

Anti-Discrimination Board of NSW

# ANNUAL REPORT

2011-12



20 October 2012

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 2011 to 30 June 2012.

Yours sincerely

Stepan Kerkyasharian AO  
President

## Anti-Discrimination Board of NSW

# Annual report 2011-12

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# Highlights



Delivered 399 in-house training sessions for employers and service providers and ran 20 seminars, with a total of 6,427 participants.



Visited Wilcannia to discuss community concerns about discrimination.



Participated in Gay and Lesbian Mardi Gras parade and Fair Day.



Answered 4,553 enquiries from the general public and from employers and service providers.



Received 1,243 complaints and finalised 1,396 complaints.



Provided advice on 23 applications for exemption from the *Anti-Discrimination Act 1977 (NSW)*.



Ran photography and story competition about diversity for school children.



## President's report

The main activities of Anti-Discrimination Board of NSW in 2011-12 reflect our statutory functions 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 extensive website. The Department of Attorney General and Justice (DAGJ) has recently adopted a new content management system which will allow a more accessible structure. In 2011-12 Education Services staff have been working to convert the Board's site to the new system, developing a new structure and revising the existing material in the process.

Other people contact our Enquiry Service, which still receives thousands of enquiries each year. Our Enquiry Officers are respected for their strong expertise in both anti-discrimination law and in dealing with callers who may be distressed because of their situation.

The number of complaints we receive has remained fairly constant for the last nine years, although there has been a slight decrease from 2010-11 (which had been a 14% increase from 2009-10). In 2011-12 we received 1,243 complaints, with disability discrimination, race discrimination and victimisation the most frequent grounds.

In response to research requests and public interest in the subject, this year we have separated sexual harassment complaints from sex discrimination complaints in our reporting. This reveals that we receive around the

same number of sexual harassment complaints as all other complaints of sex discrimination. It is also alarming to note that almost all the sexual harassment complaints we received relate to the workplace.

Despite continuing staff pressures, the conciliation team continues to achieve excellent results, with an average time of 5.9 months taken to finalise complaints, and 92.5% finalised within twelve months. Both these figures are improvements on last year.

The Board's Education Service has continued its workplace training program in 2011-12. Demand for the fee-paying service has weakened since the global financial crisis, but the program still brought in a total of \$508,597, including publication sales. The fact that this was achieved despite a very limited marketing budget demonstrates the excellent reputation of our training team.

Community education is another important aspect of the Board's work. This year we worked with groups including homeless people, the Greek, Sudanese, Bhutanese, Nepalese and Tamil 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 a photography and story competition about people from diverse backgrounds. As well as raising awareness, the competition generated some fascinating stories.

A significant project for the publications team was a new edition of our Guidelines for Local Councils. This combined two previous publications

and was produced in conjunction with the Division of Local Government, Department of Premier and Cabinet. This is particularly pertinent as local councils are regular users of our training service and frequent applicants for exemptions from the *Anti-Discrimination Act 1977 (NSW)* (ADA).

Our Aboriginal and Torres Strait Islander team also continued its activities in 2011-12. 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.

Accompanied by members of the Aboriginal and Torres Strait Islander team, I undertook a trip to Wilcannia in June 2012. The trip was suggested after discrimination issues in the area were raised by community members during a previous visit by Board staff. This was an excellent opportunity to

discuss concerns and meet with local officials, which will hopefully foster better relations in the community.

Another major activity this year was the Board's participation in the Gay and Lesbian Mardi Gras, for the second year running after a break of ten years. I was delighted to be able to march under the Board's colourful banner, joining other staff from the Board and DAGJ to take this great opportunity to raise awareness about our services.

Our Legal Officers, Jackie Lyne and Margaret Fahy, continue to advise the statutory Board members on applications for exemptions from the ADA, as well as dealing with other legal matters. We continue to receive significant numbers of these applications, and some raise complex legal issues, so I am very appreciative of their assistance.

All this has been achieved in a context of considerable pressure on the Board's budget and resources.

However, due to budget constraints there has been a significant impact on our ability to deliver on our statutory functions to conduct inquiries, review legislation and develop human rights policies and programs.

Thanks to all the Board's staff, including our Liaison and Support team who facilitate the core work of the Board, and to the members of our advisory committees who provide valuable input on issues of concern in the community.

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**  
**Anti-Discrimination Board of NSW**

*Photo: Board staff with guests at a celebration for International Women's Day in March 2012.*





# 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.**

**The Board's 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 currently performs 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 10 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 2011-12 was Elizabeth Wing *LLB, EMPA*.
- **Education Services Branch**  
– oversees the Board's provision of training, community education, information, publication and website services. The Manager in 2011-12 was Sharmalee Elkerbout *MA, MBA (equivalent), CertIV Workplace Training and Assessment*.
- **Liaison and Support Branch**  
– provides support services such as administration, logistics, financial control and information technology. The Manager in 2011-12 was 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 2011-12 was Felicity Huntington.

The Board has regional offices in Newcastle and Wollongong that provide services to Northern and Southern NSW. The acting Newcastle Manager in 2011-12 was Steven Lord *DipGov, DipCommServ*, 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.



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

## Staff profile

The Board has 37.1 full time equivalent positions, of which 28.6 are located in Sydney and 8.5 in the two regional offices. At 30 June 2012 the Board employed 41 people (39 employees and 2 contractors), 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 39 employees at 30 June, 33 (85%) were permanent employees, 1 (2%) was a permanent employee in a temporary appointment, and 5 (13%) were temporary appointees.
- **Turnover:** 3 staff members left the Board permanently during 2011-12.
- **Tenure:** 12 staff have been with the

Board for 15 or more years (31%), 4 for 10-14 years (10%), 11 for 5-9 years (28%), 3 for 3-4 years (8%), and 9 for less than 3 years (23%).

- **Gender:** 7 staff were male (18%), and 32 were female (82%).
- **Diversity:** 26% of staff identify English as their second language, 9% identify as Aboriginal and Torres Strait Islanders, 35% are from culturally and linguistically diverse backgrounds, and 18% identify as having a disability.

## Training and development

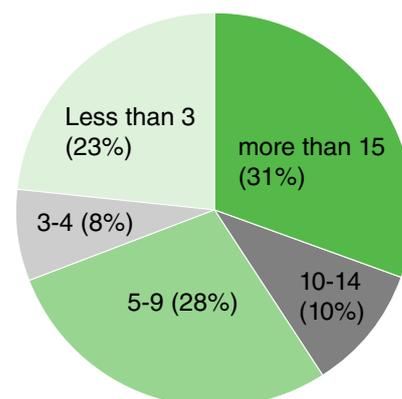
The Board encourages a high level of participation in training and development, in accordance with the policy of the Department of Attorney General and Justice (DAGJ).

All staff engaged in some form of training or development during the year, involving a total of 150 days. Training undertaken this year included:

- DAGJ human resources systems;
- corruption awareness;
- first aid;
- financial management;
- effective team communication;
- preventing and managing grievances;
- disability awareness;
- networking;
- dignity and respect;
- negotiation and conflict resolution;
- occupational health and safety committee training;
- risk and injury management;
- legal seminars;
- public interest disclosure obligations; 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.

**Staff tenure (years)**





# Anti-discrimination law in NSW

**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, or because you think they are homosexual, transgender or have a disability, even if it isn't the case. Sexual harassment is also against the law.

## 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 36-38.

## Making a complaint

If a person thinks they have been discriminated against or harassed, 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 or appropriate 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 by post or email, describing what has happened and why the person thinks it was 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 and does not have the power to impose a settlement if the parties do not agree. If the parties do reach agreement, they often sign a written agreement, which is a legally enforceable document.

Examples of the 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.

# Statutory Board 2011-12



## **Stepan Kerkyasharian AO President**

**Attendance at meetings: 11/12**

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: 12/12**

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: 5/12**

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: 12/12**

Christine is a Senior Policy Officer with the Council of Social Service of NSW (NCOSS), focussing 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, Vice-Chairperson of the NSW Council of Intellectual Disability and Chairperson of local advocacy group Dare to Care. She has three adult children including her daughter Erin, who has Down syndrome.



## **Peter Wertheim AM, BA, LLB, LLM**

**Attendance at meetings: 9/12**

Currently the Executive Director of the Executive Council of Australian Jewry, Peter was appointed to the Australian Multicultural Advisory Council in 2010 and to its successor, the Australian Multicultural Council, in 2011. 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.

*Pictures from top: Stepan Kerkyasharian, Michael Christodoulou, Sigrid Patterson, Christine Regan, Peter Wertheim.*



## Enquiry service

**The Board's Enquiry and Liaison Officers provide an enquiry service to assist two main groups of people: employers and service providers, and members of the general public, including individuals, advocates, community workers and advice workers.**

For general enquiries, the Enquiry and Liaison Officers will:

- provide information about anti-discrimination law;
- if required, determine if the caller's situation is covered by the *Anti-Discrimination Act 1977 (NSW) (ADA)*;
- give advice about how to address the situation; and
- provide information about where else to get help if the problem is not covered by the ADA.

For employers and service providers, the Enquiry and Liaison Officers may give general information and also more specialised advice on how to comply with anti-discrimination law and prevent discrimination and harassment from occurring in their organisation.

The Board's website is now a major source for basic information about anti-discrimination law. However, people still need to consult the enquiry service on more complex matters, and others may prefer personal verbal information.

Many discrimination issues can be resolved at the initial enquiry stage, as the Enquiry and Liaison Officers inform enquirers about their rights and suggest strategies for dealing with their situation. This can prevent the need for a formal complaint, which reduces the number of complaints the Board receives.

### Enquiries in 2011-12

In 2011-12 the enquiry service answered 4,553 enquiries, which is around 21 enquiries per day. This is 19% less than 2010-11, when we answered 5,638 enquiries. The majority of enquiries (4,157 or 91.3%) were from people wanting to discuss individual discrimination issues, and the remainder (396 or 8.7%) were from employers and service providers.

The majority of enquiries (4,246 or 93.3%) were made by phone. 197 were written, mainly by email, and the rest were made by visiting one of our offices or by TTY (telephone typewriter).

As in previous years, women used the general enquiry service more than men. We received 2,133 enquiries from women (46.8% of total calls), 1,867 from men (41%), and 553 (12.1%) from employers, students, teachers and individuals contacting us on behalf of another person or organisation.

