.

### Direct and indirect discrimination

Both "direct" and "indirect" discrimination are against the law. Direct discrimination occurs when someone is treated unfairly compared to someone else in similar circumstances – for example, refusing to hire a person just because they have a disability.

Indirect discrimination occurs when a requirement that is the same for everyone results in an effect that is unequal and unreasonable in the circumstances – for example, requiring a person over a certain height for a job might discriminate against women and some ethnic groups.

### Vilification

Vilification because of a person's race, homosexuality, HIV/AIDS or transgender status is also unlawful. The ADA defines vilification as any

public act that incites others to hate, have serious contempt for, or severely ridicule a person or group of people who have the relevant characteristic.

### Victimisation

It is unlawful to victimise a person because they have complained about discrimination or helped someone with a discrimination complaint. A victimisation complaint may be upheld even if the original discrimination complaint is not.

### Other unlawful acts

It is unlawful to publish an advertisement that breaches the ADA, and to aid and abet a breach of the ADA. In some circumstances employers may be liable for the conduct of their employees.

### Exceptions and exemptions

The ADA includes some specific exceptions where jobs and services can be targeted towards a particular group. These mainly relate to reasonable requirements for particular types of jobs, services aimed at the special needs of a particular race or age group, and some special categories such as sport and superannuation.

The President and the Attorney General can also grant exemptions from the ADA to permit discrimination in certain circumstances. For more information about exemptions, see pages 36-37.

### Making a complaint

If a person thinks they have been discriminated against, they should contact the Board's enquiry service to find out whether their situation

is covered by the ADA. If it is not covered, our Enquiry Officers will suggest other avenues to find help.

If the problem appears to be covered by the ADA, and it is not possible to resolve it by other means such as an internal grievance procedure in the workplace, the person can lodge a complaint with the Anti-Discrimination Board. The Board handles all complaints impartially, confidentially and free of charge, and there is no need for a lawyer.

A person can complain on their own behalf, or in certain circumstances, through an agent, guardian or representative. They can also complain as a group, or a representative of a group.

Making a complaint involves completing a complaint form, or writing to the President of the Board describing the events that have occurred and why the person thinks they were unlawful. Complaints can be written in any language, or in Braille.

If the events being complained about are more than a year old, or they are clearly not covered by the ADA, the complaint may be declined at this point. Complaints that are accepted are then investigated more thoroughly to see if they may involve a breach of anti-discrimination law, which may be quite involved. Some complaints are resolved during this process.

## Conciliation

If after investigation the complaint appears to involve a breach of anti-discrimination law, and it has not yet been resolved, the Board helps to conciliate the complaint. This means

we assist the parties to the complaint to come to an agreement or settlement that will resolve it.

The parties to the complaint are known as the complainant (the person alleging that they have been discriminated against or harassed) and the respondent (the person allegedly responsible for the discrimination or harassment).

Many complaints are resolved through conciliation, but this can only occur if both parties agree on a settlement. The Board is impartial in this process and does not have the power to impose a settlement if the parties do not agree.

Examples of the kind of solutions included in settlements are:

- the complainant accepting the respondent's explanation of why the events occurred;
- an apology;
- reinstatement of the complainant, if they have been moved to another position, suspended or dismissed;
- the complainant being provided with benefits, facilities or services that they were denied;
- training for staff in the respondent organisation about discrimination, and/or developing or improving Equal Employment Opportunity policies;
- the respondent paying compensation to the complainant, or some other form of compensation such as a donation to charity.

In some cases, the complainant may abandon their complaint or decide to withdraw it during the complaint process.

## The Administrative Decisions Tribunal

If a complaint cannot be conciliated, and in certain other cases, it will be referred to the NSW Administrative Decisions Tribunal (ADT). The Tribunal provides a legal judgement that can be enforced or appealed.

Remedies available to the ADT include:

- ordering compensation (currently up to \$100,000);
- prohibiting discriminatory conduct in the future;
- ordering the publication of an apology;
- ordering the development of programs or policies aimed at eliminating discrimination;
- declaring that discriminatory contracts are unenforceable.

## COMPLAINTS BY EMAIL

At the end of 2010, the *Anti-Discrimination Regulation 2009* was introduced to allow complaints to be lodged by email to an email address specified on the Board's website.

The address is:  
**[complaintsadb@agd.nsw.gov.au](mailto:complaintsadb@agd.nsw.gov.au)**.

The Board is in the process of adapting its complaint handling procedures to deal with complaints received by email. This includes developing an online form to enable complaints to be lodged directly via the website.

# ENQUIRY SERVICE

**The Board provides two specialised advisory services — one for the general public, and one for employers and service providers. People seeking advice include individual members of the public, employers, human resource professionals, service providers, managers, employees, public servants, legal advisors, advocates and community workers.**

Enquiry and Liaison Officers do the following:

- determine if the caller's situation is covered by the NSW Anti-Discrimination Act (ADA);
- provide general information about what is covered by anti-discrimination law;
- give advice about how to deal with discriminatory situations;
- provide information about where to get help the caller's problem is not covered by the ADA;
- take and transfer requests for publications and other Board services;
- give employers and service providers specialised advice on how to comply with anti-discrimination law, and how to prevent discrimination and harassment from occurring.

The Board's website is now providing a major source for basic information about anti-discrimination law in NSW – the main page for "anti-discrimination law" had nearly double the number

of hits on any other page on the site in 2010-11 (59,992 hits). However, people may still need to consult the Enquiry Service for advice on more complex matters, and others may prefer personal verbal information.

Many complaints about discrimination are resolved at the initial enquiry stage, as the Enquiry and Liaison Officers inform callers about their rights and suggest strategies for dealing with their situation. In many instances this prevents the need for a formal complaint, which reduces the number of complaints the Board receives.

## Enquiries in 2010-11

In 2010-2011 our Enquiry and Liaison Officers answered 5,638 enquiries, which is around 23 per day. This is a 7.8% increase over 2009-10, when we answered 5,232 enquiries. 551 of the enquiries (9.8%) were for the Employers and Service Providers Advisory Service, and the remainder were for the general service.

The majority of enquiries (5,284 or 93.8%) were made by phone. 272 (4.8%) were written, mainly by email, and the remainder (82 or 1.4%) by visit to one of our offices or by TTY (telephone typewriter).

As in previous years, women used the general enquiry service more than men. We received 2,752 enquiries from women (48.8% of total calls), 2,120 from men (37.6%), and 766 (13.6%) from employers, students, teachers and individuals contacting us on behalf of another person or organisation.

There was a slight percentage decrease in enquiries that took between 15-29 minutes to deal with

(415 or 7.4%), and a minor increase in the number that took between 30-59 minutes (60 or 1.1%). Calls that took an hour or more to deal with were 0.1% of all enquiries.

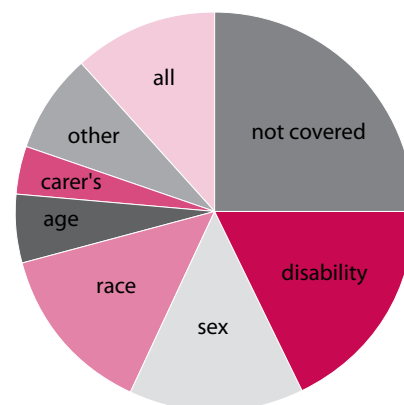
The majority of people making enquiries (4,467 or 79.2%) wanted to discuss a situation where discrimination was occurring. Only 1,235 (17.1%) were advised that they could lodge a formal complaint of discrimination.

## Types of discrimination

Enquiries made by phone, email and other means followed the same basic pattern. The change first observed in 2007-08 in which disability discrimination replaced sex discrimination as the type of discrimination most frequently enquired about has continued. In 2010-11, 1,050 enquiries (17.9%) were about disability discrimination. The next most frequent were sex discrimination (825 enquiries or 14.1%) and race discrimination (814 enquiries or 13.9%).

The majority of calls (3,238 calls or 55.2%) continued to be employment-related. The second largest area was the provision of goods and services with 982 calls (16.7%).

**Type of discrimination enquired about**



## Problems not covered

Problems that were not covered under anti-discrimination law accounted for 1,475 (25.1%) of calls, with 711 (12.1%) of these about employment

situations. The Enquiry Service was generally able to give the caller advice about how to resolve their problem within the workplace, or refer them to another organisation that could help

Other problems not covered by NSW law included people who were treated unfairly because of their criminal record, religion or personal appearance.

## Enquiries received by ground and area 2010-11

	Emp	Gds &	Acc	Educ	Clubs	Qual	Racial	Hom	HIV	Trans	All	Other	Total	%
	Servs					bodies	vil	vil	vil	vil	areas			
Disability	540	316	48	77	17	4	0	0	0	0	13	35	1050	17.9
Sex	689	61	13	12	18	1	0	0	0	0	12	19	825	14.1
Race	450	205	35	51	17	5	0	0	0	0	16	35	814	13.9
Age	190	74	29	12	8	1	0	0	0	0	4	10	328	5.6
Carers' responsibilities	219	5	0	1	0	0	0	0	0	0	0	3	228	3.9
Homosexuality	81	26	9	5	2	0	0	0	0	0	0	7	130	2.2
Racial vilification	0	0	0	0	0	0	59	0	0	0	0	0	59	1.0
Victimisation	133	3	0	1	0	0	0	0	0	0	0	0	137	2.3
Marital/domestic status	46	18	10	0	3	0	0	0	0	0	0	0	77	1.3
Transgender	9	18	1	1	3	0	0	0	0	0	2	1	35	0.6
Homosexual vilification	0	0	0	0	0	0	0	21	0	0	0	0	21	0.4
HIV/AIDS vilification	0	0	0	0	0	0	0	0	3	0	0	0	3	0.05
Aiding unlawful act	2	1	0	0	1	0	0	0	0	0	0	0	4	0.07
Obstruction	1	0	0	0	0	0	0	0	0	0	0	0	1	0.02
Advertisement	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Transgender vilification	0	0	0	0	0	0	0	0	0	2	0	0	2	0.03
All grounds	165	14	4	7	3	0	0	0	0	0	450	33	676	11.5
Not covered – Workplace harassment	359	0	0	0	0	0	0	0	0	0	0	0	359	6.1
Not covered – other	352	241	67	40	23	1	0	0	0	0	24	368	1116	19.0
<b>Total</b>	<b>3238</b>	<b>982</b>	<b>216</b>	<b>207</b>	<b>95</b>	<b>12</b>	<b>59</b>	<b>21</b>	<b>3</b>	<b>2</b>	<b>521</b>	<b>511</b>	<b>5867*</b>	<b>100</b>
<b>%</b>	<b>55.2</b>	<b>16.7</b>	<b>3.7</b>	<b>3.5</b>	<b>1.6</b>	<b>0.2</b>	<b>1.0</b>	<b>0.4</b>	<b>0.1</b>	<b>0.03</b>	<b>8.9</b>	<b>8.7</b>	<b>100</b>	

\* The total number of enquiries by ground and area is greater than the total number of calls received because many enquiries cover multiple grounds.



