

# Northern Territory Anti-Discrimination Commission



**Annual Report  
2007 - 2008**



30 September 2008

Hon Dr Chris Burns MLA  
Minister for Justice and Attorney-General  
Parliament House  
State Square  
DARWIN NT 0800

Dear Minister

Pursuant to section 16 of the *Anti-Discrimination Act*, I have great pleasure in enclosing the Annual Report on the operations of the Anti-Discrimination Commission for the period 1 July 2007 to 30 June 2008.

Yours sincerely



TONY FITZGERALD  
ANTI-DISCRIMINATION COMMISSIONER



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## From the Commissioner



**Tony Fitzgerald**  
Commissioner

Pursuant to section 16 of the *Anti-Discrimination Act* (“the Act”), I have great pleasure in presenting to the Attorney-General and Minister for Justice my sixth Annual Report of the Anti-Discrimination Commission of the NT (ADC).

I would normally conclude my report with a reflection on the dedication and commitment of my able staff, but this year I want to acknowledge them at the outset. Over the last twelve months we have had to adjust to some lengthy absences and some significant staff turnover. As usual the professionalism of my staff has ensured that our operation has been smooth, our morale is high, we have continued to operate within our tight budget and we have continued to advocate for the advancement of non-discriminatory behaviour and human rights.

So to my staff I extend my appreciation and thanks for their efforts.

Perhaps the most significant staff change saw the departure of long-standing Director of Conciliation Policy and Law, Terry Lisson. Terry is a conciliator and a lawyer and a tireless advocate for human rights. Her enthusiasm, ability and boundless energy were an inspiration to us all. She certainly taught me a lot about this interesting field of human endeavour and I wish her all the best for the future. Terry was always going to be a hard act to follow, but her successor Lisa Coffey (also a very capable lawyer and conciliator) is making a good fist of it.

The ADC is an independent NT agency responsible for ensuring that the right to equality of opportunity for Territorians is respected, and responsible for the elimination of discrimination and sexual harassment.

The Act mandates that to achieve these lofty goals we must discharge a number of functions including the delivery of public education and training to the community about rights and responsibilities under the Act and appropriate attitudes; the investigation, conciliation, and hearing of complaints; advice to government about the operation of the Act; and the creation of publications for public consumption to promote compliance with the Act.

We are particularly keen to ensure that our Education and Training Division continues to push out its message. The framers of the Act recognised that education is the best means of enhancing community harmony, avoiding disputes and complaints before they arise, and improving conditions affecting people who are subjected to unfair prohibited conduct.

During this year’s reporting period (July 2007 to June 2008) the most popular training delivered by ADC was in the workplace, in particular on the topic of “Preventing Harassment and Bullying for Managers and Supervisors”. The popularity of this topic indicates to me that managers are recognising the problem and attempting to eliminate

it, and also that they are aware of their potential vicarious liability under the Act if the problem goes unchecked. This is a great outcome for the community.

Some important ADC activities during the last year are listed below.

- An ADC online Community Awareness Survey to assess the level of public awareness about discrimination, human rights and equal opportunity, and about the provisions of the Act. The information received has informed us in deciding which areas to target in training programs. The survey attracted an overwhelming response and was principally and most capably conducted by Rebecca Lowe, a social work student from Charles Darwin University on work placement at the ADC. Survey reports are produced on our website (full summary) and in Edition 16 of our 'Fair Go' newsletter (summary).
- The celebration of International Human Rights Day 2007 took place on 10 December in the foyer of the NT Supreme Court, Darwin. The well-attended event featured speakers and a performance by renowned Zorba the Greek impersonators "The Chooky Dancers" from Galiwinku/Milingimbi.
- The International Women's Day dinner on 8 March 2008 was also a resounding success. This year ADC and the Multicultural Council of the NT (MCNT) co-hosted an evening of cultural performances, dancing and guest speakers at the Italian Club Darwin to celebrate the achievements of women both globally and locally.
- From April 2008 ADC has been conducting consultations with accommodation industry representatives in Alice Springs. The consultation began following an incident in which it was reported that a group of young Aboriginal women were refused accommodation. This ambitious initiative aims to eliminate a culture of unfair treatment of Indigenous people by some NT accommodation providers. The consultation is ongoing and will hopefully deliver a "protocol" setting out legitimate expectations of accommodation providers about the behaviour of patrons. The protocol will have Indigenous input and be widely disseminated by the industry throughout Alice Springs, in remote communities and amongst all local and foreign tourists so that no patron employee or business has any doubt about what constitutes "fair treatment". ADC plans similar consultations for other major Territory centres which have thrown up similar complaints. For a full report on this initiative see Edition 18 "Fair Go" Newsletter on our website.

In last year's ADC annual report I drew attention to the discriminatory "Emergency" Intervention into remote NT by the federal government on the pretext of addressing child abuse. The Intervention is ongoing but first commenced in July 2007, just outside last year's reporting period. An Intervention 'Review' process by the federal government is currently taking place (just outside this year's reporting period), and ADC has lodged a written submission, the complete version of which is available on our website.

The submission contains recommendations and an analysis of what hasn't worked and what will work in the quest to overcome disadvantage in remote NT. A central and

critical theme of the submission is for the hitherto short-term Intervention to be transformed into a range of long-term initiatives underpinned by a permanent government presence in remote NT.

During the year we received approximately the same number of complaints in total as last year, and the distribution through the categories remained fairly constant with the exception of complaints based on race, which doubled in percentage terms to 40% of all complaints. Based on the anecdotal evidence that we receive, we are aware that many instances of unfair treatment based on race are unreported. Perhaps the inference that we can draw from the increase is that our profile raising efforts are beginning to bite, and aggrieved persons are more confident about the fairness of our dispute resolution processes.