The majority of calls (4,008 or 88%) took less than 14 minutes to deal with. This year there was a slight percentage increase in enquiries that took 15-29 minutes to deal with (454 or 10%), and in enquiries that took 30-59 minutes (76 or 1.7%). Enquiries that took an hour or more were only 0.3% of the total.

The majority of enquirers (3,412 or 74.9%) wanted to discuss a situation where discrimination was occurring, as opposed to potential discrimination. Only 1,201 (17.4%) were advised that they could lodge a formal complaint.

### Types of discrimination

Since 2007-08, disability discrimination has been the most common issue enquirers want to discuss. In 2011-12 there were 953 enquiries (19.87%) about disability discrimination, followed by race discrimination (643 enquiries or 13.4%), sex discrimination (320 or 6.67%), age discrimination (245 or 5.11%) and sexual harassment (242 or 5.04%).

Enquiries about sexual harassment were previously grouped with sex discrimination for reporting purposes, but will now be reported separately to reflect the arrangement of the ADA. However, this reduces the number of

## Enquiry service *continued*

enquiries about sex discrimination compared with previous years.

The majority of enquiries (2,371 or 49.43%) continued to be employment-related. The second largest area was the provision of goods and services with 879 enquiries (18.32%).

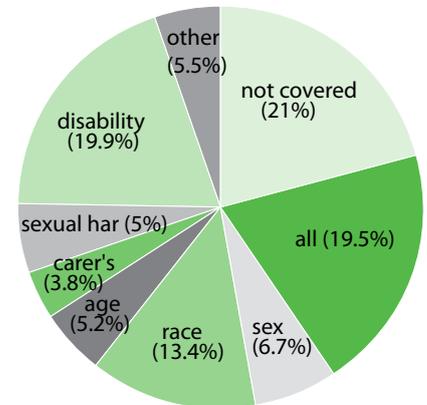
### Problems not covered

Problems that were not covered by the ADA accounted for 1,116 enquiries

(23.3%), with 454 (40.68%) of these relating to employment. The enquiry service was generally able to give the enquirer 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 physical appearance.

**Type of discrimination enquired about**



### Enquiries received by ground and area 2011-12

|                                       | Emp<br>Servs | Gds & Accom | Accom      | Educ       | Clubs      | Qual<br>bodies | Racial<br>vil | Hom<br>vil | HIV<br>vil | Trans<br>vil | All<br>areas | Other      | Total        | %          |
|---------------------------------------|--------------|-------------|------------|------------|------------|----------------|---------------|------------|------------|--------------|--------------|------------|--------------|------------|
| Disability                            | 476          | 284         | 59         | 82         | 9          | 3              | 0             | 0          | 0          | 0            | 12           | 28         | 953          | 19.87      |
| Race                                  | 326          | 191         | 43         | 34         | 5          | 6              | 0             | 0          | 0          | 0            | 14           | 24         | 643          | 13.40      |
| Sex                                   | 251          | 44          | 2          | 6          | 5          | 0              | 0             | 0          | 0          | 0            | 2            | 10         | 320          | 6.67       |
| Age                                   | 148          | 64          | 20         | 4          | 2          | 0              | 0             | 0          | 0          | 0            | 3            | 4          | 245          | 5.17       |
| Sexual harassment                     | 219          | 9           | 1          | 3          | 1          | 0              | 0             | 0          | 0          | 0            | 5            | 4          | 242          | 5.04       |
| Carer's responsibilities              | 176          | 0           | 0          | 0          | 0          | 0              | 0             | 0          | 0          | 0            | 0            | 7          | 183          | 3.81       |
| Homosexuality                         | 50           | 23          | 1          | 4          | 2          | 0              | 0             | 0          | 0          | 0            | 3            | 5          | 88           | 1.83       |
| Victimisation                         | 58           | 8           | 0          | 0          | 0          | 0              | 0             | 0          | 0          | 0            | 0            | 1          | 67           | 1.40       |
| Marital/domestic status               | 22           | 11          | 3          | 2          | 3          | 0              | 0             | 0          | 0          | 0            | 1            | 2          | 44           | 0.92       |
| Racial vilification                   | 0            | 0           | 0          | 0          | 0          | 0              | 31            | 0          | 0          | 0            | 0            | 0          | 31           | 0.65       |
| Transgender                           | 7            | 7           | 1          | 1          | 0          | 0              | 0             | 0          | 0          | 0            | 0            | 2          | 18           | 0.38       |
| Homosexual vilification               | 0            | 0           | 0          | 0          | 0          | 0              | 0             | 11         | 0          | 0            | 0            | 0          | 11           | 0.23       |
| Transgender vilification              | 0            | 0           | 0          | 0          | 0          | 0              | 0             | 0          | 0          | 6            | 0            | 0          | 6            | 0.13       |
| HIV/AIDS vilification                 | 0            | 0           | 0          | 0          | 0          | 0              | 0             | 0          | 3          | 0            | 0            | 0          | 3            | 0.06       |
| Aiding an unlawful act                | 2            | 0           | 0          | 0          | 0          | 0              | 0             | 0          | 0          | 0            | 0            | 0          | 2            | 0.04       |
| Advertisement                         | 0            | 0           | 0          | 0          | 0          | 0              | 0             | 0          | 0          | 0            | 0            | 1          | 1            | 0.02       |
| All grounds                           | 179          | 52          | 14         | 16         | 1          | 2              | 0             | 0          | 0          | 0            | 640          | 34         | 938          | 19.55      |
| Not covered –<br>workplace harassment | 199          | 0           | 0          | 0          | 0          | 0              | 0             | 0          | 0          | 0            | 0            | 0          | 199          | 4.15       |
| Not covered – other                   | 255          | 186         | 46         | 27         | 15         | 1              | 0             | 0          | 0          | 0            | 12           | 258        | 800          | 16.88      |
| <b>Total</b>                          | <b>2731</b>  | <b>879</b>  | <b>190</b> | <b>179</b> | <b>43</b>  | <b>12</b>      | <b>31</b>     | <b>11</b>  | <b>3</b>   | <b>6</b>     | <b>692</b>   | <b>380</b> | <b>4797*</b> | <b>100</b> |
| <b>%</b>                              | <b>49.4</b>  | <b>18.3</b> | <b>4.0</b> | <b>3.7</b> | <b>0.9</b> | <b>0.3</b>     | <b>0.6</b>    | <b>0.2</b> | <b>0.1</b> | <b>0.1</b>   | <b>14.4</b>  | <b>7.9</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.

# What's your job?

Rebecca – Enquiry and Liaison Officer



## **What are the main things you do at the Board?**

I answer enquiries from the public about discrimination problems and whether the Anti-Discrimination Board can help them. Most of the enquiries come by phone, and the rest by email, although those are increasing. I also do the preliminary work when we receive a complaint, contacting the respondent (the person being complained about), writing the first letters and if necessary getting more information.

## **Do you sometimes resolve the complaint at this stage?**

Yes, in some cases. For example, if the respondent expresses regret once they find out about the complaint and the complainant is happy with that and is not seeking financial compensation, then that may be the end of it.

## **What are the main types of enquiries you receive?**

Around Christmas we tend to get many enquiries from women about sexual harassment, which often takes place at their work parties. We also get many calls relating to pregnancy, people being made redundant while they are on maternity leave and so on, carer's responsibilities and disability discrimination.

These days people have generally done their research when they phone. They have looked on our website and understand the basics of the law, so they want specific information about their situation, which can sometimes be quite complicated. So although we get less calls than say ten years ago because people are using the website, the questions may be more complex.

## **How long would you generally talk to each person?**

Most calls range from five to 15 minutes, but in some cases they are longer. For example, it may take a while to find out whether the problem is covered by our legislation, or the caller may have trouble summarising what's happened to them because they are upset. You develop techniques for keeping in control of the call, by actively asking questions where necessary to direct the conversation.

## **What do you like about the job?**

The majority of the calls we receive are covered by our legislation in some way, and I feel good when we can help people. It is particularly fulfilling for me personally when we can take up cases like sex discrimination and sexual harassment as this is the area that I feel very strongly about. I researched sex discrimination for one of my Masters in Law subjects at

the University of NSW. And I feel that globally we still have a long way to go to achieve gender equality.

## **Do the callers get upset while they are talking to you?**

Yes, and you would expect that because most people are quite distressed about their situation, for example they may be afraid that they are going to lose their job, or they have been refused entry to a pub because of their race, or they are having trouble negotiating with their employer about their work hours regarding a disability or a medical condition.

I show sympathy, and I think it's important that we do, but at the same time I try not to act like a counsellor because that is not the Board's role. Sometimes I might ask if they would like me to call them back later when they are in a calmer state.

Sometimes callers might get upset if I tell them that their problem is not covered by our legislation, although we usually make suggestions about other avenues for help at the same time. Some callers may become quite nasty and abusive, and say things like "you guys are no use" and swear at me. Over time I have learnt to remain diplomatic and not to take it personally.

## **Do you need to de-stress after a difficult enquiry?**

I will generally de-brief with another staff member – we have a good chat and they provide me with emotional support. Sometimes Enquiry Officers need to go out for a short walk after a particularly abusive call, and other people are happy to cover for them in that case. I think de-briefing after a difficult call is important for your own emotional health as well as for the next calls you get.



## Conciliation service

**The Board's Enquiries and Conciliation Branch provides a confidential, neutral and free service to the community, operating from the Board's three offices in Sydney, Newcastle and Wollongong.**

**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 pages 8-9.*

### Complaints received

The Board received 1,243 formal complaints of discrimination in 2011-12, with a profile similar to previous years. This is a 6.6% decrease from 2010-11.

As the table at right shows, the most common complaints continue to be on the grounds of disability, sex and race discrimination. Over the last 10 years the proportions of these complaints have remained fairly stable, although prior to this there was a gradual increase in the proportion of disability discrimination complaints and a corresponding decrease in the proportion of race and sex discrimination complaints.

The ground with the highest number of complaints in 2011-12 was disability discrimination with 316 complaints. This was both a numerical increase (8% increase from 2010-11) and an increase in the proportion (24.5% compared with 21.9% in 2010-11).

Sex discrimination complaints, including sexual harassment, formed the next largest category of complaints with 237 complaints (20.3%).

However, the Board has decided to report sexual harassment complaints separately from this year. This decision was made following requests for statistical information on sexual harassment complaints, and the interest shown by the community in cases reported in the media. It appears that there is a growing awareness and concern about the problem.