# CONCILIATION SERVICE

**The conciliation service is provided by the Board's Enquiries and Conciliation Branch, and operates from the Board's three offices in Sydney, Newcastle and Wollongong.**

**The Board provides a confidential, neutral and free service to the community. We investigate complaints of alleged breaches of the *Anti-Discrimination Act 1977 (NSW) (ADA)*, and where appropriate we conduct a conciliation conference to assist the parties to come to a mutually acceptable resolution.**

**For more information about the complaint process, see "About anti-discrimination law" on pages 10-11.**

## Complaints received

The Board received 1,332 formal complaints of discrimination in 2010-11, with a profile similar to previous years. This is a 14% increase over 2009-10 and a slight increase over 2008-09. As the table shows, the most common complaints continue to be on the grounds of sex, disability, and race.

The proportion of complaints received under each ground is also very consistent with previous years. This year, sex discrimination complaints (including sexual harassment) formed the largest category of complaints, rising to 319 (23.9%) compared to 237 (20.3%) last year and 299 (22.60%) in 2008-9.

This figure included 175 sexual harassment complaints, which was a 20% increase from last year (145 complaints) but a slight decrease in its proportion of total sex discrimination complaints.

The number of disability discrimination complaints rose to 292 (21.9%),

although this was a slight decrease in its proportion of total complaints.

We received 200 race discrimination complaints (15.0%), which is consistent with the previous two years. Racial vilification complaints were also stable this year at 21 complaints (1.6%), similar to 22 last year (1.8%).

Also consistent with previous years, employment-related complaints continue to be the single largest area of complaint at 834 (62.6%), an increase in number and percentage over 2009-10 (704 or 60.3%) but comparable to 2008-09 (821 or 62.1%).

In terms of employment complaints, sex discrimination was again the most common ground of complaint (267 complaints). The next highest group of employment-related complaints was on the ground of disability.

Problems in the work environment and harassment remained the most frequent category of employment-related complaint with 482 (57.8%), compared to 474 complaints (67.3%) in 2009-10





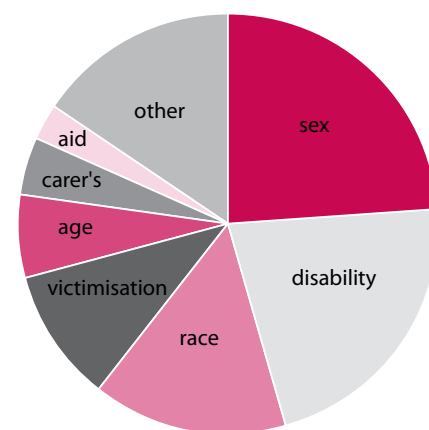
and 496 (60.4%) in 2008-09. Dismissal from employment was the cause of 107 complaints (12.8%) compared to 87 complaints (12.4%) last year.

Complaints relating to the provision of goods and services were the second largest area of complaint with 298 complaints (22.4%), compared to 252 complaints (21.6%) in 2009-10. Disability discrimination was again the

most frequent ground of complaint in this area with 108 complaints.

Women represented 58.4% of all complainants, an increase from last year's figure of 53.4%. Although a high proportion did not identify their ethnicity, the largest group that did were Aboriginal complainants at 79, almost the same as last year (80 complaints).

**Grounds of discrimination complaints**



### Complaints received by ground and area 2010-11

	Emp	Gds & Servs	Acc	Educ	Clubs	Qual bodies	Racial vil	Hom vil	HIV vil	Trans vil	Other	Total	%
Sex	267	32	3	5	7	0	0	0	0	0	5	319	23.9
Disability	142	108	3	27	4	0	0	0	0	0	8	292	21.9
Race	94	71	6	11	6	6	0	0	0	0	6	200	15.0
Victimisation	118	7	1	1	3	0	0	2	0	0	2	134	10.1
Age	44	31	5	3	2	0	0	0	0	0	1	86	6.5
Carer's responsibilities	59	0	0	0	0	0	0	0	0	0	2	61	4.6
Aiding unlawful act	28	4	0	0	0	0	0	3	0	0	2	37	2.8
Marital/domestic status	16	7	2	0	1	0	0	0	0	0	1	27	2.0
Homosexuality	16	6	2	0	0	0	0	0	0	0	2	26	2.0
Racial vilification	0	0	0	0	0	0	21	0	0	0	0	21	1.6
Homosexual vilification	0	0	0	0	0	0	0	20	0	0	0	20	1.5
Transgender	6	8	0	0	0	0	0	0	0	0	0	14	1.1
Transgender vilification	0	0	0	0	0	0	0	0	0	2	0	2	0.2
Other	37	19	2	1	2	0	0	0	0	0	15	76	5.7
Not specified	7	5	1	0	0	0	0	0	0	0	4	17	1.3
<b>Total</b>	<b>834</b>	<b>298</b>	<b>25</b>	<b>48</b>	<b>25</b>	<b>6</b>	<b>21</b>	<b>25</b>	<b>0</b>	<b>2</b>	<b>48</b>	<b>1332</b>	<b>100</b>
<b>%</b>	<b>62.6</b>	<b>22.4</b>	<b>1.9</b>	<b>3.6</b>	<b>1.9</b>	<b>0.5</b>	<b>1.6</b>	<b>1.9</b>	<b>0.0</b>	<b>0.2</b>	<b>3.6</b>	<b>100</b>	

*There were no complaints received on the grounds of HIV/AIDS vilification in 2010-11.*

## CONCILIATION SERVICE CONTINUED

### Type of employer 2010-11

	No	%
Private enterprise	407	48.8
Individual male	122	14.6
State govt department	103	12.4
State stat authority	53	6.4
Local government	23	2.8
Education (public)	20	2.4
Hospital	20	2.4
Registered clubs	20	2.4
Non-profit association	18	2.2
Individual female	16	1.9
Media organisation	7	0.8
Trade union	4	0.5
Govt bus enterprise	4	0.5
Education (private)	4	0.5
Commonwealth dept	2	0.2
Cwlth stat authority	1	0.1
Other	5	0.6
Not known	5	0.6
<b>Total</b>	<b>834</b>	<b>100</b>

### Types of employment complaints 2010-11

	No	%
Work environment and harassment	482	57.8
Classification/benefits	158	18.9
Dismissal	107	12.8
Recruitment/selection	58	7.0
Resignation	11	1.3
Retrenchment/redundancy	6	0.7
Demotion	5	0.6
Transfer	3	0.4
Promotion	2	0.2
Retirement	2	0.2
<b>Total</b>	<b>834</b>	<b>100</b>

### Timeframe targets 2010-11

Complaint to be finalised within	Target	Actual
2 months	20%	19%
3 months	30%	29%
6 months	60%	56%
12 months	85%	88%
18 months	100%	100%

### Complaint processing

The Board continues to provide an efficient complaint handling process. There is no backlog of complaints, and every complaint is allocated to a complaint handler as soon as it is received.

The most significant change to complaint processing occurred in December 2010 when the NSW Anti-Discrimination Act (ADA) was amended to allow for complaints to be lodged by email. Complaints can now be lodged by post or email, or by using the Board's existing print form (which can also be scanned and emailed). We are also developing a user-friendly online form which will enable complaints to be lodged directly via our website.

The staff have continued to achieve very good results in meeting the target timeframes for finalisation of complaints (see the table at left). We finalised 88% of files within 12 months of receipt, again exceeding the target of 85%. The average time taken to finalise files in 2010-11 was 6.4 months, which is slightly longer than last year. The longer time frame can be attributed to more complex complaints with increased amounts of documentation submitted, as well as several staff taking unexpected extended leave. Complaints were redistributed between the Newcastle, Sydney and Wollongong offices to share the workload.

The Board is committed to providing an accessible service to rural and remote areas. This year, nine officers made a total of 44 days travel to conduct conciliation conferences in regional and country NSW.

## Outcome of complaints finalised 2010-11

	No	%
Settled at or after conciliation	250	20.7
Settled before conciliation	104	8.6
Referred to ADT – conciliation unsuccessful or not suitable	162	13.4
Referred to ADT – older than 18 months	13	1.1
Referred to Attorney General – serious vilification	1	0.1
Declined before investigation – not a contravention	159	13.2
Declined before investigation – out of time	19	1.6
Declined after investigation – s 92	76	6.3
Declined after investigation and referred to ADT	51	4.2
Withdrawn s 92B	220	18.2
Abandoned s 92C	151	12.5
<b>Total</b>	<b>1206</b>	<b>100</b>

### Complaint outcomes

The Board finalised 1,206 written complaints of discrimination this year, similar to last year's total of 1210.