It is unlikely that the increase in race-based complaints is referable to the Federal Intervention because the Intervention enabling legislation suspended the operation of the *Anti-Discrimination Act* for complaints arising out of the Intervention. Suspension of the Act is a shameless admission by the federal government that the Intervention is unfair and discriminatory.

Enquiries, as distinct from complaints, have reduced in number in comparison to last year. We trust that this phenomenon is the consequence of a raised awareness by the community of its rights and responsibilities under the Act.

Our co-location with the Office of the Information Commissioner, Community Justice Centre and the Community Visitor Program continues to realise economies through the sharing of resources and expertise. The ADC and the Information Commissioner also share hearing functions in the event that one of the Commissioners is conflicted or unavailable for some reason. It has not been necessary to avail ourselves of this opportunity as yet.

I am disappointed to report that our efforts to persuade the NT Government to fund and establish a permanent ADC branch office in Alice Springs have still not met with success. The ADC of course operates a freecall telephone service from anywhere in the Territory, but we regret that Central Australians continue to be denied access to the level of justice afforded to those north of the Berrimah line.

In 2007/08 NT complaints from outside Darwin and Palmerston areas accounted for 42% of total complaints, an increase from 30% in the two years prior. Whilst it is encouraging to see that the anti-discrimination message is being heard Territory-wide, these figures again highlight the need to ensure that we can provide our full range of services to all Territorians, in particular those in Central Australia.

We continue to look forward to the consideration by Cabinet of the recommendations for review of the Act. The recommendations are the product of ADC research and community input, and have been pending for the last three years.

In conclusion I would like to once again extol the virtues of conciliation.

One of the functions of the ADC is to resolve complaints. We achieve this in a remarkable number of cases through conciliation. At conciliation we don't represent

the parties to a dispute, but we provide a forum for dispute resolution using one of our trained, impartial conciliators. During conciliation the parties, with the assistance of the conciliator, identify the issues in dispute, develop resolution options, consider alternatives, and try to reach agreement.

The conciliator may give advice generally and/or advise on the terms of settlement, on the operation of the Act, and on the manner of resolution of cases decided in the past. The conciliator may actively encourage agreement, but cannot force the parties to agree.

The beauty of conciliation is that it provides an opportunity for parties in dispute to help themselves in an informal, safe environment and in accordance with agreed rules of discussion (eg no abuse, equal speaking time, no interrupting).

Conciliation is free. In our experience the open and frank discussion between the parties at conciliation usually brings about desirable results.

### **Summary of Activities**

- **Submissions/Comments**

- Report on the Review of the University of Sydney Medical Program
- National Race Relations Roundtable Conference, Alice Springs
- Public meeting on Federal Government Intervention at Charles Darwin University (CDU)
- Consultative meeting with Major General Dave Chalmers, NT Emergency Response Taskforce
- Accommodation Providers Information Sessions, Alice Springs
- Meeting with Territory Health Services regarding accommodation for people with mental illness and complex needs

- **Speaking Engagements**

- CDU pre-tertiary program students
- Federal Intervention Rally, Raintree Park
- Australian Association of Social Workers (AASW) NT Branch AGM on the Federal Intervention
- Northern Territory Council of Social Service (NTCOSS) Conference
- Australian Education Union pre-conference workshop
- Australian Education Union Annual Conference
- Law Week 2008 – Hypothetical on Indigenous Legal Issues in the Top End by panel of experts, Museum and Art Gallery NT, Darwin
- Accounting at the Top 2008 Convention

- **Other Engagements**

- NAIDOC 2007 march and rally
- North Australia Aboriginal Justice Agency (NAAJA) lawyers training
- National Tertiary Education Industry Union lunchtime seminar, CDU
- CDU students in the pre-tertiary program
- ADC briefing for Maureen Collie (Commonwealth Ombudsman's Head Office) and Pat Marsden (Darwin/Katherine Delegate)
- ADC hosted a lunchtime talk by Human Rights Commissioner Graeme Innes about the Human Rights and Equal Opportunity Commission (HREOC)'s recently released Same Sex: Same Entitlements report
- Combined ADC/ NT Working Women's Centre (WWC) workshop as part of Week Without Violence
- YWCA Week Without Violence – "YWCA Walk Against Violence Everywhere" from Banyan View Lodge to Bennett Park
- NT Shelter Anti-Poverty Breakfast, Bennett Park
- ADC briefing to Batchelor Institute of Indigenous Tertiary Education (BIITE) lecturer and 15 students undertaking Diploma of Interpreting (LOTE/English) Legal Studies
- ADC briefing to Liquor, Hospitality and Miscellaneous Union staff
- National Race Relations Roundtable Community Meeting at Desert Park Alice Springs
- National Race Relations Roundtable Conference in Alice Springs
- Public meeting on Federal Government Intervention at CDU
- Video recorded interview by Clarissa Philips (Year 9 Nightcliff Middle School student), Jackie Toms and Glen Gregory as part of an assignment on discrimination issues in the NT
- Meeting with Professor Shane Houston, Assistant Secretary for System Performance and Aboriginal Policy to discuss special measures
- Local Government Association NT (LGANT) Darwin Conference
- Invitation to acknowledge ADC support and contributions made to the Regional Disability Liaison Office program at CDU
- Human Rights Arts Award and Exhibition, Supreme Court foyer
- International Human Rights Day – ADC function in Supreme Court foyer
- International Women's Day, hosted by ADC, Multicultural Council of NT and Italian Club
- Host of the HREOC Sex Discrimination Commissioner's Listening Tour Darwin
- Police briefing on Taser implementation and policy
- NTCOSS Conference
- Indigenous Cross Cultural Awareness Training

- **General Meetings**

- Australian Council of Human Rights Agencies (ACHRA) and HREOC, Perth
- Public forum on Indigenous Policy Reform in the NT at CDU
- Developing Skills for Performance Management (DSPM) Training Session
- ADC/OCPE Building Awards
- 2007 Commissioner's Awards for Equity & Diversity judging panel
- Knuckeyes Lagoon Community

- Regular meetings of the OARS Committee; Community Justice Centre Consultative Committee; NT Independent Statutory Authorities; and Department of Justice Executive Directors.