The separated figures show that the number of sexual harassment complaints is almost equal to the number of all other complaints of sex

discrimination. This year the Board received 116 complaints of sexual harassment, compared with 175 in 2010-11 and 145 in 2009-10.

Alarming, 114 of this year's sexual harassment complaints related to the workplace. This suggests that despite established law and cases, as well as media coverage, many employers still fail to provide employees with a working environment that is safe from inappropriate, unlawful conduct of a sexual nature.

Race discrimination complaints were the third highest category with 214 complaints (17.2%). Racial vilification complaints decreased this year to 15 complaints (1.2%), which is less than the last two years.

Victimisation complaints also featured strongly with 139 complaints (11.2%). This is higher than the separated figures for either sex discrimination or sexual harassment. Victimisation complaints have gradually increased as a proportion of total complaints over the last 20 years.

Consistent with previous years, employment-related complaints continue to be the single largest area of complaint at 649 (52.2%). However this is a decrease in number and percentage from the previous three years.

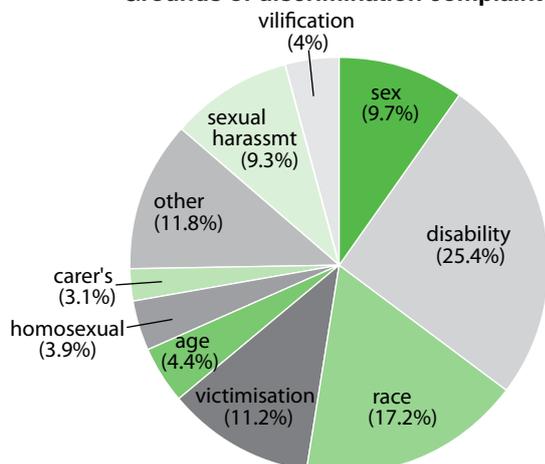
In terms of employment complaints, disability discrimination was the most common ground of complaint (136 complaints). Over 60% of employment complaints were lodged by women, with the majority in private enterprise.

Complaints relating to the provision of goods and services were the second largest area of complaint with 343

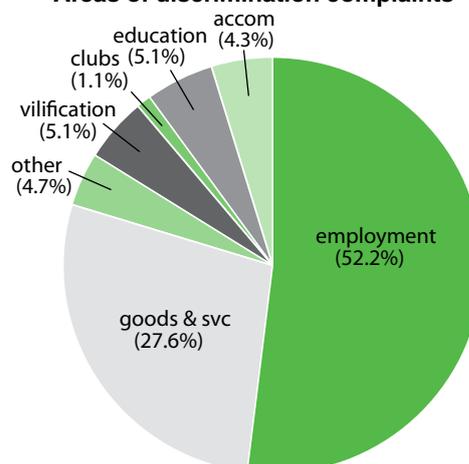
## Complaints received by ground and area 2011-12

|                          | Emp  | Gds & Accom<br>Servs | Educ | Clubs | Qual<br>bodies | Racial<br>vil | Hom<br>vil | HIV<br>vil | Trans<br>vil | Other | Total      | %    |
|--------------------------|------|----------------------|------|-------|----------------|---------------|------------|------------|--------------|-------|------------|------|
| Disability               | 136  | 123                  | 19   | 27    | 1              | 1             | 0          | 0          | 0            | 9     | <b>316</b> | 25.4 |
| Race                     | 76   | 100                  | 14   | 14    | 2              | 5             | 0          | 0          | 0            | 3     | <b>214</b> | 17.2 |
| Victimisation            | 94   | 13                   | 3    | 11    | 2              | 0             | 0          | 14         | 0            | 2     | <b>139</b> | 11.2 |
| Sex                      | 89   | 19                   | 3    | 2     | 3              | 1             | 0          | 0          | 0            | 4     | <b>121</b> | 9.7  |
| Sexual harassment        | 114  | 2                    | 0    | 0     | 0              | 0             | 0          | 0          | 0            | 0     | <b>116</b> | 9.3  |
| Age                      | 30   | 19                   | 2    | 0     | 2              | 0             | 0          | 0          | 0            | 2     | <b>55</b>  | 4.4  |
| Homosexuality            | 23   | 21                   | 0    | 1     | 2              | 0             | 0          | 0          | 0            | 1     | <b>48</b>  | 3.9  |
| Carer's responsibilities | 38   | 0                    | 0    | 0     | 0              | 0             | 0          | 0          | 0            | 0     | <b>38</b>  | 3.1  |
| Homosexual vilification  | 0    | 0                    | 0    | 0     | 0              | 0             | 0          | 29         | 0            | 0     | <b>29</b>  | 2.3  |
| Aiding unlawful act      | 9    | 6                    | 0    | 0     | 1              | 0             | 0          | 0          | 0            | 2     | <b>18</b>  | 1.4  |
| Racial vilification      | 0    | 0                    | 0    | 0     | 0              | 0             | 15         | 0          | 0            | 0     | <b>15</b>  | 1.2  |
| Marital/domestic status  | 3    | 1                    | 3    | 3     | 0              | 0             | 0          | 0          | 0            | 2     | <b>12</b>  | 1.0  |
| Transgender              | 1    | 7                    | 0    | 0     | 0              | 0             | 0          | 0          | 0            | 3     | <b>11</b>  | 0.9  |
| Transgender vilification | 0    | 0                    | 0    | 0     | 0              | 0             | 0          | 0          | 3            | 0     | <b>3</b>   | 0.2  |
| HIV/AIDS vilification    | 0    | 0                    | 0    | 0     | 0              | 0             | 0          | 2          | 0            | 0     | <b>2</b>   | 0.2  |
| Other                    | 29   | 26                   | 9    | 2     | 1              | 0             | 0          | 0          | 0            | 20    | <b>87</b>  | 7.0  |
| Not specified            | 7    | 6                    | 0    | 3     | 0              | 1             | 0          | 0          | 0            | 2     | <b>19</b>  | 1.5  |
| Total                    | 649  | 343                  | 53   | 63    | 14             | 8             | 15         | 43         | 2            | 50    | 1243       | 100  |
| %                        | 52.2 | 27.6                 | 4.3  | 5.1   | 1.1            | 0.6           | 1.2        | 3.5        | 0.2          | 0.2   | 4.0        | 100  |

**Grounds of discrimination complaints**



**Areas of discrimination complaints**



## Conciliation service *continued*

complaints (27.6%), an increase from the last two years. Disability discrimination was again the most frequent ground of complaint in this area with 123 complaints, followed by 100 race discrimination complaints.

Women represented 49.7% of all complainants, a decrease from last year's figure of 58.4%, and men lodged 48.9% of complaints. This is contrary to the previous two years, when women lodged more complaints than men. Although a high proportion did not identify their ethnicity, the largest group that did identify their background were Aboriginal complainants at 97.

### Type of employer 2011-12

|                        | No         | %          |
|------------------------|------------|------------|
| Private enterprise     | 286        | 44.1       |
| State govt department  | 80         | 12.3       |
| Individual male        | 74         | 11.4       |
| Hospital               | 49         | 7.6        |
| State stat authority   | 39         | 6.0        |
| Local government       | 24         | 3.7        |
| Education (public)     | 21         | 3.2        |
| Non-profit association | 18         | 2.8        |
| Trade union            | 14         | 2.2        |
| Individual female      | 11         | 1.7        |
| Registered clubs       | 7          | 1.1        |
| Education (private)    | 2          | 0.2        |
| Media organisation     | 1          | 0.2        |
| Commonwealth dept      | 1          | 0.2        |
| Other                  | 21         | 3.2        |
| Not known              | 1          | 0.2        |
| <b>Total</b>           | <b>649</b> | <b>100</b> |

### Complaint processing

The Board continues to provide an efficient complaint handling process, and there was no backlog of complaints at the end of 2011-12.

The staff have continued to achieve very good results in meeting the target timeframes for finalisation of complaints (see the table below right). We finalised 92.5% of files within 12 months of receipt, again exceeding the target of 85%. The average time taken to finalise files in 2011-12 was 5.9 months, which is slightly quicker than last year.

In line with the Board's commitment to providing an efficient service, complaints were redistributed between the Newcastle, Sydney and Wollongong offices to share the workload.

### Types of employment complaints 2011-12

|                                 | No         | %          |
|---------------------------------|------------|------------|
| Work environment and harassment | 371        | 57.2       |
| Classification/benefits         | 126        | 19.4       |
| Dismissal                       | 73         | 11.2       |
| Recruitment/selection           | 50         | 7.7        |
| Resignation                     | 17         | 2.6        |
| Promotion                       | 5          | 0.8        |
| Retrenchment/redundancy         | 4          | 0.6        |
| Demotion                        | 1          | 0.2        |
| Transfer                        | 1          | 0.2        |
| Retirement                      | 1          | 0.2        |
| <b>Total</b>                    | <b>649</b> | <b>100</b> |

To provide an accessible service to rural and remote areas, nine officers made a total of 34 days travel to conduct conciliation conferences in regional and country NSW.

### Complaint outcomes

The Board finalised 1,396 written complaints this year, which is 15.7% more than last year's total of 1,206.

230 complaints were resolved at or after a conciliation conference (16.5% of total complaints resolved), which was less than last year's figure of 250 (20.7%). A further 149 (10.7%) complaints were settled by negotiation without the need for a formal conciliation conference.

In 2011-12, 274 complaints (19.6%) were referred to the Equal Opportunity Division of the Administrative Decisions Tribunal, as they were not conciliable. This is higher than last year's figure of 162 complaints (13.3%).

The President referred one complaint of serious vilification to the Attorney-General for consideration for prosecution as an offence under the ADA. The complaint, which alleged serious homosexual vilification, did not proceed to prosecution as the incident

### Timeframe targets 2011-12

| Complaint to be finalised within | Target | Actual |
|----------------------------------|--------|--------|
| 2 months                         | 20%    | 16%    |
| 3 months                         | 30%    | 28%    |
| 6 months                         | 60%    | 56%    |
| 12 months                        | 85%    | 92.5%  |
| 18 months                        | 100%   | 99%    |

occurred more than six months before the referral. The prosecution was therefore statute barred under the Criminal Procedure Act 1986.

However, the ADA allows for the lodgement of complaints without time limit, although the President has the discretion to decline to investigate a complaint if the events being complained about occurred more than 12 months prior to lodgement of the complaint. This difference in the two laws can potentially lead to a situation of unfairness to a complainant.

This was brought to the attention of the Attorney-General, who advised that civil procedures for civil wrongs can have different timeframes from those for criminal offences. The Board has since included this information in relevant sections of our website and will update other publications in the coming year.