The number of complaints resolved at or after a conciliation conference was 250 (20.7%), which is similar to last year (244 or 20.2%) and stable over the last four years in percentage terms. A further 104 complaints (8.6%) were settled by negotiation without the need for a formal conciliation conference, similar to 126 (10.4%) in 2009-10 and 129 (10.5%) in 2008-09.

162 complaints (13.3%) that were not conciliable were referred to the Administrative Decisions Tribunal.

This is similar to the last year when we referred 147 (12.1%) complaints.

One matter was referred to the Attorney-General for consideration of prosecution of the offence of serious homosexual vilification. The complaint was also referred to the Administrative Decisions Tribunal at the complainant's request.

The number of complaints declined under s 92 of the ADA decreased slightly to 131 (10.9%) from 160 (13.2%) in 2009-10, closer to the 139 (11.3%) in 2008-09. Complaints are declined under s 92 for reasons such as lacking in substance, being misconceived, or not being a contravention of the ADA.

Of these 131 declined complaints, 51 cases (4.2% of total complaints) were referred to the Administrative Decisions Tribunal. The number of complaints that were declined and then referred to the Tribunal is more than 2009-10 (43 or 3.6%) but similar to 2008-09 (54 or 4.4%).

The number of complaints formally withdrawn this year was 220 (18.2%), which is almost twice as many as 2009-10 (120 or 9.9%) and also more than 2008-09 (167 or 13.6%).

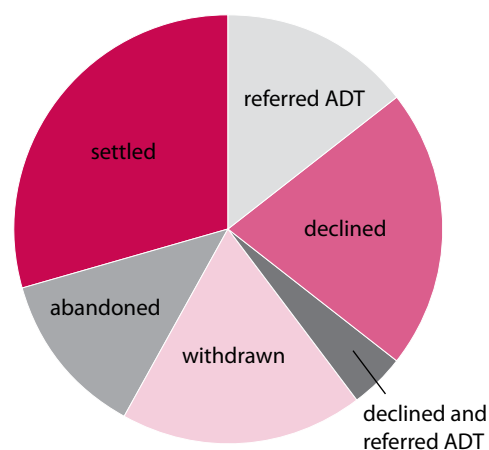
Complainants withdraw complaints for a number of reasons: they may be satisfied with the respondent's response, lack support for the complaint, be unable to provide information requested by the Board, or lack confidence that the respondent will provide a satisfactory response.

The number of complaints abandoned this year was 151 (12.5%), which is less than 2009-10 (197 or 6.3%) and 2008-09 (188 or 15.3%). Complaints may be regarded as abandoned if the complainant does not respond to requests for information, or there is no indication they intend to proceed with the complaint, or we lose contact with them.

### Complaint manual

The update of the Board's Complaint Handling Manual was completed this year. Based on input from both staff and managers, the manual is a practice guide for staff who are investigating and conciliating complaints. The electronic format is easily accessible to staff and can be quickly amended when needed to reflect current practice.

Complaint outcomes



# EDUCATION

# SERVICE

The Education Services Branch performs one of the Board's key functions as defined by the NSW Anti-Discrimination Act. This is to: acquire and disseminate knowledge on all matters relating to the elimination of discrimination and the achievement of equal rights; arrange consultations and discussions, seminars and conferences; and develop human rights programs and policies.

To do this, the branch has three main activities:

1. Providing fee-paying workplace education, which is mainly aimed at employers and service providers.
2. Giving talks to community groups, holding stalls at community events and running other projects aimed at specific groups.
3. Producing a range of publications and a comprehensive website.

## Workplace education

The workplace education program provides high quality, cost-effective training and consulting services for employers, service providers and their staff. We have a strong reputation for providing interactive, relevant and up-to-date training which gives participants an effective understanding of anti-discrimination law and how it applies to their workplace.

The Board's team provide tailored in-house training for managers and staff in a wide range of organisations. Our programs are designed to:

- educate employees about their rights and responsibilities;
- inform managers about how to make equitable decisions;
- assist managers to take "all reasonable steps" to prevent bullying, harassment and discrimination;

- explain the benefits of complying with EEO principles; and
- give organisations the skills to handle grievances fairly and effectively.

Organisations using our in-house training service also receive the following benefits:

- guidelines and handouts from the training session;
- advice and information on a consultancy basis from our Senior Workplace Relations Consultants;
- free review of policies; and
- refresher courses to reinforce knowledge acquired at earlier training courses.

Some companies use our training for their offices throughout Australia and in some cases overseas, to maintain the quality and consistency of the education provided to all their staff.

*The Board's Senior Workplace Relations Consultants (back row L-R): Elizabeth Mead, Lisa Coltart, Rhonda Stewart-Crisanti, Margaret White, (front) Diane de Souza, Sharmalee Elkerbout (Manager).*



As well as in-house training, the branch runs seminars during the year. The 2010-11 program included the following seminars:

- Grievance handling skills;
- Grievance management and resolution skills;
- Skills for Contact Officers;
- Contact Officers refresher;
- EEO recruitment and employment practices;
- Policy development;
- Managing harassment and bullying prevention;
- Managing psychiatric disabilities;
- Case law update;
- Breakfast seminar for lawyers.

In 2010-11 we delivered 559 in-house training sessions for employers and service providers, and ran 29 seminars (21 in Sydney and eight in Newcastle). Combined these reached almost 9,000 participants. This was a significant increase over 2009-10, when we delivered 458 in-house sessions and 18 seminars which reached 7,705 participants.

On-site training revenue totalled \$547,977, which was a 20% increase over 2009-10 (\$455,232). This reflects a rise in demand, combined with an increase in fees from July 2010. Income from seminars was \$89,220, which was similar to 2009-10 (\$89,860).

The total earnings from workplace education, including training fees, seminars and sale of publications, was \$655,603. This was a 17% increase over 2009-10 (\$560,571). The earnings figure met the projected target set by the Department of Attorney-General and Justice for 2010-11 of \$632,996.

## WHAT PEOPLE HAVE SAID ABOUT OUR TRAINING

“We have engaged the Anti-Discrimination Board since 2007 to deliver our equal opportunity and anti-discrimination training for all employees and managers. We have found them to be incredibly professional and the training has been of an impeccably high standard. The feedback from attendees has been excellent and we feel confident that our employees are receiving the most current and informative training available.”

*Beth Cambourne  
Senior Organisation Development  
Consultant, Perpetual*

“The training was stimulating and prompted much discussion after the sessions. Also, issues about possible discrimination and bullying were brought to Council’s attention following the training sessions. The most pleasing outcome was that in a staff cultural survey we ran many months after the training, the staff feedback was that Council was active in preventing and discouraging discrimination and harassment in the workplace.”

*Steve Rawe  
Manager Corporate Development  
Pittwater Council*

“The ADB have been conducting training in harassment awareness, workplace bullying and grievance handling at the Australian Museum for the past eight years. The most recent sessions have yet again demonstrated their high level of expertise, knowledge and professionalism.”

*George Notman  
Manager, Human Resources  
Australian Museum*

“The Contact Officer training took a difficult topic and delivered it in a common sense and ‘real-world’ way. Theory is the easy part; cutting through the theory and getting to the application of the skills is where this course separates itself from the masses. Using case studies and role plays that replicate the types of situations we are faced with, this training not only imparted the skills we need but also the confidence to use the skills when the need arises. Having the program delivered by a trainer of such clear expertise and experience was the icing on the cake. Thank you for doing such a great job!”

*Greg Henry  
Human Resources Manager  
Douglass Hanly Moir Pathology*

“I am pleased to be able to recommend the Anti-Discrimination Board. I engaged the ADB to provide an overview of the obligations and liabilities of people leaders for both face to face and webinar sessions for our leaders. This came about as a result of a number of incidents which, while relatively minor, indicated a general lack of understanding about the requirement of leaders to provide a safe environment for all staff.

(The trainer) was adaptable, accessible and happy to incorporate our Charter behaviours into the sessions and make them relevant to our audience. The evaluation forms were highly positive and indicated the value our leaders put on an approach that was practical and case-based rather than legalistic.”

*Sandy Wright  
Leadership, Learning and  
Development, AMP Capital Investors*



## EDUCATION SERVICE CONTINUED



*Board representatives preparing to march in the Gay and Lesbian Mardi Gras.*

### Community education

With only one part-time worker, the Board's community education service again had some very positive achievements in 2010-11.

#### Disability workshops

The Board presented two workshops about disability discrimination during 2010-11. The first was in November 2010 at the 4th Australasian Orientation and Mobility Conference hosted by Guide Dogs NSW/ACT. The participants were mainly people living with blindness or vision impairment and workers in this area.

The second workshop was for staff at Multiple Sclerosis Australia, which provides support services and specialist programs for people with MS.

### Gay and Lesbian Mardi Gras

In February 2011 the Board held a stall at Fair Day, the official kick-off to the Gay and Lesbian Mardi Gras season. Hundreds of people headed to Victoria Park to celebrate the gay, lesbian, bisexual, transgender and intersex community, and staff answered many queries about homosexual and transgender discrimination.

In March, Sydney's streets closed down as hundreds of colourful participants took part in the spectacular Mardi Gras parade, encouraged this year to 'Say Something'.. The Board took part this year for the first time in nine years, under a banner proclaiming 'No discrimination – gay, lesbian and transgender discrimination is against the law'.

### Sydney Homeless Connect

In June 2011 the Board participated in Sydney Homeless Connect at Sydney Town Hall. This is a program designed to bring together people who are homeless with the services and support they need, while providing them with a positive experience to remember.

Board staff spoke to many homeless people during the day who had experienced discrimination, harassment and bullying. The day also included: 1,550 hot lunches served; 300+ haircuts; 800 shoes distributed; 220 portraits taken; several hundred pairs of donated jeans handed out; 16 cartons of donated books; 200+ blankets given out; and to top it off, one massive conga line of volunteers and visitors snaking through Town Hall at the end of the day.