- **Invitations**

- NAIDOC 50 Years Concert, Berrimah Prison
- Annual Prisoner Art Exhibition "Behind the Wire 2007", Fannie Bay Gaol
- United Nations Association of Australia NT Division (UNAANT)/MCNT event - guest speaker Mr Abdullah Saleh Mbamba, UN Secretary General's official representative in Australia
- Play by the Rules Launch, Marrara Indoor Stadium
- Indigenous Centre naming ceremony for Gurinbey Casuarina Campus, CDU
- United Nations Day function, Stranger's Room, Parliament House
- Cowdy Ward Open Day
- Indigenous Centre naming ceremony for Duwun at Karawa Restaurant, Palmerston Campus
- Open day at Melaleuca Refugee Centre for 10th Anniversary celebrations and website launch
- Opening of the Elders Visiting Program Forum, Palm City Resort
- 2008 Australia Day Flag Raising & Citizenship Ceremony, Darwin Entertainment Centre
- Harmony Day Celebrations 2008
- Law Week Hypothetical, Museum Ampitheatre
- Law Week lunch
- Local Government Reform – Wayne Dillon Disability Action Network

- **Broadcasts**

- Top End Aboriginal Bush Broadcasting Association (TEABBA) - Fortnightly broadcasts to remote NT
- Radio Larrakia - broadcasts to urban Darwin

- **Awards**

- Judging of the OCPE/ADC Equity and Diversity awards at OCPE
- Presentation of the OCPE/ADC Equity and Diversity Awards, Sky City International Room

- **Conferences**

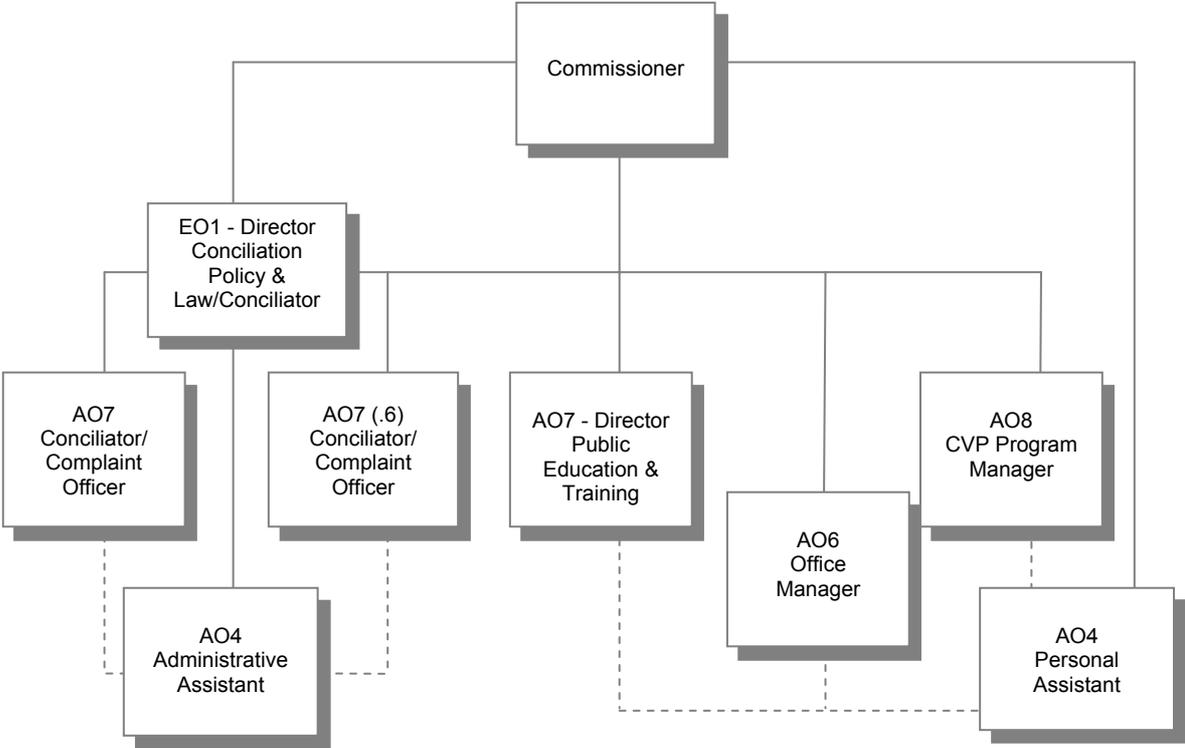
- Criminal Lawyers Conference, Bali
- National Legal/Conciliation & Education Officers Conference, Hobart
- Australian Education Union Conference, Darwin
- National Race Relations Roundtable Conference, Alice Springs