The number of complaints declined under s 92 of the ADA was the same as the 2010-11 figure of 131, down from 160 in 2009-10. 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, 60 (4.3% of total complaints finalised) were referred to the Administrative Decisions Tribunal, compared with last year's figures of 51 cases (4.2%).

The number of complaints formally withdrawn this year increased to 265 (19.8%) from last year's figure of 220 (18.2%). 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.

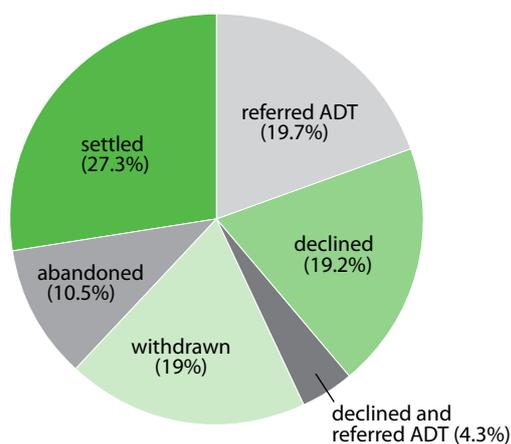
The number of complaints abandoned this year decreased slightly to 146 (10.5%), from 151 (12.5%) in 2010-

11. 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.

### Outcome of complaints finalised 2011-12

|   | No          | %          |
|---|-------------|------------|
| Settled at or after conciliation                            | 230         | 16.5       |
| Settled before conciliation                                 | 151         | 10.8       |
| Referred to ADT – conciliation unsuccessful or not suitable | 275         | 19.7       |
| Referred to ADT – older than 18 months                      | 0           | 0          |
| Referred to Attorney General – serious vilification         | 1           | 0.1        |
| Declined before investigation – not a contravention         | 177         | 12.7       |
| Declined before investigation – out of time                 | 17          | 1.2        |
| Declined before investigation – not of vilified group       | 3           | 0.2        |
| Declined after investigation – s 92                         | 71          | 5.1        |
| Declined after investigation and referred to ADT            | 60          | 4.3        |
| Withdrawn s 92B   | 265         | 19.0       |
| Abandoned s 92C   | 146         | 10.4       |
| <b>Total</b>  | <b>1396</b> | <b>100</b> |

### Complaint outcomes



# What's your job?

*Michelle  
Conciliation Officer*



## **What are the main things you do at the Board?**

The role of the Conciliation Officer is to investigate and conciliate complaints of alleged discrimination. A full-time Conciliation Officer generally has a caseload of around 40 complaints.

## **What does investigation involve?**

We contact the complainant and explain the complaint process, making it clear that the Board will not act as their advocate, as we have to be impartial to ensure procedural fairness. We discuss possible options for resolution and “reality test” any unreasonable expectations about the settlement of the complaint, particularly regarding financial compensation.

We then gather information from the complainant and the respondent (the person being complained about), and make a decision whether to proceed to a conciliation conference to attempt to resolve the complaint, or to recommend

that the complaint be declined or referred to the Administrative Decisions Tribunal.

## **What is involved in this decision?**

We need to decide whether there is a genuine link to one of the grounds of discrimination in our legislation, and whether there is any prospect of resolution through conciliation. For example, if the complainant is set on financial compensation, and the respondent does not agree to this, the complaint is unlikely to be resolved.

## **How do the respondents react?**

Some respondents are quite apprehensive, particularly when they believe they have been acting responsibly, or that the allegations are baseless. However they are generally respectful and reasonable, and keen to cooperate in the resolution process. Conciliation means they don't have to admit liability and can come to a resolution without any prejudice, rather than proceeding to the Tribunal with the cost, time and publicity that may involve.

## **What does conciliation involve?**

Before the conciliation conference we ask the complainant to consider what they want to achieve, and to have a settlement proposal to present on the day. As we are impartial we can't tell them what to say, but we can refer them to another agency for help.

In the conciliation conference, the officer facilitates the process. That involves keeping the participants on track and encouraging positive, resolution-focussed discussion. We also manage the general dynamics and decide when to stop for separate private discussions with the parties. For example, these might be needed to deal with emotional issues or unrealistic expectations, or to see if the parties are willing to shift

positions when an impasse is reached. We also assist with settlement negotiations and can record conciliation agreements for the parties to sign.

## **What do you like about the job?**

Unlike most other legal jurisdictions the work we do is not adversarial, and we are able to work with law in a positive way. There is a huge variety in the matters and the range of humanity we deal with, so there is always scope for learning. The fact that there is a low turnover in conciliation staff shows that the level of satisfaction is quite high.

People often say that they have benefited from the process and that the experience has been empowering and educative. It is particularly satisfying when there is organisational change as a result of the Board's work, such as new policies, staff training and greater awareness about discrimination and harassment issues.

## **What are the challenges?**

For me the most challenging element is when some people don't understand the importance of impartiality and procedural fairness. Some complainants expect us to act as their advocate and may perceive us to be biased when we don't. It's also problematic for some people that the Board can't give advice or make a decision about whether discrimination actually occurred.

When I began doing the job I was often stressed because I wanted to resolve everything, but now I just try to do the job as well as I can, and know the issues thoroughly so I can communicate and conciliate with confidence. I accept that results are primarily dependent on the willingness of the parties to resolve the matter. Overall I still find that very rewarding.

# Successful conciliations 2011-12

## *Disability discrimination*

The complainant was a nurse at a residential care facility who had epilepsy and had seizures when she was tired or out of her routine. She supplied medical certificates when she had time off and then a doctor's letter saying that she was unable to do night duty because she needed a regular sleep routine.

The employer refused to accept the letter on the basis that it would create a precedent, and told her that if she could not work all the shifts she would have to resign and become a casual. Believing this to be her only option she did so, but when she contacted her employer each week for casual work, she was told they had no shifts for her.

At conciliation, the employer accepted that they had failed to follow their own policies. They agreed that it was reasonable for the complainant to feel upset about what had happened.

The employer offered to allow the complainant to return to work part-time, with appropriate support. However the complainant decided she would prefer an apology and a financial settlement, which was agreed.

## *Age discrimination*

The complainant was employed in the retail sector. She was over 65 and had been employed part-time for 10 years. In 2010 her work hours were reduced from 32 hours per week to 16, and the remaining hours were given to a younger person paid as a casual. The manager told the complainant that junior staff were required for the counter, and the younger person was given the complainant's desk and duties.

The complainant asked what work she was supposed to do if the other person was now doing part of her job. She was told that she could not cope anymore, with the inference being that this was because of her age.

Although no performance issues had been raised previously, a performance management process was started, and this referred in part to the complainant's inability to lift heavy objects and stand for long periods. The complainant made a successful worker's compensation claim for workplace bullying, and ceased work.

At conciliation, the respondent acknowledged that the situation could have been handled better. The complainant secured an apology and a relatively large financial settlement to compensate for the reduction in her hours and the impact that this had on her eligibility for Centrelink payments for people who work past age pension age.

## *Sex and disability discrimination and sexual harassment*

The complainant went to a conference with her employer, and while there he took her out to dinner and told her stories about his infidelity to his wife. He tried the door to her room during the night, and in the morning he hugged her from behind in his underwear. She told him that she was not interested in him.

After this her boss began to tell her that her part of the business was not going as well as it should. He would not replace staff if they were sick and he began to ridicule and yell at the complainant in front of other staff and customers. He also said that she was not strong enough to do the job because she was a woman.

The complainant was then injured in the course of her employment and went on workers compensation. Her boss tried to get her to come back to work while she was certified as unfit to work.

At conciliation, the complainant said that she did not want to go back to work at that workplace, but it was important to her that all the staff of the organisation were trained in anti-discrimination. The parties agreed to a financial settlement in conjunction with the complainant's resignation. The employer also agreed to provide anti-discrimination training for all staff in a number of businesses in which he had an interest.



## 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.**

The Education Services branch has three main activities:

1. Providing fee-paying workplace education and seminars, mainly for employers and service providers.
2. Giving talks to community groups, holding stalls at community events and if resources allow, running 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 throughout NSW. 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.

This training is generally delivered to staff groups, but we sometimes provide one-on-one training in situations where an employer requires more intensive training for a particular person.

Organisations booking in-house training 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.

As well as in-house training, the branch runs seminars during the year. In response to current issues, three new seminars were developed this year:

- The challenge of social media;
- Managing age diversity;
- Sexual harassment - it's your business.

Continuing seminars included:

- Grievance handling skills;
- Grievance management and resolution skills;
- Skills for Contact Officers;
- Contact Officers refresher;
- EEO recruitment and employment practices;
- Bullying and harassment prevention;
- Psychiatric disabilities in the workplace;
- Case law update.

In 2011-12 we delivered 399 in-house training sessions for employers and service providers (including 81 in Newcastle), and ran 20 seminars (including six in Newcastle). Combined

these reached around 6,427 participants.

The most common training subjects were preventing discrimination, harassment and bullying, grievance handling and Contact Officer training. There was a slight increase in the proportion of one-on-one training to group training this year, with bullying and sexual harassment the most common issues.

The Newcastle office held two meetings of the Hunter Human Resources network in 2011-12. Growing membership of the network and a significant marketing effort have produced consistent demand for training in the Hunter.

The total revenue from in-house training was \$418,385, which was a 25% decrease over 2010-11 (\$547,977), but was more similar to the 2009-10 figure of \$455,232. Income from seminars was \$79,085, which was a 14% decrease from 2010-11 (\$89,220).

The total earnings from workplace education, including training fees,

seminars and sale of publications, was \$508,597. This was a good achievement in view of the drop in demand for training, which as a discretionary item is likely to be less of a priority in difficult and uncertain economic times. Also, the Board has a very limited budget for promoting the service so it is difficult to access new markets.

Our continuing ability to generate training business in these circumstances reflects the excellent reputation of the Board's training team. Their extensive expertise in anti-discrimination law and ability to understand and customise training sessions for a wide variety of work environments leads to ongoing respect and excellent word-of-mouth advertising.

The total income figure of \$508,597 was a 23% decrease from 2010-11 (\$655,603), and did not meet the revenue projection of \$649,770 set by the Department of Attorney-General and Justice for this year. The department's projection was increased by 4% from 2010-11 (\$632,356).