### Other community training

In 2010-11 we continued to work with community groups to develop their understanding of their rights and responsibilities under anti-discrimination law. Varying from education sessions to community stalls and expos, our training this year reached over 1,600 direct participants, plus many more people who took information from stalls.

Apart from those reported above, groups we worked with this year included:

- Able Australia Foresight Foundation – adults with deafblindness
- Ageing Workforce Conference – stall at Darling Harbour
- Carers NSW staff
- Catholic Care Sydney – homeless youth
- Gosford Cooperative Legal Service Delivery Program
- Harmony Day stall at Eastwood
- High school students at Parkes
- High school students at Prairiewood
- Homeless youth in Rockdale
- International Day for people with Disabilities – stall at Parramatta
- Legal Expo stall at Martin Place
- McDonald College students
- Meadowbank TAFE
- Mosman community stall
- Mt Druitt Migrant Resource Centre – Sudanese refugees
- North Sydney Council community event
- Serco – trainee staff for Villawood Immigration Detention Centre
- Swahili-speaking refugees
- Sydney University – overseas students
- Sydney University Student Representative Council – session on sexual harassment for overseas students
- Sydwest Multicultural Services Mt Druitt – Congolese community
- Sydwest Multicultural Services Blacktown – Nepalese, Bhutanese and Sudanese community
- Tocal Agricultural College students
- Tumbi Umbi community stall
- UNSW – social work students
- UWS Macarthur – law students
- Vietnamese community (with the Department of Attorney General and Justice's Diversity Services Unit)



*The Board's stall at the Legal Expo at Martin Place for Law Week 2011.*

### Board staff assisting a patron at Sydney Homeless Connect.



## LAW WEEK POSTER COMPETITION

For the past six years the Board has held a creative arts competition for young people alongside Law Week. In 2011 we held a competition to design a poster with the theme 'Just be fair – celebrate diversity in your community'.

We sent the competition information to all primary schools, secondary schools and public libraries in NSW, including class exercises to stimulate discussion and explore the issues of stereotyping and bullying. We invited young people to design a poster using their choice of medium, including drawing, painting, collage, photography and computer based graphics.

The competition received hundreds of high-quality, creative entries and terrific feedback from schools. The winners were:

- First prize: Kelsey Russell, aged 16, from Condobolin High School.
- Second prize: William Tracey, aged 10, from St Mary's Primary School, Orange.
- Third prize: Hannah Gleeson, aged 8, from Edgeworth Heights Public School, Edgeworth.

The winners received book vouchers for themselves and for their school library – \$250 each for the first prize winner and their library, \$100 each for the second prize winner, and \$50 each for third. Ten runners-up also received certificates.

The three winning pictures have been published as both posters and postcards and will be distributed by the Board over the next year.



## EDUCATION SERVICE CONTIN

### Publications

The Board produces a wide range of publications which are a valuable tool in educating the people of NSW about their rights and responsibilities under anti-discrimination law.

Our publications include an extensive set of factsheets on the different types of discrimination covered by the Anti-Discrimination Act, and guidelines for employers, employees and providers of different types of services.

One focus in 2010 was a series of advertisements to increase awareness about the Board's complaint handling function, and in some cases publicise Board events. Ads were placed in several gay newspapers, a number of regional papers, free city newspapers, *Rugby League Week* and the *Police Diary*.

We also continued the process of updating existing publications to reflect amendments to the Anti-Discrimination Act, simplify language and add more examples. Publications updated this year include two guidelines, 13 factsheets and the Board's Guarantee of Service.

We produced three editions of our email newsletter *Equal Time* during 2010-11. Issues covered included the rights and responsibilities of carers, office parties and the costs of sexual harassment in the workplace.

Other projects in 2010-11 included:

- a range of materials for the annual competition for schoolchildren such as worksheets for teachers, entry forms and certificates; also posters and postcards of the winning entries (see panel at left);

- two editions of our seminar calendar;
- the annual report;
- a Christmas e-card;
- a banner for the Gay and Lesbian Mardi Gras;
- a card-sized wallet for carrying train and bus tickets;
- new multilingual carrier bags;
- ongoing creation of text, graphics and documents for the Board's website.

Work has also begun or continued on the following:

- designing an online form for people to submit complaints to the Board, following the introduction of the Regulation enabling complaints to be submitted by email;
- a new edition of our *Anti-discrimination guidelines for local councils*, produced in partnership with the Local Government Division of the NSW Department of Premier and Cabinet (completed in August 2011);
- a new edition of our brochure *How to deal with discrimination, unfair treatment and harassment*;
- a new edition of our *Guidelines for real estate agents*;
- a comic book for young people.

## Website

The Board's website is the first point of contact for many people with enquiries about discrimination. It is part of the Lawlink site, which is hosted by the Department of Attorney General and Justice (DAGJ).

The website covers information about the functions of the Board, anti-discrimination law, how to make a complaint, training services, publications, advice for employers and

service providers, open access documents from the Board and our electronic newsletter, Equal Time. It also contains news about recent activities and special projects.

The Board's Publications Officers continued to work with the Information Technology Support Officer to update, manage and improve the website in 2010-11. We are constantly reviewing and consolidating existing material to ensure that the website is accurate and up-to-date. Where possible, we also develop new graphics to make the site more visually appealing.

DAGJ has embarked on a project to convert to a new website content management system, Netcat, and publications staff will be involved in re-structuring the Board's website for conversion in the second half of 2011. The new system will allow some more flexibility and more levels in the structure than are possible at present.

The number of hits on the Board's website in 2010-11 was around 838,148, an average of 69,846 per month. This is around 8% less than 2009-10 (911,400 hits).

The most popular pages were, in descending order:

1. Anti-discrimination law – main page (around 59,992 hits for the year).
2. How to deal with discrimination,

unfair treatment or harassment – factsheet on general strategies for different areas of life (32,794 hits).

3. Harassment and sexual harassment factsheet (29,150 hits).
4. Discrimination and the Anti-Discrimination Board – general factsheet about anti-discrimination law (26,051 hits).
5. ADB home page (25,413 hits)
6. Poster – Stop harassment and bullying (23,798 hits).
7. Making a complaint (19,267 hits).
8. Discrimination, EEO and affirmative action factsheet (18,619 hits).
9. Employers and managers main page (15,654 hits).
10. Pre-employment medicals (15,010 hits).





# CURRENT PUBLICATIONS 2010-11

## Workplace guidelines

Grievance procedure guidelines  
Guidelines for grievance investigators  
Guidelines for Contact Officers  
Guidelines for managers and supervisors (new ed Jan 2011)  
Guidelines for non-supervisory staff (new ed Aug 2010)  
Sample policies and procedures

## Special interest guidelines

Anti-discrimination and EEO guidelines for small business owners and managers  
Anti-discrimination guidelines for hoteliers (CD-Rom)  
Community Workers Guidelines  
Guidelines for advertisers  
Guidelines for union representatives

## Self-help guides

How to deal with discrimination, unfair treatment or harassment (self-help strategies and contacts)  
Know your rights: a guide for Aboriginal and Torres Strait Islander people  
Unfair treatment – what to do (booklet for people with intellectual disability)

## Other guidelines

Transgender discrimination – website only  
Guidelines for exemptions from the Anti-Discrimination Act - website only

## Factsheets

Aboriginal and Torres Strait Islander Outreach Program  
Age discrimination (new ed Mar 2011)  
Alcohol-free zones  
Anti-discrimination law and the small business owner  
Arabic factsheets – Race discrimination, Vilification, and Discrimination and the Anti-Discrimination Board

Carer's responsibilities discrimination (new ed Mar 2011)

Community language factsheets – basic information in Arabic, Armenian, Chinese, Croatian, Dari, Greek, Hindi, Italian, Khmer, Korean, Macedonian, Portuguese, Serbian, Spanish, Turkish, Vietnamese

Complaining to the Anti-Discrimination Board

Disability discrimination (new ed Mar 2011)

Discrimination, EEO and affirmative action

Discrimination and the Anti-Discrimination Board of NSW (new edition Mar 2011)

Harassment and sexual harassment (new ed Mar 2011)

Homosexual discrimination (new ed Mar 2011)

Infectious diseases discrimination

Marital or domestic status discrimination (new ed Mar 2011)

Pregnancy and breastfeeding discrimination (new ed Mar 2011)

Race discrimination (new ed Mar 2011)

Sex discrimination (new ed Mar 2011)

Transgender discrimination (new ed Mar 2011)

Treated unfairly because you are an Aboriginal and Torres Strait Islander person? (new ed Mar 2011)

Vilification

What you can do if you are treated unfairly (for people with very low literacy)

Unfair treatment – your rights (for people who are not fluent in English) (new ed Mar 2011)

## Posters

Common workplace animals  
Diversity makes the difference

Say no to discrimination and harassment (multilingual)

Stop harassment and bullying

Stop hassling me

That's not fair

Of course you can (about breast feeding)

Bullies have mean mouths

2011 'Just be fair' poster competition winning designs (3)

## Other publications

Aboriginal and Torres Strait Islander rights wallet card

Annual report 2009-10

C-change – Report of the enquiry into hepatitis C related discrimination

Complaint form (new edition Feb 2011)

Equal Time (email newsletter, 3 issues per year)

Fridge Magnets – Stop discrimination

Guarantee of service

In-house training brochure for employers and service providers

Multilingual 14-language fold up brochure/poster

Pens

Postcards

– 'Stop Discrimination' in English, Arabic, Chinese, Korean, Spanish and Vietnamese

– 2011 'Just be fair' poster competition winning designs (3)

– 2010 'Justice do it' postcard competition winning designs (3)

Publications order form – website only

Balloons

Seminar calendar for employer and service provider training (2 issues/year)

Ticket wallet (new)

Worksheets for teachers – website only

# CONSULTATIONS

The Board convenes consultations with specific groups to provide an opportunity for networking, for the Board to hear about issues that affect community members, and to provide input on legislative reform.