## Functions of the Commissioner

### Section 13 *Anti-Discrimination Act*

- (1) The Commissioner has the following functions:
- (a) to carry out investigations and hearings into complaints and endeavour to effect conciliation;
  - (b) to examine Acts and regulations and proposed Acts and regulations of the Territory to determine whether they are, or would be, inconsistent with the purposes of this Act, and to report the results of such examinations to the Minister;
  - (c) to institute, promote or assist in research, the collection of data and the dissemination of information relating to discrimination and the effects of discrimination;
  - (d) to consult with organisations, departments and local government and community government bodies and associations to ascertain means of improving services and conditions affecting groups that are subjected to prohibited conduct;
  - (e) to research and develop additional grounds of discrimination and to make recommendations for the inclusion of such grounds in this Act;
  - (f) to examine practices, alleged practices or proposed practices of a person, at the Commissioner's own initiative or when required by the Minister, to determine whether they are, or would be, inconsistent with the purposes of this Act, and, when required by the Minister, to report the results of the examination to the Minister;
  - (g) to promote in the Territory an understanding and acceptance, and public discussion, of the purposes and principles of equal opportunity;
  - (h) to promote an understanding and acceptance of, and compliance with, this Act;
  - (j) to promote the recognition and acceptance of non-discriminatory attitudes, acts and practices;
  - (k) to promote within the public sector the development of equal opportunity management programs;
  - (m) to prepare and publish guidelines and codes of practice to assist persons to comply with this Act;
  - (n) to provide advice and assistance to persons relating to this Act as the Commissioner thinks fit;
  - (p) to advise the Minister generally on the operation of this Act;
  - (q) if the Commissioner considers it appropriate to do so, to intervene in a proceeding that involves issues of equality of opportunity or discrimination with the leave of the court hearing the proceeding and subject to any conditions imposed by the court;
  - (r) such functions as are conferred on the Commissioner by or under this or any other Act; and
  - (s) such other functions as the Minister determines.

**STAFF ORGANISATION CHART  
(as at 30 June 2008)**



## Our Talented and Committed Staff



**Tony Fitzgerald**  
Commissioner

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**Lisa Coffey**  
A/Director Conciliation,  
Policy & Law/ Conciliator

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**Surya Silva**  
Director Public Education  
& Training

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**Simon Wiese**  
Conciliator

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**Rachael Dunn**  
Conciliator

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**Melanie Campbell**  
Conciliation Support Officer

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**Somsong Albert**  
Office Manager

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**Judy Clisby**  
Community Visitor  
Program Manager

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**Karyn Jessop**  
Personal Assistant

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**ANTI DISCRIMINATION COMMISSION****Statement of Financial Performance  
For the year ended 30<sup>th</sup> June 2008**

The approved budget for the Commission during 2007/08 was \$966 000. Personnel Expenditure Budget was \$821 000 and \$145 000 for Purchase of Goods and Services.

The Financial Statement for 2007/08 included in this report reflects the Commission's approved Budget and allocation of expenses for services provided by Department of Justice and Department of Corporate and Information Services. The assistance of both organisations in the administration of the Office is acknowledged and appreciated.

	\$'000	\$'000
<b>INCOME</b>		
Grants		22
Output Revenue		1,013
Sales of Goods and Services		32
Goods and Services Received Free of Charge		122
<b>TOTAL INCOME</b>		<u>1,189</u>
<b>EXPENSES</b>		
Employee Expenses		790
<i>Administrative Expenses</i>		
Repairs and Maintenance		7
Purchase of Goods and Services**		202
Property Management	6	
Accommodation	7	
Communications	18	
Consumables / General Expenses	4	
Document Production	1	
Information Technology Charges	39	
IT Consultants	12	
IT Hardware and Software Exp	2	
Library Services	3	
Marketing and Promotion	25	
Membership and Subscriptions	3	
Motor Vehicle Expenses	19	
Office Requisites and Stationery	5	
Official Duty Fares	7	
Other Equipment Expenses	10	
Training and Study Expenses	6	
Travelling Allowance	6	
Other Expenses	29	
Depreciation and Amortisation		6
Other Administrative Expenses*		128
<b>TOTAL EXPENSES</b>		<u>1,133</u>
<b>NET SURPLUS/(DEFICIT)</b>		<u>56</u>

\* Includes DCIS Services Free of Charge

\*\* Indicative figures for Purchase of Goods and Services only

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## Conciliation, Policy and Law



Lisa Coffey  
A/Director

The Anti-Discrimination Commission's (ADC) Conciliation, Policy and Law section is responsible for complaint handling, investigations, conciliation, and delegated decision-making under the NT *Anti-Discrimination Act* ("the Act"); provision of policy advice to the Anti-Discrimination Commissioner ("the Commissioner"); advice to business, government and the public with regards to the operation of the Act; the legal work of the ADC (including appeals, and advice on the operation of the Act); and handling the many enquiries received.

At the end of the reporting period there was one full-time and one part-time Conciliator/Complaints Officer working in this section, as well as a new Acting Director. In addition administrative staff within the ADC provided fantastic support, as did the other members of the ADC and the Community Visitor Program.

There have been many changes and challenges in the area of Conciliation, Policy and Law over the reporting period.

The end of 2007 saw the departure of the long-serving Director, Terry Lisson. Terry had been at the ADC since 2001, achieving many remarkable results over that time.

Terry's arrival at the ADC brought a number of changes including a significant improvement in the timeliness of complaint handling, and perhaps most notably, a renewed focus on resolution of complaints through conciliation. Her lasting influence in this area is reflected in the figures shown in this report – with 37% of closed complaints settled via conciliation in the reporting period. This figure rises to 57% when outcomes of accepted complaints only are considered.

One of Terry's other achievements, in conjunction with others at the ADC, was in building relationships with business and government sectors that are most likely to come into contact with the ADC as respondents. The impartiality of the office and the willingness to proactively assist business and government to implement measures that prevent discrimination and other prohibited conduct from occurring in the first place are aspects of our service that we continue to promote.

### Enquiries

For most people who are looking to make a complaint under the Act the first point of contact with the ADC is through an enquiry, via telephone, mail, email, in person, or via our website. This year's statistics show a very high demand for our internet-based services, with over 50,000 hits recorded on the ADC website in the reporting period. Whilst direct enquiry numbers (those via telephone, mail or email) are down on the previous reporting period (468 compared with 563 enquiries in 2006/07), we can only assume that people are increasingly finding much of the initial information they require via the website.