*L-R: Senior Workplace Relations Consultant Margaret White, Manager Education Services Sharmalee Elkerbout, Senior Workplace Relations Consultants Lisa Coltart and Diane de Souza.*



### From a satisfied client

'The ADB was engaged to conduct training sessions with all non-supervisory staff on "Preventing Discrimination and Harassment", and this was followed up with a session for supervisors and management. The feedback received from non-supervisory staff was overwhelmingly positive, with many favourable comments regarding the trainer's ability to relate to their working environment and provide case study and role play situations that were relevant to the hospitality industry.

A measure of the effectiveness of the training came in a subsequent staff survey that gave the perception of a workplace environment free of harassment or discrimination and also indicated an increase in staff awareness of the systems in place to deal with these issues.

The management team were also complimentary towards the training and were generally pleased that the topics covered in the session were reinforcement of the policies and procedures that the business already has in place. From a human resources perspective it gave my team confidence that this "health check" from an independent source gives us the conviction to enhance and/or continue the processes that are currently implemented.

I would have no hesitation in recommending the Anti-Discrimination Board Workplace Education Program to any employer.'

*Mark Thatcher, Employee Relations Manager, Wests Ashfield Leagues*

# What's your job?

*Margaret  
Senior Workplace  
Relations Consultant*



## **What are the main things you do in your job?**

I mainly provide training for employers and service providers in preventing discrimination, harassment and bullying, and in fair grievance handling. We train in all sectors from private companies to not-for-profit organisations, at all different levels from Boards of Directors to council labourers, and in all parts of NSW and interstate. Probably the most unusual place I have worked was conducting training for correctional officers in the canteen of a juvenile detention centre, with the detainees all around eating their lunch!

## **Where do the clients come from?**

Mainly they are repeat clients or they come via word of mouth, as we have a limited marketing budget. We have a good reputation because of the quality of our trainers – we are all

experienced educators with expertise in management, human resources and industrial relations, and we also have the credibility of being from the Anti-Discrimination Board.

## **Why do they need training?**

They may have had a specific problem, such as a race discrimination incident or sexual harassment. That can have a big impact on morale, productivity, absenteeism and turnover, as well as taking time and expense to resolve. Other organisations are aware of their responsibility to prevent discrimination and harassment, and do regular training to try to prevent problems from occurring in the first place.

## **What's involved in providing the training?**

Our service is distinct from some other providers because we customise the training to the organisation. The way people might experience discrimination varies so much – for example, miners would have very different workplace relations issues from managers at a finance company. We have to pitch the training to the level of literacy of the participants, and the responsibilities they have in the workplace, and use examples and activities that are relevant to their experience.

## **What skills do you need to do the job well?**

We need to be across all the different state and federal anti-discrimination laws, as well as other legislation such as work health and safety and industrial relations laws, and be up-to-date with changes in all those laws.

We have to understand how different workplaces operate in terms of management style, human resource

practices and so on, and look at strategies that will work in that environment. We need high level training skills, as you often have to improvise when unexpected issues come up in a session. We also have to be able to communicate effectively with a very broad group of people.

## **How do people react in the training sessions?**

People recognise that discrimination occurs, so they generally find the training interesting, and they particularly relate to the examples. So even if they come expecting to be bored, they have usually changed their minds by the end of the session. Very occasionally someone is overtly hostile, but it's a long time since I've had that happen.

## **What do you like about the job?**

I like the variety of people and organisations that we work with. I also enjoy using my legal qualifications in keeping up with changes in case law and legislation, and providing information on that for my colleagues. And I really enjoy the creative work involved in developing training materials, and other writing work such as articles for the Board's newsletter.

## **What are the challenges?**

Managing the workload can be hard, as we have a number of clients on the go at once and we have to be flexible to meet their different needs – for example we may have to start a session for shift workers at 6am or 9pm. It can also be challenging to deal with personal issues in the training sessions, such as people who want advice on a personal problem, which we can't give them. And there are always those curly questions which you have to be prepared for!

## Education service *continued*

### Community education

With only one part-time Community Education Worker, the Education Service again had some very positive achievements in 2011-12.

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 1,307 direct participants, plus many more people who took information from stalls.

### Gay and Lesbian Mardi Gras

The Board participated in Mardi Gras events for the second year running in 2012, after a break of some years. This included a stall at the popular Fair Day, the official kick-off to the Mardi Gras season. This received a very positive response, with Board staff answering many questions about homosexual and transgender discrimination.

On 3rd March, Sydney's streets closed down as hundreds of colourful participants took part in the Mardi Gras parade. The ADB contingent, including staff from the Board and other business centres of the Department of Attorney General and Justice, wore colours represented in the Gay Pride flag and rainbow wristbands stating 'No discrimination'.

### Sudanese community training

In July 2011 the Community Education Officer ran an information session for the Sudanese Australian Integrated Learning (SAIL) Program. This is a non-profit organisation which provides free English support and community services to the Sudanese-Australian community.



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

The session covered anti-discrimination law, the role of the Board and how to make a discrimination complaint. Many participants were concerned about the discrimination and harassment experienced by their children, particularly at school.

### Sydney Homeless Connect

Once again the Board ran an information stall at Sydney Homeless Connect, held in June 2012 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 a positive experience to remember.

Board staff spoke to many homeless people during the day who had experienced discrimination, harassment and bullying, with disability, age and hepatitis C discrimination the most common issues.

### Disability workshops

In July 2012 the Community Education Officer participated in a session at Disability Services Australia, which

provides employment and community support services for people with a disability. The session was to provide skills to participate in the community and obtain employment. The young people with a disability were very interested in information about their rights in employment, and shared experiences from work and school.

The Community Education Officer also ran an information session for staff at Spinal Cord Injuries Australia. The staff said that many of their clients experience disability discrimination in the workplace and in gaining rental accommodation, particularly clients that use wheelchairs.

### Community networking

An important role in community education is networking with other agencies. The Board is a member of JOIN, a group of state and federal government and not for profit agencies who provide community education. The group meets to share information about their agencies and upcoming community events.

## Photo competition



For the past seven years the Board of NSW has held a creative arts competition for school students to coincide with Law Week. In 2012 we held a photography competition on the theme of 'Celebrate Diversity in our Community'.

Students were asked to photograph people in their community with diverse background and tell their story. The competition information included class exercises to stimulate discussion and explore the issues of diversity and stereotyping.

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

- First prize: April Macatangay, aged 17, from Granville South Creative and Performing Arts High School
- Second prize: Georgia Bowrey, aged 11, from Balmain Public Primary School
- Third prize: Marwa Malla, aged 14, and Sawsan Alwandi, aged 12, from Bass High School

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.

## Education service *continued*

The Board hosted a JOIN meeting in June 2012. This was an opportunity to provide information about anti-discrimination law, the complaint process and the role and resources of the Education service.

### Other community training

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

- ACL College, Auburn – Chinese, Farsi and Dari speaking students
- Auburn College
- Bankstown Baseball Club – coaches and staff
- Fairfield Emerging Communities Action Partnership – community leaders
- Granville TAFE welfare students
- Greek Orthodox community
- Harmony Day – stall at Eastwood
- Immigrant Women's Speakout Association of NSW – community workers
- International Day for People with a Disability – stall at Parramatta
- Law week stalls – Martin Place, Parramatta, Blacktown
- Learning Circle for Multicultural Communities, Hills Holroyd Parramatta Migrant Resource Centre
- Macquarie University Students for Community Legal Engagement
- Meadowbank TAFE students
- Mt Druitt Migrant Resource Centre – Sudanese clients
- Stella Maris College, Manly
- Sydwest Multicultural Services, Blacktown – community workers, Sudanese, Bhutanese, Tamil, Nepalese clients
- UWS Macarthur law students

*The Board's stall at the Law Week Expo at Martin Place was described as 'the most colourful display' by Anthony Jucha in the Law Society Journal.*



## Publications

The Board has two part-time Publications Officers (one full-time equivalent), who are responsible for all Board publications and the website, with assistance from the IT Services Officer.

The Board produces a wide range of publications which are an important resource in informing people about their rights and responsibilities under anti-discrimination law.

This includes an extensive set of factsheets on the different types of discrimination covered by the NSW Anti-Discrimination Act, guidelines for employers, employees and providers of different types of services, and a colourful and popular set of posters.

This year one of our major projects was to produce new guidelines for local councils, which amalgamated two previous publications. This was developed in conjunction with the Division of Local Government, Department of Premier and Cabinet. In addition, we produced a new poster about carer's responsibilities discrimination, and also used this design for an insert into the Carers Week edition of Carers News.

We produced three editions of our email newsletter Equal Time during 2011-12. Issues covered included the fair performance management, office parties and vilification.

Other projects in 2011-12 included:

- two editions of our seminar calendar;
- the annual report;
- advertisements in a number of publications including HR Monthly, MX and the Sydney Star Observer;
- a brightly coloured 'No



- discrimination' wristband;
- new designs for rulers and balloons;
- materials for the annual competition for schoolchildren including worksheets for teachers, entry forms and certificates (see panel at left);
- a new brochure advertising our in-house training service;
- ongoing creation of text, graphics and documents for the Board's website.

Work has also begun or continued on the following:

- a new edition of our *Guidelines for hoteliers*;
- an online form for people to submit complaints to the Board;
- 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 has a large website which 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.

DAGJ is currently converting all business centre websites to a new website content management system, Netcat. This has provided an opportunity to restructure the Board's website, with more headings and levels for easier navigation and access. The existing information is being reorganised to improve accessibility and streamlined to remove material that is out of date or overly detailed.

The restructuring and conversion to the new system, along with continuing to update and manage the existing website, has occupied a significant proportion of the Publications Officers' time in 2011-12 and is not yet complete.

Due to the transition to the new system, statistics are not available for the number of hits on the Board's website in 2011-12.