There are three consultations; Gay, lesbian and bisexual; Gender diversity; and Aboriginal and Torres Strait Islander. For information about the Aboriginal and Torres Strait Islander consultation, see page 29.

## Gay, lesbian and bisexual consultation

The consultation met three times during the year. Some issues discussed included:

- The current vilification provisions of the NSW Anti-Discrimination Act (ADA) which make it very difficult for a complaint of serious homosexual vilification to succeed, as they require threatening physical harm to persons or property.
- The group welcomed the Adoption Amendment Bill to allow same-sex couples to adopt, which was passed by the NSW Parliament in September 2010.
- The lack of regulation of the internet and homophobic material on websites. Members discussed the option of complaining to the Australian Communications and Media Authority.
- Sydney Park Aids Project (SPAIDS) memorial built for people who have passed away, with trees planted in their memory. Trees were recently removed and there was concern that this may have included some of the memorial trees, and that the monument is now more exposed.
- Homophobic activity and hate crime in Sydney Park, and reluctance of victims to come forward. Also concerns were raised about alleged harassment of gay men in Sydney Park by police. The Commander of Redfern Local Area Command was invited to the meeting, and this led to a number of strategies to build a better relationship between police and the users of the beat at Sydney Park.
- The seminar held at Parliament House on Homophobic Bullying in Schools, and the survey conducted by the Australian Research Centre in Sex, Health and Society which revealed that 44% of same-sex attracted young people experience verbal abuse and 16% experience physical assault.
- The new NSW Police policy on sexuality and gender diversity, which includes two new objectives: to increase the reporting of crime and violence, and to provide effective support and referral for victims of crime and violence.

**Members of this consultation include:** AIDS Council of NSW; Australian Bisexual Network; Australian Federal Parliament; Avalon Media; Bi-NSW; City of Sydney; Coalition of Activist Lesbians; Country Network; Crime Prevention Division, Department of Attorney General and Justice; Electorate Officer for Clover Moore MP; Family Planning Australia; Gay And Married Men's Association; Gay and Lesbian Counselling Service; Gay and Lesbian Rights Lobby; Inner City Legal Centre; Lesbian And Gay Anti-Violence Project; Lesbian and Gay Solidarity, Sydney Park Aids Memorial; Livingstone Lawyers; NSW Police Force; NSW Teachers Federation; Order of Perpetual Indulgence; Positive Life NSW; Public Service Association of NSW; Rainbow Visions Hunter; The Uniting Network; Tropical Fruits; Twenty10 Association; University of NSW.

## SUCCESSFUL CONCILIATION

### Sexual harassment and sex discrimination

A young woman in her first job complained that her employer discriminated against her on the ground of sex and sexually harassed her when he sent her inappropriate messages asking her to send photos of herself to his telephone.

She said that he continually gave her unwarranted attention, constantly staring at her while she worked and watching her intently when she was bending over lifting crates and parcels. He also made comments with sexual connotations, such as 'You're a dirty girl, putting your hands in my drawers' when she retrieved an item from his desk drawer. She said that because of this behaviour she felt she had no option but to resign.

The employer denied the allegations and implied that the complaint was vexatious. He said that he had lived with his partner and her daughter for 14 months and had known the complainant outside the working relationship over this period. He said the text messages were intended as a joke, and she left employment of her own accord.

The matter was resolved when the complainant accepted a payment of \$2,500.00 in settlement.

## CONSULTATIONS CONTINUED

### Sex and gender diversity consultation

The consultation met three times during the year. Some issues discussed included:

- The Board writing to the RTA and the police to determine whether gender, previous names and aliases must be included in a police check requested by employers. Members complained that despite repeated assurances that the policies have changed, this isn't always reflected in practice.
  - Passport applications which require a person to give their birth name, naturalised name and so on, although it is possible to get a naturalisation certificate in your current name.
  - Progress of the Federal Bill to include the ground of gender in federal Anti-Discrimination law - the Bill has yet to be introduced to Parliament.
  - The Australian Human Rights Commission's consultation
- 'Protection from discrimination on the basis of sexual orientation and sex and/or gender identity'.
- Transgender policies which have been submitted by a member to the Australian Sex Party. These include changing laws applying to the Registry of Births, Deaths and Marriages so that pre- and non-operative transgender people are allowed to change their gender on their record of birth and have a new birth certificate issued.
  - Lack of protection in anti-discrimination legislation in Australia for intersex people – gender is viewed as either male or female.
  - The issue of legally recognised versus non-recognised transgender people under the NSW Anti-Discrimination Act – recognised people have more rights than non-recognised.
  - Does gender now appear on all court notifications for criminal matters as well as traffic matters and what is the reason for this change of procedure?

**Members of this consultation include:** AIDS Council of NSW; City of Sydney; Crime Prevention Division, Department of Attorney General and Justice; Family Planning NSW; Frankel Lawyers; Gender Centre; Inner City Legal Centre; MOD Films; NSW Police Force; NSW Registry of Births Deaths and Marriages; Sydney Beat Project; University Of Sydney; Women and Girls Emergency Centre.



## ABORIGINAL

Discrimination is a significant issue for Aboriginal and Torres Strait Islander people and communities, and providing appropriate mechanisms for dealing with discrimination complaints assists in redressing this.

The Board's Aboriginal and Torres Strait Islander outreach team provides complaint resolution, education and training services to the Aboriginal and Torres Strait Islander community.

The team has three staff, who deal with requests for information and complaints from Aboriginal and Torres Strait Islanders when appropriate and possible.

They also develop and maintain relationships with other government and non-government agencies and community groups in NSW.

## AND TORRES STRAIT ISLANDER SERVICE

### Complaint handling

In 2010-11 the Board received 79 complaints of discrimination from Aboriginal and Torres Strait Islander people, which is similar to the number of complaints received in 2009-10.

From its discussions with people in the community, the team is aware that there are likely to be more incidents of discrimination than those that become formal complaints. The Board monitors this issue and develops strategies to address it in consultation with its Advisory Committee.

The most common ground of complaint from Aboriginal and Torres Strait Islander people was race discrimination, with 50 complaints received. This represents 63.3% of all complaints received from Aboriginal

and Torres Strait Islander people in 2010-11.

The most frequent area of complaint in 2010-11 was employment, with 40 complaints (50.6%), followed by goods and services with 22 complaints (27.8%).

Complaints from Aboriginal and Torres Strait Islander people represented 5.93% of all complaints received by the Board in 2010-11, where as Aboriginal and Torres Strait Islander people constitute 2.1% of the total NSW population.

Statistics for the processing and outcomes of complaints from Aboriginal and Torres Strait Islander people are included in the general figures for the Conciliation service on page 15.

### Aboriginal and Torres Strait Islander complaints 2010-11

	Emp & Servs	Goods	Accom	Educ	Clubs	Racial vil	Other	Total	%
Race	24	17	4	1	3	0	1	50	63.3
Victimisation	8	2	0	0	0	0	0	10	12.6
Age	2	2	0	0	0	0	0	4	5.1
Sex	3	0	0	0	0	0	0	3	3.8
Disability	2	0	0	0	0	0	0	2	2.5
Marital/domestic status	0	0	1	0	0	0	0	1	1.3
Carer's resp	1	0	0	0	0	0	0	1	1.3
Racial vilification	0	0	0	0	0	7	0	7	8.9
Outside jurisdiction	0	1	0	0	0	0	2	1	1.3
<b>Total</b>	<b>40</b>	<b>22</b>	<b>5</b>	<b>1</b>	<b>3</b>	<b>7</b>	<b>1</b>	<b>79</b>	<b>100</b>

*There were no complaints received from Aboriginal and Torres Strait Islander people on the grounds of homosexual or transgender discrimination, or homosexual, HIV/AIDS or transgender vilification.*

## ABORIGINAL AND TORRES STRAIT ISLANDER SERVICE CONTINUED



*Participants and Good Service Mob trainers at the Guyra Local Aboriginal Land Council.*

### **Education and training**

In 2010-11 the Aboriginal and Torres Strait Islander team continued to provide an education program to raise the awareness of Aboriginal and Torres Strait Islander people and communities about their rights and responsibilities under NSW anti-discrimination law.

### **Good Service Mob forums**

The *Good Service – servicing your community* forums provide information about consumer issues for Aboriginal and Torres Strait Islanders.

These forums are a joint initiative between the Board and the NSW Energy and Water Ombudsman, NSW Fair Trading, the NSW Ombudsman, the Commonwealth Ombudsman, the NSW Legal Aid Commission, the Financial Ombudsman, the Telecommunications Industry Ombudsman, the Health Care Complaints Commission and the Australian Investment Service Commission.

In 2010-2011 forums were held in Guyra, Nambucca Heads, Muswellbrook, Tamworth, Taree, Karuah, Narrabri, Moree, Glenn Innes and Goodooga.

### **Residential tenancy seminars**

In 2010-11 the outreach team continued to work in partnership with NSW Fair Trading to provide information on rights and responsibilities under anti-discrimination law for real estate agents and private landlords. The real estate agents gain points for their professional development program by attending the seminars.

This year seminars were held in Muswellbrook and Port Macquarie. Other participants included the Consumer, Trader and Tenancy Tribunal and Centrelink.