The ADC website allows members of the public to download complaint forms as well as find information about attributes, areas and prohibited conduct.

It will be interesting to see if the trend of increased use of the website continues in the coming reporting period, especially given that our new web-site will be up and running by the end of 2008.

Telephone, email, mail and personal enquiries are generally handled by conciliator/complaints officers who provide free and confidential advice in response to these enquiries. In 2007/08, the percentage of enquiries taken via each of the listed media remained largely the same as those reported in the previous year.

We continue to receive a substantial number of requests from government agencies, businesses and non-government organisations for professional advice on issues relating to the operation of the Act. This year out of 468 enquiries, 99 were made in a professional capacity.

Interestingly in 2007/08 nearly 30% of enquiries came from outside of the Darwin/Palmerston area. This substantial figure is consistent with the increase in actual complaints from regional and remote parts of the Territory.

In 2007/08 151 of the 468 enquiries received by the ADC concerned behaviour or allegations that did not disclose discrimination or other prohibited conduct under the Act. In these cases the person enquiring is referred to another agency or organisation such as the Community Justice Centre, or the Ombudsman where appropriate.

For anyone seeking further information about the operation of the Act, the ADC's general enquiry line and "Helpline for Managers and Supervisors" can be accessed on Freecall 1800 813 846, and our website is at [www.adc.nt.gov.au](http://www.adc.nt.gov.au).

## **Complaints**

One of the functions of the Commissioner, under section 13(1)(a) of the Act, is to "*carry out investigations and hearings into complaints and endeavour to effect conciliation*".

In performing this function the ADC is a neutral body which does not represent either side to a complaint. The role of the Commissioner in relation to complaints is to impartially assess and investigate matters, facilitate conciliation between the parties, and, if necessary, conduct hearings to determine complaints.

For reasons of impartiality, the Act provides that if the Commissioner has personally conducted the investigation or taken part in the conciliation of a complaint, he cannot conduct a hearing into that matter. For this reason the Commissioner delegates his powers to investigate and conciliate complaints to conciliators within the ADC. The Delegates' functions include: receiving complaints; accepting or rejecting complaints; conducting investigations; providing advice to both parties as to the conduct of proceedings under the Act; making determinations (at the conclusion of an investigation of a complaint) as to whether there is prima facie evidence to support a complaint; and endeavouring to assist in the resolution of complaints including through conciliation conferences at any stage following acceptance of a complaint. If a Delegate is satisfied that there is prima facie evidence to substantiate a complaint, and

that complaint cannot be resolved by conciliation, it may be referred to a public hearing before the Commissioner.

## Summary of Complaint-Handling in 2007/08

### Complaint Process (Overview)

#### a. Discrimination, Prohibited Conduct and Areas of Activity

The Act defines discrimination as including any distinction, restriction, exclusion or preference made on the basis of an attribute that has the effect of nullifying or impairing equality of opportunity. Prohibited discrimination also includes harassment on the basis of an attribute.

The Act prohibits discrimination in any of the areas covered by the Act on the ground of any of the following attributes which appear in section 19:

- (a) race;
- (b) sex;
- (c) sexuality;
- (d) age;
- (e) marital status;
- (f) pregnancy;
- (g) parenthood;
- (h) breastfeeding;
- (j) impairment;
- (k) trade union or employer association activity;
- (m) religious belief and activity;
- (n) political opinion, affiliation and activity;
- (p) irrelevant medical records;
- (q) irrelevant criminal record;
- (r) association with a person who has, or is believed to have, an attribute referred to in this section.

The Act also prohibits other forms of conduct including:

- refusing to allow guide dogs;
- sexual harassment;
- failure to accommodate a special need;
- victimisation;
- seeking unnecessary information;

- discriminatory advertising;
- aiding contravention of the Act.

Discrimination on the basis of any of these grounds is only unlawful if it occurs in one of the following areas of activity set out in section 28 the Act:

- (a) education;
- (b) work;
- (c) accommodation;
- (d) goods, services and facilities;
- (e) clubs; and
- (f) insurance and superannuation.

Misunderstandings concerning discrimination often arise from a misconception that the Act covers any conduct that may be described as 'discrimination' or 'harassment'. It is important to note that unlawful discrimination is limited to discrimination based on the attributes, and in the areas, set out in the Act.

A prime example of offensive behaviour not covered by the Act is workplace bullying. Bullying that subjects a person to unfair treatment or harassment in the workplace, but does not occur because of an attribute, will not fall within the terms of the Act.

People complaining of workplace bullying and other behaviour not covered by the Act are often referred to another agency or body that might be able to assist them to resolve their complaint, such as the NT Community Justice Centre (with which we are co-located), Consumer and Business Affairs or the Ombudsman.

In the 2007/08 reporting period there was an increase in the number of allegations of discrimination or harassment on the basis of race. Race complaints made up nearly 40% (64 out of a total of 161 separate complaints) of the total of discrimination or harassment complaints.<sup>1</sup> This is a big increase on 2006/07 figures which saw race complaints make up only 24% of total discrimination or harassment complaints.

The other figure of note was complaints of discrimination on the basis of impairment, which made up 21% (34 out of 161) of the total complaints. In addition there were 25 complaints of failure to accommodate a special need (most regularly associated with impairment).<sup>2</sup>

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<sup>1</sup> Note that these figures reflect the number of complaints of discrimination, rather than the number of complainants. That is, one complainant could make a complaint of discrimination on the basis of impairment, race and failure to accommodate a special need. For the purposes of these figures that would equate to 3 separate allegations.

<sup>2</sup> It is rare for a complaint of failure to accommodate a special need to be made alone. In most cases it will be accompanied by a complaint of discrimination.