# Current publications

## Workplace guidelines

Grievance procedure guidelines  
Guidelines for grievance investigators  
Guidelines for Contact Officers  
Guidelines for managers and supervisors  
Guidelines for non-supervisory staff  
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  
Guidelines for local councils and factsheet for local government councillors (new ed Aug 2011)

## 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 (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  
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  
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  
Discrimination, EEO and affirmative action  
Discrimination and the Anti-Discrimination Board of NSW  
Harassment and sexual harassment  
Homosexual discrimination  
Infectious diseases discrimination  
Marital or domestic status discrimination  
Pregnancy and breastfeeding discrimination  
Race discrimination  
Sex discrimination  
Transgender discrimination  
Treated unfairly because you are an Aboriginal and Torres Strait Islander person?  
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)

## Posters

Bullies have mean mouths  
Common workplace animals (sexual harassment)  
Diversity makes the difference

Do you care? (new) (carer's responsibilities discrimination)  
Of course you can (breastfeeding discrimination)  
Say no to discrimination and harassment (multilingual)  
Stop harassment and bullying  
Stop hassling me (sexual harassment)  
That's not fair (general discrimination)  
2011 'Just be fair' poster competition winning designs (3)

## Other publications

Aboriginal and Torres Strait Islander rights wallet card  
Aboriginal and Torres Strait Islander community training brochure  
Annual report 2010-11  
Balloons  
C-change – Report of the enquiry into hepatitis C related discrimination  
Complaint form  
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  
Seminar calendar for employer and service provider training (2 issues/year)  
Ticket wallet  
Worksheets for teachers – website only  
Wristbands (new)



## 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 consultation groups: Aboriginal and Torres Strait Islander; Gay, lesbian and bisexual; and Gender diversity.**

*Photo: John Walford, community member of the Aboriginal and Torres Strait Islander consultation.*

### Aboriginal and Torres Strait Islander Advisory Committee

The committee met four times in 2011-12. Some issues included:

- 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 this consultation group include:

National Bank of Australia, NSW Department of Sport and Recreation, Australian Bureau of Statistics, NSW Fair Trading, NSW Crime Prevention Division, Department of Attorney General and Justice, NSW Ombudsman's Office, NSW Industrial Relations, and community members representing Sydney, Central Coast and rural NSW.

### Gay, lesbian and bisexual consultation

The consultation group met three times in 2011-12. Issues this year included:

- Newspaper articles which insinuated that gay men are paedophiles. Requests for apologies from the papers involved were unsuccessful. Such articles are unlikely to be covered by the current vilification provisions of the NSW Anti-Discrimination Act. If vilification came under the Crimes Act, the Police could take action, as is the case in WA. This issue will be raised with the Attorney General for review.
- Discrimination against people with HIV. A national survey has revealed that 26% of respondents with HIV

have experienced discrimination, often from a health service. The consultation felt the Board could raise awareness about the Anti-Discrimination Act and the complaints process, and encourage people to report discrimination. Some people complain to the Health Care Complaints Commission when it may be better for them to come to the Board. The President wrote to the HCCC and the Minister of Health, asking people with HIV discrimination complaints to be referred to the Board.

- The Sydney Park Aids Project (SPAIDS). The group was concerned that trees were removed from a monument to people who have passed away, making the monument more exposed. New trees will be planted in the areas that were cleared.
- The amalgamation of the Gay and Lesbian Counselling Service with Twenty10, a support service for young people of diverse genders and sexualities.
- State MP Clover Moore's request to the NSW Attorney General for advice on options to recognise overseas same-sex marriages and possible legislation to provide for same sex marriage in NSW.
- The Inner City Legal Centre's kit to assist solicitors to bring discrimination complaints to the Board and the Administrative Decisions Tribunal, including pro-bono cases. The Centre will also provide face-to-face training which they will promote through pro-bono coordinators.
- The "gay panic" defence, which has resulted in accused murderers having their charges downgraded

*continued next page*

## Consultations *continued*

if their victim was gay and allegedly propositioned them. In a recent Queensland case, two men who killed a gay man in a church yard were convicted of manslaughter. The minister at the church, Father Paul Kelly, has started a petition to have the law changed.

- Positive feedback from a member that an incident at Sydney Park had a quick response from local police. The consultation suggested posting a 'thank you' on a member organisation's website.

Peter Trebilco, who has been a member of the group since it began, resigned during the year. The President thanked Peter for his valuable contribution.

The group was saddened by the unexpected passing away of another member, Sister Mary Mary Quite Contrary. Sister Mary was also a long-time participant and will be greatly missed. The Board and the members of the group offered their condolences to his family and loved ones.

### Members of this consultation group 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; Independent Education Union and Christian Brothers; 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; Positive Life NSW; Public Service Association of NSW; Rainbow Visions Hunter; Sydney Beat Project; The Uniting Network; Tropical Fruits; Twenty10 Association.

### Sex and gender diversity consultation

The consultation group met three times in 2011-12. Some issues included:

- The Board's submission to the Australian Human Rights Commission's consultation on 'addressing sexual orientation and sex and/or gender identity discrimination'.
- The issue of gender appearing on court notifications. Courts and Tribunal Services reported that gender is an optional field and it is not mandatory to provide this information, although it is usual practice. The group's view is that no government notices should mention gender, including court notifications.
- The issue of how transgender people are identified under the NSW Anti-Discrimination Act, which is not limited to recognised transgender people, and whether this has been interpreted in any case law.
- The upcoming appeal in the NSW Court of Appeal by Norrie May-Welby, who is fighting to have 'sex not specified' on her identity papers.
- The High Court decision in AB vs WA, which held that a surgical procedure to alter the genitals or other gender characteristics is not required for a gender recognition certificate in that state. The group was concerned about what will happen if another state or a federal department

doesn't recognise a change of gender accepted by WA.

- The Federal government has allowed transgender people to choose which gender goes on their passport. The group was concerned about whether NSW State Government departments will accept these passports and amend their records accordingly. It was suggested that the Attorney General should advise all departments to update gender from passports only.
- A comedy program on ABC television which in the process of attacking a politician in New Zealand, suggested that a transsexual could not win an election. The President wrote to the ABC expressing the group's concerns.
- Concerns about e-health records, which can be accessed by a wide range of people and may breach privacy and lead to discrimination.
- Privacy issues were discussed with Elizabeth Coombs, NSW Privacy Commissioner, and John McAteer, Deputy Privacy Commissioner.
- Criminal record checks for employment which may reveal that people are transgender. Criminal histories will include previous names, but if there is no criminal record, there is no need for alias names to be revealed.

### Members of this consultation group include:

AIDS Council of NSW; City of Sydney; Crime Prevention Division, Department of Attorney General and Justice; Gender Centre; Inner City Legal Centre; MOD Films; NSW Police Force; NSW Registry of Births Deaths and Marriages; Sydney Beat Project; University of Sydney.



# Aboriginal and Torres Strait Islander service

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.

Providing a culturally specific service for Aboriginal and Torres Strait Islander people assists in redressing the discrimination these communities continue to face.

The Aboriginal and Torres Strait Islander team has three staff. When appropriate and possible, team members provide information and complaint handling for Aboriginal and Torres Strait Islanders, as well as education, community outreach work and networking with other government and non-government agencies.

## Complaint handling

In 2011-12 the Board received 97 complaints of discrimination from Aboriginal and Torres Strait Islander people. This is the largest number we have received since 2002-03, and a 23% increase from 2010-11 (79 complaints).

From 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 (62 complaints or 63.9%). Race discrimination has consistently been the most common ground of complaint from Aboriginal and Torres Strait Islander people over the last 20 years, but there has been a gradual increase in the proportion of complaints on other grounds, most commonly sexual harassment, victimisation and disability, sex and age discrimination.

The most frequent area of complaint in 2011-12 was goods and services with 49 complaints (50.5%), followed by employment with 35 complaints (36.1%). These two are consistently the most frequent areas of complaint

## Aboriginal and Torres Strait Islander complaints 2011-12

|                     | Emp<br>& Servs | Goods     | Accom    | Educ     | Clubs    | Racial<br>vil | Other    | Total     | %          |
|---------------------|----------------|-----------|----------|----------|----------|---------------|----------|-----------|------------|
| Race                | 18             | 40        | 4        | 1        | 0        | 0             | 1        | 64        | 66.0       |
| Victimisation       | 8              | 0         | 1        | 0        | 0        | 0             | 0        | 9         | 9.3        |
| Disability          | 3              | 3         | 0        | 0        | 0        | 0             | 0        | 6         | 6.2        |
| Racial vilification | 0              | 0         | 0        | 0        | 0        | 5             | 0        | 5         | 5.2        |
| Sexual harassment   | 3              | 0         | 0        | 0        | 0        | 0             | 0        | 3         | 3.1        |
| Homosexuality       | 1              | 2         | 0        | 0        | 0        | 0             | 0        | 3         | 3.1        |
| Sex                 | 1              | 0         | 0        | 0        | 0        | 0             | 0        | 1         | 1.0        |
| Other               | 1              | 4         | 0        | 0        | 0        | 0             | 1        | 6         | 6.2        |
| <b>Total</b>        | <b>35</b>      | <b>49</b> | <b>5</b> | <b>1</b> | <b>0</b> | <b>5</b>      | <b>2</b> | <b>97</b> | <b>100</b> |
| %                   | 36.1           | 50.5      | 5.2      | 1.0      | 0.0      | 5.2           | 2.1      | 100       |            |

*There were no complaints received from Aboriginal and Torres Strait Islander people on the grounds of age, marital or domestic status, carer's responsibilities or transgender discrimination, or homosexual, HIV/AIDS or transgender vilification.*

## Aboriginal and Torres Strait Islander service *continued*

for Aboriginal and Torres Strait Islander people, although in some years employment complaints have been more frequent (for example in 2010-11, 50.6% of complaints were about employment and 27.8% about goods and services).

Complaints from Aboriginal and Torres Strait Islander people represented 5.3% of all complaints received by the Board in 2011-12, where as Aboriginal and Torres Strait Islander people constitute 2.1% of the total NSW population. Complaints from this group have consistently been between 5-8% of total complaints over the last 20 years.

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 pages 15-17.

### Education and training

In 2011-12 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. In 2011-12 542 people participated in formal education sessions.

### 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 Commonwealth Ombudsman, the NSW Legal Aid Commission, the Financial Ombudsman, the Telecommunications Industry Ombudsman, the Health Care Complaints Commission, the Australian Investment Service Commission and Information and Privacy Commission.

In 2011-12 forums were held in Wilcannia, Newcastle, Singleton, Nowra, Moruya and Batemans Bay.

### Residential tenancy seminars

In 2011-12 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 a seminar was held in Nelson Bay. Other participants included the Consumer, Trader and Tenancy Tribunal and Centrelink.

### Outreach program

The team also undertakes outreach work to liaise with the community and provide information about rights and responsibilities under anti-discrimination law. During this process in 2011-12, 6,349 information packages were distributed.

### Wilcannia trip

In June 2012 the President of the Board and Aboriginal and Torres Strait Islander team members undertook a field trip to Wilcannia. This was planned after discrimination issues were raised by the local community during a previous visit by the Good Service Mob.