## Outreach program

The team also undertakes outreach work to provide information about rights and responsibilities under anti-discrimination law. In 2010-11 team members and other staff attended information stalls at the following events:

- NAIDOC Week – Parramatta, Riverstone, Villawood, Campbelltown, Emerton and Bankstown;
- South Windsor Outreach;
- Job Market, Mt Druiitt;
- Parramatta Centrelink Jobs Expo;
- Wilcannia Outreach;
- Community Forum Talk, South Penrith Youth and Neighbourhood Services;
- Family Fun Day, Dubbo;
- Riverstone Outreach;
- Emerton Leisure Centre;

*Manager, Enquiries and Conciliation Elizabeth Wing (left) cuts the cake with Advisory Committee member Colleen Starkis at the Board's Reconciliation Day celebration in June 2011.*



*The Board's Aboriginal and Torres Strait Islander outreach team.*

- Access to Healthy Living Expo;
- Koori Yarn Up – Richmond, Mt Druiitt, Ropes Creek and Cranebrook;
- Yabun Festival;
- Sydney Homeless Connect.
- NAISDA Dance College students;
- Department of Aboriginal Affairs Two Ways Together, Toronto.

Other outreach activities included:

The Outreach team also provided training/talks at the following venues:

- Murru Mittagarr, Cranebrook;
- Bourke Aboriginal Health Service;

- attending Aboriginal Interagency Network Meetings at Ropes Creek, Liverpool and Gosford;
- being involved in trader walks with NSW Fair Trading at Fairfield.

## Aboriginal and Torres Strait Islander Advisory Committee

The Board's Aboriginal and Torres Strait Islander Advisory Committee meets quarterly to discuss discrimination issues affecting Aboriginal and Torres Strait Islander people. This enables the Board to be aware of issues that may affect the communities in NSW, and to discuss suggestions on how the Board may best provide services to Aboriginal and Torres Strait Islander people.

Issues discussed in 2010-11 include:

- life expectancy and equitable access to superannuation;
- recognition of Aboriginal English as a Community Language;
- race discrimination in employment and accommodation;
- racial harassment and bullying in schools, including cyber bullying;
- continuing removal of children from their families.

**Members of the committee include:** National Bank of Australia, NSW Department of Sport and Recreation, Australian Bureau of Statistics, NSW Fair Trading, NSW Department of Attorney General and Justice, NSW Police, NSW Ombudsman's Office, Department of Corrective Services, NSW Industrial Relations, and community members representing Sydney, Central Coast and rural NSW.

# WOLLONGONG OFFICE



## Complaints

In 2010–11, the Wollongong office received 245 complaints. This is an increase of 16 % (34 complaints) over 2009-10.

The most common ground of complaint was sex discrimination (including sexual harassment), at 29% of total complaints, followed by with disability discrimination at 20%. Complaints of victimisation and aiding and abetting discrimination increased compared to previous years at 18%.

As in previous years, the most common areas of complaint were employment (78%) and provision of goods and services (13%). The proportion of employment complaints increased from 64% in 2009–10 to 78% in 2010–11, and the proportion of goods and services complaints decreased by 10%.

## Complaints finalised

The Wollongong office finalised 233 complaints in 2010–11, which is an increase of almost 9% over 2009-10

(214 complaints). Of the total complaints accepted for investigation 61 (26%) were settled, and of these 75% were settled by formal conciliation.

The number of complaints accepted for investigation but subsequently not pursued by complainants increased from 44 in 2009-10 to 90 in 2010-11. However the 2010-11 figures were similar to those in 2008-09.

The breakdown of finalised complaints was as follows:

- 61 (26%) were settled;
- 44 (18.9%) were declined because they were not covered by the Anti-Discrimination Act or were lodged late;
- 12 (5%) were declined after investigation;
- 12 (5%) were referred to the Administrative Decisions Tribunal (ADT) after being declined;
- 14 (6%) were referred to the ADT because they could not be conciliated;
- 90 (38%) were abandoned or withdrawn.

## Education service

The part-time Senior Workplace Relations Consultant working from the Wollongong office provides education services to south-eastern NSW.

In 2010-11 on-site workplace training was delivered to six client organisations. One was in the public sector, four were in the private sector and one was in the community sector. The organisations covered education, industry, hospitality and land development.

Ten workplace training sessions were delivered, reaching 119 participants. The sessions received a 100% satisfaction rating, with all participants rating the training as 'good', 'very good' or 'excellent'.

The Wollongong consultant also developed and presented a new seminar for the Sydney seminar program, entitled Policy development, and this was extremely well received. A major policy review was also completed for a Sydney company.

The total income from workplace training in 2010-11 was \$10,856. Many potential client organisations indicated that the poor financial climate affected their ability to purchase training.

A number of initiatives were used to try to attract more training requests. These included: EEO Network meetings in the Illawarra and Albury; two free public information sessions in Albury and Wagga Wagga; information sessions for the Vietnamese community; and an information booth at the Illawarra Business Chamber's Business Expo in Wollongong. General surveys and mail-outs were also conducted.



# NEWCASTLE OFFICE

## Complaints

In 2010-11 the Newcastle Regional Office received 221 complaints, which is an increase of 22.1% (40 complaints) over 2009-10.

As in 2009-10, the most common grounds of complaint lodged were disability discrimination (25.3%), sex discrimination (including pregnancy and sexual harassment) (24.9%) and race discrimination (11.8%).

As in previous years, the most common areas of complaint were employment (64.3%) and provision of goods and services (22.2%).

## Complaints finalised

In 2010-11 the Newcastle Regional Office finalised 185 complaints, which is a decrease of 11.5% (24 complaints) compared with 2009-10. However this was achieved despite operating with a shortage of one conciliation staff member throughout the year.

Of the complaints formally accepted for investigation, 59 (32%) were settled by agreement.

The breakdown of finalised complaints was as follows:

- 59 (32%) were settled;
- 42 (23%) were declined because they were not covered by the Anti-Discrimination Act or were lodged late;
- 8 (4%) were declined after investigation;
- 35 (19%) were referred to the Administrative Decisions Tribunal because they could not be conciliated;
- 41 (22%) were terminated because they were abandoned or withdrawn.



## Education service

The Board's workplace education service has been expanding in Newcastle and northern NSW in the last five years, despite recent turnover in education staff.

In 2010-11 the Newcastle office delivered 53 training sessions to 17 organisations, reaching a total of around 763 participants in Newcastle and northern NSW. Most of these were full day programs, and the most popular sessions were the ones for managers and supervisors.

As in previous years, the main clients for training were from heavy industry and from government or government-funded bodies. We have received particularly strong demand from local councils, which is continuing into 2011-12.

In 2010-2011 Newcastle staff ran a series of public seminars, as well as providing the usual in-house training for individual organisations. Eight seminars were conducted in September 2010 and April 2011. All were well attended by participants from Newcastle and surrounding areas.

The Hunter's EEO/HR networking meetings continued in 2010-2011, with four meetings held. Membership has continued to grow, with representation from across private and public sector industries.

The significant marketing effort to encourage employers to book in-house training, public seminars and join the EEO/HR network continued in 2010-2011 and has provided encouraging results. This will continue in 2011-2012, with a large number of bookings already taken for the latter half of 2011.

# LEGAL OFFICER

The role of the Board's Legal Officer is to ensure that the *Anti-Discrimination Act 1977 (NSW)* (ADA) and related law is correctly understood, interpreted and administered by all stakeholders.

To achieve this, the Legal Officer's main activities are as follows:

- advising to the Attorney General, the President of the Board, Statutory Board members and Board staff in relation to the ADA;
- briefing counsel and external legal advisers for advice on more complex matters;
- advising potential applicants for exemptions from the ADA;
- providing advice and recommendations to the Statutory Board on applications for exemptions;
- reviewing compliance reports where these have been required under exemption orders;
- preparing responses to requests for comment on relevant areas of policy and law reform;
- advising local councils that are proposing Alcohol-Free Zones;
- advising the President and Board staff on obligations under the Government Information (Open Access) Act;
- administering copyright in relation to requests to use information published by the Board.
- reviewing and advising on internal Board policies;
- assisting in drafting speeches given by the President;
- managing litigation to which the President and the Board are parties.

## Exemptions in 2010-11

The Board received 24 applications for exemptions in 2010-11, of which three were later withdrawn. The Board provided advice to the Attorney General in relation to three applications. The President and Board considered the remaining 18 applications and all were granted.

Most exemption applications concerned the employment and training of women and Aboriginal and Torres Strait Islander people. This was generally as part of affirmative action programs, or to provide specific services such as services for women affected by domestic violence.

The Board also received and reviewed six compliance reports in relation to exemption orders. See pages 36-37 for a list of exemptions granted this year, and the Board's website for a list of all current exemptions.

## Auto and General case

The Administrative Decisions Tribunal (ADT) handed down an important decision in September 2010 in relation to an exemption application from Auto and General Insurance.

Based on actuarial data, Auto and General wanted to offer lower car insurance premiums to people who were cohabiting, married or single, and higher premiums to people who were separated, divorced or widowed. The company had already been granted a similar exemption in Queensland.

There is an exception in the ADA which allows insurers to discriminate on the grounds of age, sex and disability if there is actuarial evidence showing a differential risk, but no other grounds.



The President rejected the application on the grounds that there was no basis to approve it under the ADA. It did not address past or present discrimination, and it did not promote the objects of the Act. Also, the fact that discrimination on the basis of marital status was not included in the exceptions for insurance shows that the intention was to deliberately prohibit it.

Auto and General appealed to the ADT, but the decision was upheld. The Tribunal found that the proposed exemption would not promote the objects of the act and would in fact have a negative effect on people who were separated.

## Requests for comment

In 2010-11 the Board provided 18 responses to requests for comment on relevant areas of policy and law reform. Some of the issues covered included: young people with cognitive impairment in the criminal justice system, constitutional recognition of the first Australians; the draft Shape of the Australian Curriculum and support for victims of crime.

## Briefing external advisors

The Board briefed external legal advisors in eight matters in 2010-11. The Board also briefed external solicitors and Senior Counsel who acted for the Board in the Auto and General case discussed earlier.