**b. Acceptance of Complaints (sections 65, 66, 67 and 68)**

Complaints alleging discrimination or other prohibited conduct must be made in writing by the person aggrieved; must set out in detail the alleged prohibited conduct; must identify the respondent so far as practicable; and must be made not later than six months after the alleged prohibited conduct took place.

Despite the six month time limit set out in the Act, the Commissioner has a discretion to accept a complaint outside the time limit if satisfied it is appropriate to do so. Factors that may be relevant in considering whether or not to exercise this discretion include: how far out of time the complaint was made; the cogency of any explanation for why the complaint was not lodged in time; prejudice to the respondent; and any other relevant circumstances of the case. Conduct that occurred out-of-time will also usually be allowed to form part of a complaint if it is shown that it is part of a continuing pattern of prohibited actions that extended into the six month timeframe.

Once the ADC receives a written complaint, an initial decision is made as to whether the complaint should be accepted or rejected. The Act requires this decision to be made within sixty days of receipt of the complaint.

A complaint must be rejected if the ADC reasonably believes that it is frivolous, vexatious, trivial, misconceived, lacking in substance or if it fails to disclose any prohibited conduct. If this appears to be the case, the ADC will often utilise the sixty day period to make preliminary inquiries regarding the complaint. Complainants may be asked to provide further information in support of their complaint.

A decision of the Local Court in 2004 in the matter of *Gedling v Anti-Discrimination Commissioner* suggests that, except in very limited circumstances, the ADC is only able to contact respondents after a complaint has been accepted.

Once a complaint is accepted, the ADC will write to the respondent advising that a complaint has been lodged. The letter will also outline the substance of the complaint, the basis for the complaint under the Act, explain the processes under the Act, and alert the respondent to the possibility of resolution through conciliation. Conciliators will often also contact a respondent at this early stage in an effort to allay any concerns or misconceptions held by respondents, in particular the most common misconception which is that the ADC represents a complainant or is promoting a claim. The ADC does not represent either party but provides a forum for complaint resolution.

As mentioned above, the Act requires that complaints be accepted or rejected within sixty days of being received however, in practice, this decision is generally made within two to three weeks of receipt. If a complaint is rejected the ADC must notify the complainant in writing of the reasons and this decision is appellable to the Local Court.

**Of the 101 complaints finalised this year, 20 were rejected at the outset.**

### c. Investigation

After acceptance, a complaint is investigated with a view to determining whether or not the Conciliator can be satisfied that there is prima facie evidence to substantiate the complaint.

The Act does not set out specific process or requirements for the conduct of an investigation into a complaint of prohibited conduct, other than to state that the investigation shall be thorough, and each party given a reasonable opportunity to present their case. Section 75 states in part that “*an investigation under this division shall be conducted in such manner as the Commissioner thinks fit*”. The section goes on to state that “*the investigation should be carried out with as little formality and technicality, and with as much expedition as the requirements of this Act and a proper consideration of the matters before the Commissioner permit.*”

The ADC takes the view that the requirement to allow parties reasonable opportunity to present their case includes not only the opportunity to name witnesses and present evidence in support of their case, but also the opportunity to comment or make submission on any issues that may arise. The aim of the ADC is to act in a manner consistent with the principles of natural justice at all times.

As mentioned in earlier sections of this report, in recent years the ADC has encouraged early conciliation of complaints where appropriate. It is important to note that the investigation and conciliation phases of complaint-handling run concurrently, not consecutively. That is, conciliation does not have to take place at the conclusion of an investigation. Voluntary conciliation can take place at any stage by agreement between parties.

### d. Section 76 Prima Facie Decisions and section 102 Decisions

At the end of the investigation stage, if the matter has not been resolved, the Delegate is required to make a determination under section 76 of the Act to either dismiss a complaint, or if satisfied that there is prima facie evidence to substantiate the allegation of prohibited conduct in the complaint, refer the complaint to conciliation or hearing.

A finding that there is prima facie evidence to substantiate a complaint is not a finding of fact or liability.

**Of the 101 files completed this year, 4 were dismissed at the prima facie stage on the basis that there was insufficient prima facie evidence to substantiate the complaint.**

In 2007/08 13 of the 101 files closed by the ADC were closed following a determination by a delegate under section 102 of the Act. This section allows the Commissioner or his Delegate to discontinue proceedings in respect of a complaint if they reasonably believe that the complaint is frivolous, vexatious, trivial, misconceived, lacking in substance or fails to disclose any prohibited conduct.

**Of the 101 files closed this year, 13 were discontinued under section 102.**

### **e. Conciliation**

As discussed above, voluntary conciliation of a complaint under the Act can take place at any time after a complaint is received by the ADC. The ADC is available to assist in the conciliation process, and does so for free.

Conciliation is generally described as a process in which the parties to a dispute come together in an attempt to resolve a complaint. Conciliation can take the form of a facilitated 'negotiation' between the parties – either face-to-face or through a conciliator; it can be a shuttle process in which the Conciliator moves back and forth between the parties in an attempt to resolve the matter; or it can take the form of a formal conciliation conference with all parties in attendance.

The role of a Conciliator is to assist the parties to identify and explore the issues in dispute, to develop options to resolve a dispute, and ultimately to reach a resolution. A conciliator must act impartially, that is they do not act or advocate for either party, or for a pre-determined outcome. They may advise on the strengths and weaknesses of the case, or the strengths and weaknesses of a proposed agreement, but they will not provide advice to parties on whether or not they should ultimately enter into an agreement.

There is provision under the Act for parties to be referred to a compulsory conciliation conference, however no compulsory conciliation conferences were held at the ADC in the past year. Instead parties to complaints have been willing to attend voluntary conferences, which suggests they have confidence in the fair and impartial processes of the ADC.