The visit was an excellent opportunity for Board staff to meet with local residents and discuss concerns about less favourable treatment because of discrimination. They also met with the Mayor of Wilcannia, Ray Longfellow, and the General Manager of the Shire Council, Tim Drew. The visit fostered greater understanding of the needs of Wilcannia's Indigenous residents and should lead to better communication in the community.

*Good Service Mob educators with ADB Education Officer Caine Carroll second from left (photo courtesy Condobolin Argus).*





*The President of the Anti-Discrimination Board, Stepan Kerkyasharian AO (below right), with members of the Board's Aboriginal and Torres Strait Islander team and members of the Wilcannia community.*

### Koori Knockout

Along with other members of the Good Service Mob, team members attended the annual Aboriginal rugby league festival, the Koori Knockout. The festival is one of the largest gatherings of indigenous people in the world, and has been going for over 40 years. In 2011 the event was hosted by Walgett Aboriginal Connection, the 2010 winners, and held in Bathurst.

The weekend was cold and wet but this did not deter over 15,000 people from attending. At least 600 people attended the Good Service stall, providing an excellent opportunity to provide information about the Anti-Discrimination Board.

### Other events

In 2011-12 team members and other staff provided information stalls at the following events:

- NAIDOC Week – Campbelltown, Doonside, Emerton, Plumpton, Richmond;
- NSW Fair Trading information day, Newcastle;

- NSW Legends Job Market – Bathurst, Dubbo, Griffith, Mt Druitt, Shellharbour;
- Aboriginal Justice Group Meeting, Mt Druitt;
- Jobs & Skills Expo – Gosford, Port Macquarie;
- Koori Yarn Up – Cranebrook, Hawkesbury;
- Yabun Festival;
- Jobs Market – Dubbo, Lismore;
- Women's Centre and CentaCare, Wilcannia;
- Aboriginal Education Consultative Group Meeting, North St Marys;
- Aboriginal Assistance Day, Penrith;
- Department of Premier and Cabinet information days – Bowral, Nowra, Picton;
- Riverstone Community Centre information day;
- Sydney Homeless Connect.

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

- Youth Worker Training, Seven Hills;

- Cobham Juvenile Justice Centre – St Marys;
- Young Leaders Program – Emerton;
- Armidale Aboriginal Health Service;
- Kari Aboriginal Resources, Liverpool;
- Tenancy Reform Forum – Sydney;
- Information sessions at Wall Hallow Land Council; Gunnedah Land Council and Tamworth Land Council;

Other outreach activities included attending Aboriginal Interagency Network Meetings at Ropes Creek and Central Coast.

### Reconciliation Day event

To celebrate Reconciliation Day in May 2012, the Board held an internal team-building event. Colleen Starkis and Kayelene Slater visited the Board to teach staff members how to weave baskets, do hand paintings and paint boomerangs. All staff involved found the experience very enjoyable and a valuable way to get in touch with traditional Aboriginal culture, as well as marking the significance of the day.

*Colleen Starkis (second from right) shows Board staff how to start weaving a basket.*





## Legal Officer

**The role of the Anti-Discrimination 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.**

The Legal Officer's main activities are as follows:

- advising the Attorney General, the President, Board staff and Statutory Board members in relation to the ADA and other relevant legislation;
- case managing litigation to which the President and the Board are parties;
- providing information about exemptions to the ADA, reviewing exemption applications, advising the President and Statutory Board about applications received, and monitoring compliance conditions;
- advising on proposed policy and law reform;
- administering requests for access to information, copyright requests and proposed alcohol-free zones;
- reviewing and advising on internal Board policies and conducting internal reviews.

### Exemptions in 2011-12

The Board received 23 applications for exemption in 2011-12. We provided advice to the Attorney General in relation to five of these applications, and the remaining 18 were considered by the President and Board. Of these, 16 were granted and two were refused.

Most exemption applications concerned the training and employment of women and Aboriginal and Torres Strait Islander people. There were also applications concerning people with disabilities, male nurses, an early retirement scheme and a merit appointment scheme. Four exemptions were granted to defence contractors to enable them to comply with United

States Government regulations on the citizenship of employees working with controlled defence technology.

The Board also received and reviewed nine compliance reports in relation to exemption orders. See pages 36-38 for a list of exemptions granted this year, and the Board's website for a list of all current exemptions.

### Administrative Decisions Tribunal review

During 2011-12 the Board conducted an internal privacy review in response to an individual complaint. The complainant later applied to the Administrative Decisions Tribunal (ADT) to review the Board's handling of his personal information.

The ADT ruled that the Board had not breached the *Privacy and Personal Information Protection Act 1998 (NSW)* and determined to take no further action in the matter. (This decision was given after 30 June 2012.)

### Requests for comment

In 2011-2012 the Board provided 19 responses to requests for comment on relevant areas of policy and law reform. Some of the issues covered included the code of practice for victims' services, consolidation of Commonwealth anti-discrimination legislation and the National Anti-Racism Strategy.

### Briefing external advisors

The Board briefed external legal advisors in four matters in 2011-12. This included external legal representation in the ADT on the privacy matter discussed above.



## 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 (DAGJ).**

### Administrative services

The Liaison and Support team continually evaluates 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. Nineteen formal recruitment and 11 expression of interest processes were completed in 2011-12. Staff training and development was monitored and recorded to complement the Department's Performance Planning and Development system.

### Work health and safety

The WH&S committee had three meetings in 2011-12 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 who meet regularly with the committee.

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

- the change to the new WH&S legislation — training has been

organised for committee members and will be completed by the end of 2012. Other staff members will complete DAGJ's mandatory training in the new legislation DAGJ in 2012-13;

- a desk audit in all offices identified a number of matters which are being addressed through the maintenance program.
- the new telephone system to be introduced later in 2012 has been designed to address WH&S issues such as workload management and phone use ergonomics.

### Information technology

The main activities in 2011-12 were:

- maintaining the Board's computer network and hardware requirements;
- upgrading software where appropriate;
- liaising with the Department of Attorney General and Justice's Communications Unit re the change to Netcat content management software for the Board's website;
- 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 designed for people from different language backgrounds, and factsheets on race discrimination and racial vilification.
- The Board provides interpreters when needed, and the reverse of the Board's letterhead has a message in 21 languages about the Telephone Interpreter Service.
- A complaint can be made in any language and we will have it translated at no charge to the complainant. 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 6,427 participants, including people from a wide range of backgrounds.
- Around 1,307 people attended our community education stalls, seminars and talks, including people from many different backgrounds. In 2011-12 this included the Sudanese, Tamil,

Nepalese, Bhutanese, Greek, Chinese, Farsi-speaking and Dari-speaking communities.

- The Aboriginal and Torres Strait Islander Outreach team met with around 6,891 people at community events and continued work with those communities.
- For information on cultural diversity among the Board's staff, please see page 7.

## 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.
- 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. We will have complaints transcribed or translated free of charge as needed.
- 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 2011-12 the Board received 21 complaints. Of these, 14 related to service and six to policy or procedures. This is a good result in view of our delivery of direct services to over 25,272 individuals during the year, plus many more who were given information at stalls and displays.



*The Board's stall at the 2012 Sydney Homeless Connect.*

# Financial statements

## Total operations

The net cost of services provided by the Board in 2011-12 was \$4,076,063. Against a budget of \$3,872,589, this was an overspend of \$203,474 (5.25%).

The variance is attributable to lower than budgeted income from workplace education and publications, plus a year-end revaluation by NSW Treasury which saw an unexpected charge to Crown liabilities. Staff costs were controlled by keeping several positions vacant during the year.

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 as well as being included in the overall budget of the Board.

Demand for workplace education has weakened in 2011-12. Anti-discrimination training is a discretionary item and our income has been affected by difficult economic times. This is despite the considerable goodwill generated by our quality service.

See pages 20-21 for more information about workplace education.

## Total operations 2011-12 (includes workplace education)

|                             | Actual           | Budget           | Variance        |
|-----------------------------|------------------|------------------|-----------------|
| <b>Revenue</b>              |                  |                  |                 |
| User charges #              | 90,212           | 125,847          | -35,635         |
| Other revenue *             | 418,385          | 523,923          | -105,538        |
| <b>TOTAL REVENUE</b>        | <b>508,597</b>   | <b>649,770</b>   | <b>-141,173</b> |
| <b>Expenses</b>             |                  |                  |                 |
| Employee-related payments   | 3,205,582        | 3,212,484        | 6,902           |
| Other operating             | 1,042,474        | 938,452          | -104,022        |
| Maintenance                 | 12,030           | 30,976           | 18,946          |
| <b>TOTAL EXPENDITURE</b>    | <b>4,460,086</b> | <b>4,181,912</b> | <b>-78,174</b>  |
| Crown liability             | 271,293          | 206,339          | -64,954         |
| Depreciation                | 53,281           | 134,108          | 80,827          |
| <b>NET COST OF SERVICES</b> | <b>4,076,063</b> | <b>3,872,589</b> | <b>-203,474</b> |

## Workplace education service 2011-12

|                                      | Actual         | Budget          | Variance        |
|--------------------------------------|----------------|-----------------|-----------------|
| <b>Revenue</b>                       |                |                 |                 |
| User charges #                       | 90,212         | 125,847         | -35,635         |
| Other revenue *                      | 418,385        | 523,923         | -105,538        |
| <b>TOTAL REVENUE</b>                 | <b>508,597</b> | <b>649,770</b>  | <b>-141,173</b> |
| <b>Expenses</b>                      |                |                 |                 |
| Employee-related payments            | 519,334        | 410,565         | -108,769        |
| Other operating                      | 120,235        | 163,042         | 42,807          |
| Maintenance                          | 0              | 453             | 453             |
| <b>TOTAL EXPENDITURE</b>             | <b>639,569</b> | <b>574,060</b>  | <b>-64,509</b>  |
| Crown liability                      | 76,549         | 27,732          | -48,817         |
| Depreciation                         | 2,165          | 0               | -2,165          |
| <b>NET COST (INCOME) OF SERVICES</b> | <b>209,686</b> | <b>(47,978)</b> | <b>-257,664</b> |

# includes seminars and sale of publications

\* includes training sessions

The expenditure figures for workplace education include a share of the Board's costs for management and support staff salaries, office rental, telephone and other operating costs. They also include the cost of time the Senior Workplace Relations Consultants spend on general Board activities such as community education and information provision, which do not contribute to revenue.