# LIAISON AND SUPPORT

The main objective of the Liaison and Support Branch is to provide high quality, responsive support services including reception, finance, human resources, information technology, asset management and administration.

This is achieved with a mix of in-house systems and procedures that complement corporate services provided by the Department of Attorney General and Justice.

## Administrative services

The Liaison and Support team has been continuing to assess internal procedures to improve consistency and optimise the time that education, enquiries and conciliation staff have available to work on core business. This has included developing an in-house database to manage procedures such as travel, invoicing, recruitment, petty cash, task management, assets, projects, committees and meetings.

## Human resources

The branch continued to provide administrative support for recruiting staff and updated position descriptions as required. Fourteen formal recruitment and three expression of interest processes were completed in 2010-11. Staff training and development was monitored and recorded to complement the Department's Performance Planning and Development system.

## Occupational health and safety

The OH&S Committee held two meetings in 2010-11 to monitor and address risks to safety and welfare. New committee members completed training for the role. The Board also has four First Aid Officers.

Significant OH&S issues dealt with during the year were:

- strong fumes in the Sydney office during two days, which meant that some staff had to go home;
- the risk to pedestrians crossing the driveway of the Sydney building due to poor visibility for cars emerging from the underground carpark – a

request to building management resulted in installation of a mirror;

- consultants were employed to perform assessments for education staff to address ergonomic issues in their work, at a total cost of \$3,000;
- assessment and purchase of collapsible trolleys to transport training materials and equipment

## Information technology

The main activities in 2010-11 were:

- maintaining the Board's computer network and hardware requirements;
- purchasing new digital projectors for training presentations;
- liaising with the Department of Attorney General and Justice's Communications Unit re the project to change the website content management system to Netcat;
- reviewing the telephone system and gaining funding from the Department to replace ageing equipment.



# SERVICE REPORTS

## Multicultural services

- We have a multilingual poster in 12 languages, postcards in five languages, and a brochure with information in 14 languages.
- We have an easy English factsheet specifically for people from culturally and linguistically diverse (CALD) communities, and specific factsheets on race discrimination and racial vilification.
- All our services use interpreters when needed, and the reverse of the Board's letterhead has a message in 21 languages about the Telephone Interpreter Service.
- Complaints can be made in any language and we will have it translated free of charge. This is explained in 23 languages in an attachment to the complaint form.
- We provide assistance for people who are unable to write their complaint themselves.
- The Conciliation Service uses standard letters in plain English when writing to the parties to a complaint.
- Our training sessions reached almost 9,000 participants, including people from a wide range of CALD backgrounds.
- Around 2,000 people attended our community education stalls, seminars and talks, including many people from CALD backgrounds. In 2010-11 this included the Sudanese, Congolese, Swahili speaking, Nepalese, Bhutanese and Vietnamese communities, as well as ongoing work with Aboriginal and Torres Strait Islander communities.
- For information on cultural diversity among the Board's staff, please see page 8.

## Disability services

- We seek guidance from the Department of Attorney General and Justice's Diversity Services Unit and follow its policies as appropriate.
- Our website includes information on how people with a disability can access our services and how we will work with them.
- All our offices have a hearing loop and TTY facilities.
- All our offices are wheelchair accessible.
- We assist clients with any special needs as required, such as providing parking, escorting people from the building's foyer to the office, assisting people to write complaints and picking up documents for people who are unable to post them.
- Interpreters, advocates and support people can be involved in the Board's processes at the client's request.
- Clients can submit complaints by email, and in formats such as Braille, audio or video, or in Auslan. Where necessary, we will have them transcribed free of charge.
- The Conciliation service uses standard letters in plain English when writing to the parties of a complaint.
- We provide documents in accessible formats as needed for clients with vision impairment or other disabilities.
- All our free information is available in text format on our website and can be read using a screen reader. Clients can request material in other formats as required.
- We have two publications providing simple information specifically for people with an intellectual disability.

## Service complaints

The Liaison and Support branch handled service complaints in accordance with the policy and procedures of the Department of Attorney General and Justice.

In 2010-11 we received 19 complaints. Of these, 12 related to service and seven to policy or procedures. This is a good result in view of our delivery of direct services to over 16,000 individuals during the year, plus many more at stalls and information days.

As a result of one complaint in 2010-11, the Board implemented a number of changes:

- Board staff received training on the requirements of the *Government Information (Public Access) Act 2009* (GIPAA);
- the Board developed a new procedure to deal with GIPAA-related matters;
- publications available under open release were added to the Board's website;
- the Board's privacy management plan was updated and staff received training on its requirements.

# FINANCIAL STATEMENT

## Total operations

The net cost of services provided by the Board in 2010-11 was \$3,764,410. Against a budget of \$3,757,604, this was an overspend of \$6,806 (0.18%).

Overall budget control was achieved by keeping several positions vacant during the year. With demand for all our services remaining consistent, there has been a minor negative impact on some performance indicators.

The Board's full financial figures are included in the published consolidated accounts of the Department of Attorney General and Justice.

## Workplace education

As the workplace education service charges fees to customers, it is costed separately within the overall budget of the Board.

Demand for workplace education continued at a steady pace in 2010-11, despite anti-discrimination training being a discretionary spending item in difficult economic times. This reflects the value that customers place on our service.

*See pages 18-19 for more information about workplace education.*

## Total operations 2010-11 (includes workplace education)

	Actual	Budget	Variance
<b>Revenue</b>			
User charges	-107,626	-122,598	-14,972
Other revenue*	-550,091	-510,397	39,694
<b>TOTAL REVENUE</b>	<b>-657,717</b>	<b>-632,995</b>	<b>24,722</b>
<b>Expenses</b>			
Employee-related payments	3,442,839	3,299,013	-143,826
Other operating	895,143	972,346	32,203
Maintenance	811	30,132	29,321
Depreciation	83,489	134,108	50,619
<b>TOTAL EXPENDITURE</b>	<b>4,422,282</b>	<b>4,390,599</b>	<b>-31,683</b>
Net value of disposed assets	-155		155
<b>NET COST OF SERVICES</b>	<b>3,764,410</b>	<b>3,757,604</b>	<b>-6,806</b>

## Workplace education program 2010-11

	Actual	Budget	Variance
<b>Revenue</b>			
User charges #	-107,626	-122,598	-14,972
Other revenue *	-547,977	-510,398	37,579
<b>TOTAL REVENUE</b>	<b>-655,603</b>	<b>-632,996</b>	<b>22,607</b>
<b>Expenses</b>			
Employee-related payments	578,299	415,360	-162,939
Other operating	112,792	159,707	46,915
Maintenance	24	441	417
Depreciation	4,337	0	-4,337
<b>TOTAL EXPENDITURE</b>	<b>695,452</b>	<b>575,508</b>	<b>-119,944</b>
<b>NET COST OF SERVICES</b>	<b>39,849</b>	<b>-57,488</b>	<b>-97,337</b>

# includes seminars and sale of publications

\* includes training sessions

*The expenditure figures above include a share of the Board's management and support services salary costs, office rental, telephone and other operating costs. It also includes the cost of time the Senior Workplace Relations Consultants spend on community education and information activities which do not contribute to revenue.*

# EXEMPTIONS GRANTED 2010-11

The President and the Attorney General can grant exemptions from the *Anti-Discrimination Act 1977* (NSW) (ADA) to permit discrimination in relation to specific jobs, programs or services. There are two sections of the ADA under which exemptions are granted: sections 126 and 126A.

**S 126 exemptions** generally relate to employment opportunities for people who have previously been disadvantaged or discriminated against on one of the grounds covered by the ADA (such as an Affirmative Action program for women).

**S 126A exemptions** are for programs or activities to improve opportunities for people covered by the ADA, or to meet the special needs of some groups covered by the ADA (such as a support group for single fathers).

## Section 126 exemptions 2010-11

<i>Applicant</i>	<i>Program</i>	<i>Sections</i>	<i>Date</i>	<i>Expiry</i>
Australian Institute of Company Directors	To designate, advertise and recruit women for the Australian Institute of Company Directors ASX 200 Chairmen's Program	31A, 33, 51, 53	18.2.2011 (3 years)	17.2.2014
Australian Institute of Company Directors	To provide 70 scholarships and membership services to women only as part of its Board Diversity Scholarship Program	33, 51, 52, 53	8.10.2010 (1 year)	7.10.2011
Bowraville Community Pre-School	To designate, advertise and recruit an Aboriginal Trainee Childcare Worker	8, 51, 52	21.4.2011 (2 years)	20.4.2013
Jerry Bailey Children's Centre	To designate, advertise and recruit for an Aboriginal Trainee Childcare Worker	8, 51, 52, 53	5.7.2010 (5 years)	4.7.2015
Lockheed Martin Australia	Includes: to enable the applicant to ask present and future employees and contractors to declare, to the best of their knowledge and belief, their (i) exact citizenship (including any dual citizenship) and/or (ii) their place of birth; to identify employees accordingly, require employees to advise the employer of any change in that status, and make decisions about recruiting and deploying employees on that basis. Conditions attached – for full details contact the Anti-Discrimination Board	8, 10, 51, 52	27.1.2011	31.12.2011
Medibank Health Solutions TeleHealth	To designate, advertise and recruit male nurses for the healthdirect Australia telephone triage, advice and referral program	8, 51, 52	21.4.2011 (2 years)	20.4.2013
Mental Health Coordinating Council	To designate and recruit for an Aboriginal trainer and assessor	8, 51, 52, 53	30.8.2010 (3 years)	29.8.2013
NSW Consumer Advisory Group – Mental Health	To designate, advertise and recruit for the following position: Research assistants, who are self-identified as having the experience of a mental illness	49A, 49B, 49C, 49D, 51, 53	25.1.2011 (10 years)	24.1.2021
NSW Consumer Advisory Group – Mental Health	To designate, advertise and recruit Consumer Workers who are self-identified as having experience of a mental illness	49A, 49B, 49C, 49D, 51, 53	21.4.2011 (10 years)	20.4.2021
NSW Federation of Housing Associations	To designate and recruit for an Aboriginal Trainee Administrative Assistant and an Aboriginal Registration Support Coordinator	8, 51, 52, 53	21.7.2010 (five years)	20.7.2015