If parties are able to resolve a complaint through conciliation, it is usual for a written settlement agreement to be prepared by the ADC for execution by the parties. Typical conciliated settlements might include such things as an apology or statement of regret; an agreement by a respondent to participate in anti-discrimination training; a commitment to change policies and practices; re-instatement in employment; or payment for damages in any amount agreed upon by the parties.

**Of the 101 complaints finalised during the year, 37 were resolved through conciliation.**

## f. Hearings

Where a complaint is found to meet the prima facie evidence test described above and cannot be resolved by conciliation, it will be referred to public hearing before the Commissioner. Complaints can also proceed to hearing on the request of one of the parties pursuant to section 84 of the Act if the complaint has not been finally dealt with at the expiration of 6 months following acceptance of the complaint.

In 2007/08 only one matter was referred to hearing, and whilst interim orders were made, the matter did not reach the formal hearing stage.<sup>3</sup>

Generally, the hearing process begins with a Directions Conference during which the parties meet before an ADC Registrar to set dates for the complainant to file Points of Claim which set out the substance of the complaint, and for the respondent to file Points of Defence which set out the nature of the defence. The parties also discuss with the Registrar whether or not they wish to be legally represented, the number of witnesses they intend to call, how much hearing time they estimate will be needed, a suitable hearing date and any other matters that need clarification.

The hearing process is, in many ways, similar to proceedings in courts or before tribunals. However in practice, ADC hearings are less formal and the Commissioner is not bound by the rules of evidence. The Act requires the Commissioner to “*act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms*”.

At hearing, the complainant must prove their case on the balance of probabilities. If there is a finding of prohibited conduct, the Commissioner may make a wide range of orders including orders for apologies or retractions; anti-discrimination training; that a respondent not repeat or continue a prohibited conduct; or that a person be employed, promoted or reinstated. The Commissioner also has the power to award damages of not more than the maximum amount prescribed in the Regulations to the Act (currently \$60,000).

The Act provides that, at any time during the hearing process, if the Commissioner considers that a complaint may be resolved by conciliation he or she “*may endeavour to resolve the complaint by conciliation*.”

In the past there have been delays in bringing complaints to hearing, but it is now common practice for the Registrar’s conference to take place within two weeks, and the hearing within three months, of the date of referral to hearing.

**Of the 101 complaints finalised during the year none were determined at hearing. Numbers in past years have been consistently low, with only one matter determined at hearing in each of the previous two reporting periods.**

**Hearing decisions are reported on the ADC website: [www.adc.nt.gov.au](http://www.adc.nt.gov.au).**

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<sup>3</sup> Statistics regarding hearings refer only to those matters that were finally determined at hearing.

## Appeals

Pursuant to section 106 of the Act, a complainant or respondent may appeal a decision of the Commissioner or his Delegate to the Local Court. This includes decisions to reject complaints, decisions to dismiss complaints at the prima facie decision-making stage, section 102 decisions to discontinue, or the Commissioner's Hearing decisions.

Appeals from decisions of the Commissioner or a Delegate will generally be decided by way of a re-hearing on the material before the Commissioner and not as a *de novo* (new) hearing. Fresh evidence may be admitted with the leave of the Court.

### Appeals finalised during 2007/08

#### ***M v Anti-Discrimination Commissioner and Alcan Gove Pty Ltd [2007] NTMC 071***

*Appeal dismissed; ADC ruling confirmed; parties bear their own costs.*

M alleged that he had been unlawfully discriminated against by the second respondent on the basis of race, in the area of work. The appellant appealed the decision of the Delegate of the Commissioner to dismiss his appeal at the prima facie stage pursuant to section 76 of the Act. The appellant claimed that the Delegate had failed to ensure that he had a reasonable opportunity to present his case; and that the investigation undertaken by the Delegate was not thorough enough as mandated by section 75 of the Act.

In dismissing the appeal and confirming the decision of the Delegate, Fong Lim RSM held firstly, that the appellant was afforded reasonable opportunity to answer the response provided in the investigation phase by the second respondent; and was of the opinion that he had provided the Delegate with all of the relevant information he had in relation to his complaint.

On the second ground, Fong Lim RSM considered the nature of an investigation under the Act, and the powers available to the Delegate at the investigatory stage. Her Honour determined that the coercive powers under section 92 of the Act - to order production of documents, require statements and so on - available to the Commissioner were not available at the investigatory stage, as to exercise them would be to increase the formality of the proceedings and create "unwanted technicality".

Fong Lim RSM stated that it was clear that "the depth of the investigative process is within the discretion of the delegate and depends very much on the facts of a particular case"; and went on to find that the investigation undertaken in the matter was thorough, as mandated by the legislation, and further confirmed that the conclusion of the Delegate that there was not enough prima facie evidence to support a complaint of prohibited conduct was correct.

**Appeals finalised during 2006/07 (cont)**

***Bachelor Institute of Indigenous Tertiary Education (BIITE) v Anti-Discrimination Commissioner and Berice Anning; Berice Anning v Anti-Discrimination Commissioner and BIITE* (unreported, NT Local Court 28 and 29 November 2007)**

*Both appeals dismissed.*

The complainant Anning was an employee of the respondent BIITE. She alleged that she was discriminated against - as the respondent treated her differently (and less favourably) through a review and redundancy process - on the basis of her race. The respondent admitted that the complainant had been treated differently, however submitted that this was not as a result of her race, but rather her length of service.

This matter was an appeal by the complainant against the decision of the Commissioner to reject her complaint. There was a further appeal by the respondent BIITE against the decision of the Commissioner not to award costs against the complainant in the first instance.

Cavanagh SM dismissed both appeals, with the decisions of the Commissioner affirmed, and no orders made as to costs.