# Exemptions 2011-12

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 2011-12

| <i>Applicant</i>   | <i>Program</i>   | <i>Sections</i>     | <i>Date</i>                          | <i>Expiry</i> |
|--|--|---------------------|--------------------------------------|---------------|
| BAE Systems Australia Ltd  | Includes: to enable the applicant to ask present and future employees and contractors to declare their exact citizenship (including any dual citizenship) and country of birth; to require employees to advise of any change to their citizenship status; to identify employees accordingly, and make decisions about recruiting and deploying employees on that basis. Conditions attached – for details contact the Anti-Discrimination Board. | 8, 10, 51           | 17.2.2012<br>(specified expiry date) | 14.10.2014    |
| Booroogen Djugun Aboriginal Corporation                                      | To designate, advertise and recruit Aboriginal people in the following positions: one Chief Executive Officer; two Personal Care Assistants; 16 Age Care Workers; 10 General Services Officers; and 15 clerical/administrative positions. Subject to a compliance report. See details in the NSW Government Gazette 28 October 2011.   | 8, 51, 53           | 20.10.2011<br>(10 years)             | 19.10.2021    |
| Clarence Valley Council  | To designate and recruit for an Aboriginal receptionist at Grafton Community and Function Centre.  | 8, 51               | 17.5.2012<br>(10 years)              | 16.5.2022     |
| Credit Suisse Management (Australia)   | To offer, advertise and facilitate an investment banking scholarship for female university students only, in their penultimate year of full-time undergraduate university study. The scholarship will be formally known as the "Credit Suisse Investment Banking Woman's Scholarship".   | 25, 33, 51,         | 19.1.2012<br>(5 years)               | 18.1.2017     |
| Department of Family and Community services, Ageing Disability and Home Care | To enable the applicant to implement a proposed amendment to its licensed residential assessment tool, known as the Screening Tool, used to determine whether a person is suitable to be a resident at a licensed residential centre in New South Wales. Conditions attached – see details in the NSW Government Gazette 4 November 2011.  | 49ZYA, 49ZYN, 49ZYO | 24.10.2011<br>(1 year)               | 23.10.2012    |

## Section 126 exemptions 2011-12 continued

| <i>Applicant</i>  | <i>Program</i>  | <i>Sections</i> | <i>Date</i>                              | <i>Expiry</i> |
|---|---|-----------------|--|---------------|
| Lockheed Martin Australia Pty Ltd                                 | Includes: to enable the applicant to ask present and future employees and contractors to declare their exact citizenship (including any dual citizenship) and country of birth; to require employees to advise of any change to their citizenship status; to identify employees accordingly, and make decisions about recruiting and deploying employees on that basis. Conditions attached – for details contact the Anti-Discrimination Board.  | 8, 10,<br>51    | 17.2.2012<br>(specified<br>expiry date)  | 14.10.2014    |
| Marrickville Youth Resource Centre                                | To designate, advertise and recruit one male and one female Youth Worker.   | 25, 51,<br>53   | 15.9.2011<br>(3 years)                   | 14.9.2014     |
| Mental Health Coordinating Council                                | To designate and recruit for an Aboriginal Project Officer.   | 8, 51           | 26.4.2012<br>(3 years)                   | 25.4.2015     |
| Motor Solutions Australia and Sydney Holden Dealer Council of NSW | Includes: to designate, recruit and employ women only for positions of sales consultants in the 24 franchised Holden Dealers in Metro Sydney represented by the Sydney Holden Dealer Council of NSW. Conditions attached – for details contact the Anti-Discrimination Board.   | 25,<br>52, 53   | 7.7.2011<br>(2 years)                    | 6.7.2013      |
| Raytheon 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) 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 details, see NSW Government Gazette 28 October 2011. | 8, 10,<br>51    | 20.10.2011<br>(3 years)                  | 9.11.2014     |
| Shellharbour City Council   | To designate and recruit for an Aboriginal Aged Care Trainee.   | 8, 51           | 26.4.2012<br>(3 years)                   | 25.4.2015     |
| Thales Australia  | Includes: to enable the Applicant to ask present and future employees and contractors to declare their exact citizenship (including any dual citizenship) and country of birth. To require employees to advise of any change to their citizenship status, to identify employees accordingly, and make decisions about recruiting and deploying employees on that basis. Conditions attached – for details contact the Anti-Discrimination Board.  | 8, 10,<br>51    | 21.12.2011<br>(specified<br>expiry date) | 14.10.2014    |

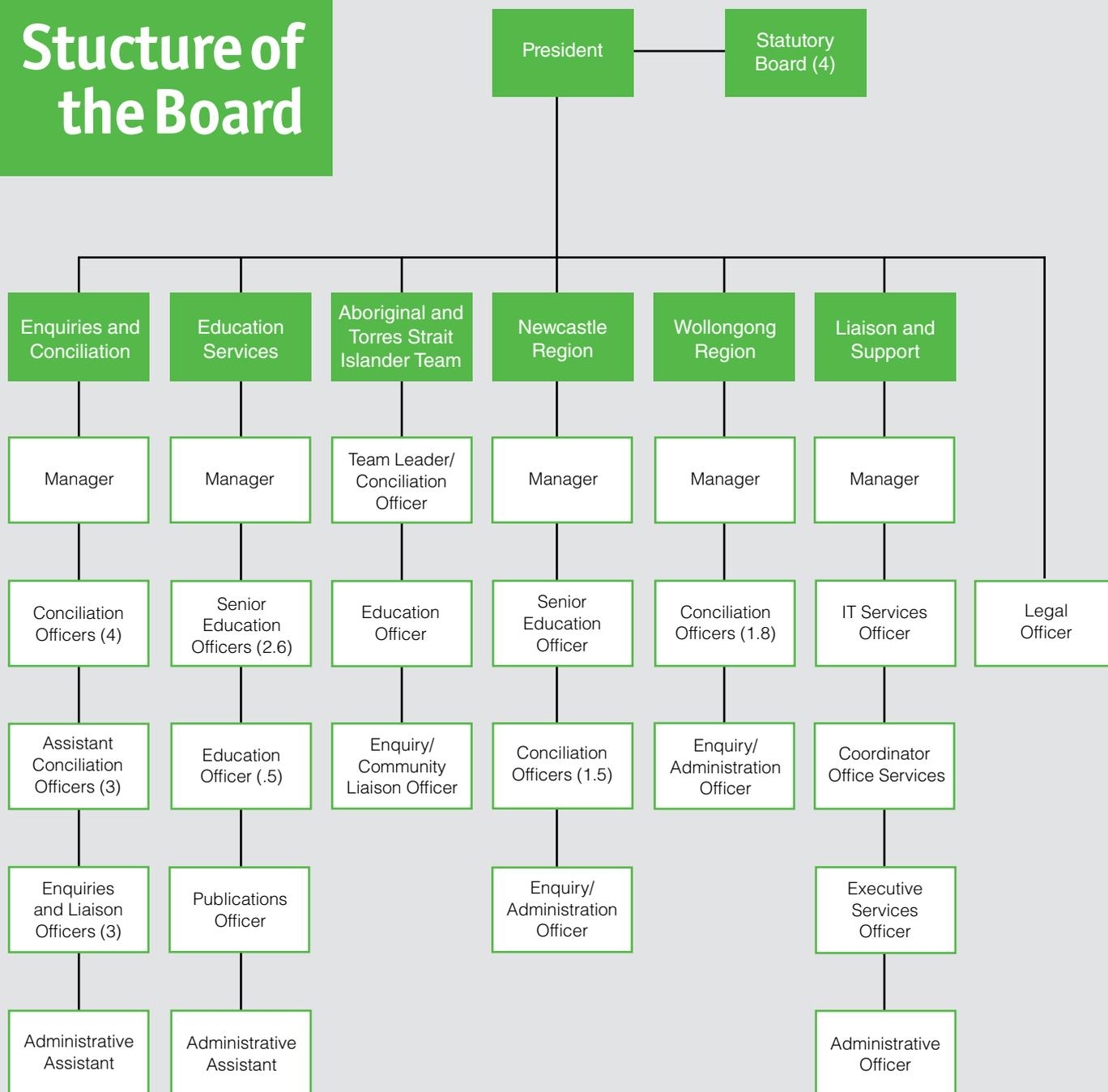
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## Exemptions *continued*

| Section 126 exemptions 2011-12 continued   |   |                 |                        |               |
|--|---|-----------------|------------------------|---------------|
| <i>Applicant</i>                           | <i>Program</i>  | <i>Sections</i> | <i>Date</i>            | <i>Expiry</i> |
| Toyota Motor Corporation Australia Limited | To implement a voluntary Early Retirement Scheme which has been approved by the Australian Taxation Office for a class ruling (CR 2011/72) to eligible employees to receive beneficial taxation treatment of any amounts paid under the scheme. For details contact the Anti-Discrimination Board.  | 49ZYB, 52, 53   | 25.8.2011<br>(1 year)  | 24.8.2012     |
| University of Sydney                       | To implement a proposed Merit Appointment Scheme under which faculties and professional service units will have access to internal financial subsidies to support the employment of Aboriginal and Torres Strait Islander academic and general employees of the University of Sydney. The University of Sydney is to provide and annual compliance report which sets out the number of ATSI academic and general employees that have been employed under this scheme. | 8, 51, 53       | 21.6.2012<br>(3 years) | 20.6.2015     |
| Yawarra Meamei Women's Group Inc           | To advertise for and employ seven female employees: Client Services Manager; Family Child Support Worker; Case Support Worker; Executive Officer and three On-call Workers.   | 25, 33, 51, 53  | 16.2.2012<br>(3 years) | 15.2.2015     |

| Section 126A exemptions 2011-12              |  |  |
|--|--|--|
| <i>Organisation</i>                          | <i>Special needs program or activity</i>   | <i>Exemption period</i>  |
| Bankstown City Council (Wran Leisure Centre) | One-hour women-only swimming sessions, twice a week.   | 14.9.2011 to 13.9.2016<br>(5 years)                                  |
| Boxing Bootcamp                              | To run men-only boxing fitness bootcamp classes  | 19.9.2011 to 18.9.2021<br>(10 years)                                 |
| Fitness First                                | To set aside designated women only areas within its unisex fitness centres, to between 15 and 20 in total. | 14.07.2011<br>Remains in force until the certification is withdrawn. |

# Structure of the Board



## Notes

1. This structure was current at June 30 2012.
2. 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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## Discrimination enquiries and complaints

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