### Section 126 exemptions 2010-11 *continued*

<i>Applicant</i>	<i>Program</i>	<i>Sections</i>	<i>Date</i>	<i>Expiry</i>
NSW Police Force	To designate, advertise and recruit for positions for Aboriginal employment generally, as well as specifically for Aboriginal females (as required), as well as provide internal and external training and development opportunities for existing Aboriginal employees	8, 51, 53	16.6.2011 (1 year)	15.6.2012
Shellharbour City Council	To designate, advertise and recruit for a trainee in Horticulture/Bush Regeneration for a person of Aboriginal or Torres Strait Islander descent	8, 51, 52, 53	8.10.2010 (5 years)	7.10.2015
Transfield Services (Australia)	To designate and recruit for Aboriginal and Torres Strait Islander trainees in the following positions: Administration trainee (one position per year); Fabrication apprentices (three positions within every two-year period; Graduate engineer (one position every two years)	8, 51, 52, 53	11.11.2010 (5 years)	10.11.2015
Trivett Classic	To designate and recruit for female sales consultants and female service advisors. Condition attached – for full details contact the ADB	25, 51, 52, 53	16.8.2010 (two years)	15.8.2012
Wollongong City Council and The Hunter Valley Training Company*	To designate, advertise and recruit for Aboriginal or Torres Strait Islander cadets, apprentices and trainees * Variation: Added The Hunter Valley Company Ltd to the existing exemption order	8, 51, 52, 53	20.1.2011 (5 years from original order on 31.3.2010)	30.3.2015
Women's Domestic Violence Court Advocacy Service Network.	To designate, advertise and recruit women for the following position: Executive Officer	25, 51, 53	25.1.2011 (3 years)	24.1.2014
Women's Housing Company	To allow positions on its Board to be held by women only, and to advertise and recruit for such positions.	25, 51, 53	31.5.2010 (3 years)	30.5.2013
Youth Connections North Coast	To designate, advertise and recruit an Aboriginal or Torres Strait Islander female a Project Coordinator for its S.O.A.R Program	8, 25, 51, 52, 53	8.10.2010 (1 year)	7.10.2011

### Section 126A exemptions 2010-11

<i>Organisation</i>	<i>Special needs program or activity</i>	<i>Exemption period</i>
Boxing Bootcamp	To run women only boxing-fitness bootcamp classes	8.3.2011 to 7.3.2021 (10 years)
Hawkesbury Nepean Community Legal Centre	To run workshops on the Family Law Act and Family Dispute Resolution for women only	Granted 28.10.2010 Expires 30.6.2013
Shoalcoast Community Legal Centre	To provide legal and support service to Aboriginal women in family law and care and protection proceedings; and legal and support services to women in matters related to domestic violence and criminal assault matters	7.1.2011 to 6.1.2021 (10 years)

# 34 YEARS OF ANTI-DISCRIMINATION LAW

## 1976

- Original bill for Anti-Discrimination Act introduced into NSW Parliament.

## 1977

- *Anti-Discrimination Act 1977 (NSW)* (ADA) makes it unlawful to discriminate on the grounds of sex, race and marital status in the areas of employment, accommodation, goods and services and education (race only).
- Anti-Discrimination Board (ADB) established.

## 1980

- Office of the Director of Equal Opportunity in Public Employment (ODEOPE) established.
- Sex and marital status discrimination made unlawful in the area of education.

## 1981

- Physical disability included as ground of complaint.
- Registered clubs added to list of areas in which discrimination is unlawful.
- Equal Opportunity Tribunal established.

## 1982

- Homosexuality and intellectual impairment added as grounds for complaint.
- Maximum amount of compensation increased from \$20,000 to \$40,000.
- Becomes unlawful to publish advertisements indicating an intention to discriminate unlawfully.

## 1989

- Racial vilification made unlawful.

## 1991

- Compulsory retirement made unlawful for some occupations.

## 1993

- Compulsory retirement provisions extended to most public and private sector employees.

## 1994

- Age discrimination made unlawful.
- Discrimination because of the sex, race, marital status, and homosexuality of an associate made unlawful.
- "Disability" replaces "physical and intellectual impairment".
- HIV/AIDs vilification made unlawful.
- Maximum penalty for serious racial vilification increased.
- Definition of race extended to include "ethno-religion" and "descent".
- Discrimination on the basis of a "genuine occupational qualification" allowed for the ground of sex.
- Marital status discrimination extended to cover goods and services.
- Act extended to cover industrial awards and agreements.
- Ministers enabled to grant exemptions for special needs programs.

## 1996

- Discrimination and vilification on the ground of transgender status made unlawful.

## 1997

- Sexual harassment made unlawful.
- Liability of employers limited if they took "all reasonable steps" to prevent contravention of the Act.

## 2001

- Discrimination on the ground of carer's responsibilities made unlawful in employment, and carers entitled to "reasonable accommodations".

## 2005

- Time limit for complaints extended from six months to twelve months.
- ADB President given new powers to decline complaints.

## 2007

- Discrimination on the ground of breastfeeding specifically made unlawful.

## 2009

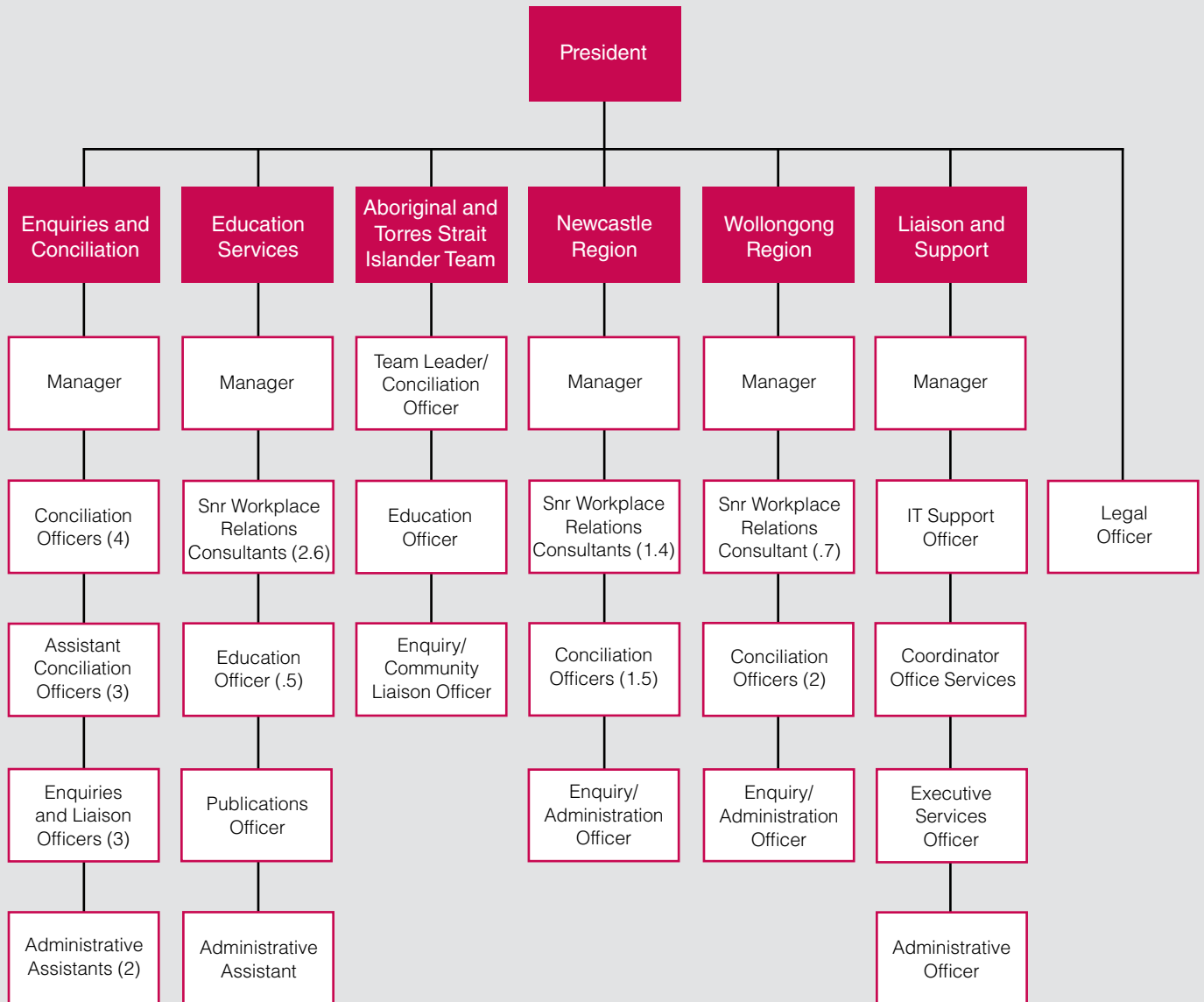
- Maximum amount of compensation increased from \$40,000 to \$100,000.
- Definition of marital status extended to include "domestic status" and definition of defacto broadened, thus covering same-sex relationships.
- Power to grant exemptions to ADA transferred from Attorney General to ADB President.

## 2010

- Complaints can be lodged by email.



# STRUCTURE OF THE BOARD



## Note

The Board also employs a casual trainer as required to cover demand for the Board's training services.

# ANTI-DISCRIMINATION BOARD OF NSW

[www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb)

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