The ex tempore decision gave some guidance on the matter of costs, noting that the jurisdiction is generally a no-cost jurisdiction (see section 80(1) of the Act which has as its starting point the assumption that each party should bear their own costs in respect of proceedings under the Act. The Commissioner does however have the power to award costs). Cavanagh SM stated that if he was of the view that the appellant (the complainant) was being mischievous, vexatious, stupidly stubborn or was in any way setting out to punish the respondent by the appeal proceedings he would have had no hesitation in awarding costs. As it was, he found that these factors were not at play and declined to make a costs order.

**Appeals finalised during 2006/07 (cont)*****Acklin v Anti-Discrimination Commissioner and Batchelor Institute of Indigenous Tertiary Education [2008] NTMC 030***

*Appeal dismissed; decision to dismiss the complaint confirmed.*

The complainant Acklin alleged that she was discriminated against by the respondent on the basis of her race and her association with a person with an attribute (race). She further alleged that she was harassed on the basis of her race; was asked unnecessary questions upon which discrimination might be based; and had a special need because of her race which was not catered for.

The complainant is an Aboriginal woman who was employed by the respondent. She made her complaint after she was not offered a new contract at the expiry of her original fixed-term contract.

The grounds for appeal were that the decision of the Commissioner's Delegate was not in accordance with the law; that the Delegate erred by applying section 76 in a manner contrary to the objects and purposes of the Act; and that the decision of the Delegate was against the weight of the evidence in the matter.

In dismissing the appeal, Oliver SM considered the various stages of the complaint handling process. Her Honour expressed her view that the ADC should notify respondents of the specific prohibitions that form the basis for acceptance of the complaint at the time that the complaint is accepted.

Her Honour also made observations about the nature of the prima facie evidence test under section 76 of the Act, confirming that the Delegate should not be seeking that the complainant prove their case on the balance of probabilities at that stage, but rather assessing whether there is any evidence capable at hearing of meeting this required standard.

As with the other cases reported above, Oliver SM declined to order costs in this matter.

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### Example Complaints Resolved Through Conciliation in 2007/08

#### **Race**

An Indigenous football team returning to their community after a game in 2007 stopped in at nearby town to celebrate their victory. On entering the local hotel the team members were told that Aboriginal people were not being served because of a break-in at another local business the night before.

The team explained that they had been more than 100 kilometres away from the town the night before and that they were just passing through. The barman explained that as the break-in was committed by Aboriginal persons, no Aboriginals would receive service at the hotel.

The ADC investigated the complaint and found that since the incident complained of had occurred, new owners had taken over the hotel.

Following discussions with the ADC the former owner apologised for the incident and the new owners reprimanded the staff member involved in the incident.

The new owners assured the complainants that they were welcome at the hotel in the future and offered them a discount on their next visit.

#### **Seeking of unnecessary information during an interview**

A woman in her mid-thirties applied for a position with a medium size accounting firm in the Northern Territory. She claimed she had the appropriate qualifications to perform the inherent requirements of the job. The woman claimed that during the interview she was asked many unnecessary personal questions that were not related to the position she was applying for, and on which unlawful discrimination might be based.

The complainant alleged that the interviewer asked whether or not she was married, how many children she had and how old they were. She also claimed that the interviewer asked what care arrangements she had in place for her children while she was working, what her husband did for a living, whether or not she owned her own home, whether or not she had access to extended family to help her raise her young children and whether she was considering having any more children in the near future. The woman was later advised that her application for employment had been unsuccessful.

The ADC assisted the parties to resolve this matter by way of providing education to the employer about seeking unnecessary information during an interview process. The complainant was also offered a written apology from the respondent firm regarding the incident.

**Impairment (Disability)**

A government worker who uses a wheelchair attended a staff training course at a Darwin conference venue in late 2007. On arrival the worker felt that the access ramp to the building was unsafe and not up to the required Australian standard.

The worker also discovered that the venue did not have disabled toilets and the facilities that were made available to her were not suitable as she was not able to enter or exit the bathroom without assistance from staff.

The ADC investigated the complaint and found that the building was very old and scheduled for demolition in the near future. The ADC agreed that in the circumstances it may be unreasonable for the owner to make expensive and considerable adjustments to ensure the building was fully accessible to people with disabilities.

The venue agreed to change its booking procedures to ensure that accessibility issues are discussed with every organisation booking the venue for training or conferences.

In addition the Commissioner asked all NT Government Departments to ensure that they only use training and conference venues that are accessible to all employees.

The complainant was satisfied with these outcomes, along with a donation from the building owner to the Disabled Sports Association of the NT.

**Parenthood & accommodation of a special need**

The ADC received a complaint from a woman who was studying at a tertiary institute in the Northern Territory, alleging that her education provider had failed to accommodate her special need as a parent. She advised that her daughter was six weeks old and that she wished to attend lectures with her baby. She claimed she was told that children were not permitted into lectures. The complainant said she did not have access to child care and given she was breastfeeding, wanted her daughter attend classes with her until alternative arrangements could be made.

The ADC contacted the tertiary institute and it was agreed that the complainant could attend classes with her baby for the remainder of the semester.

**Impairment – Mental Illness**

The complainant was summarily dismissed from his work after an incident of erratic behaviour when charged with the care of vulnerable clients.

The complainant claimed that the incident was the last of a series of erratic episodes, all of which had come to the attention of the respondent employer. Five days after the incident the complainant was diagnosed with a mental illness.

The complainant alleged that in terminating his employment, the respondent discriminated against him on the basis of this mental illness.

The respondent stated that they would have terminated the employment of any employee who had behaved in the same way as the complainant. In other words the respondent stated that they dismissed the complainant because of his behaviour not because of his impairment.

The parties also both accepted that at the time of the incident the complainant was unable to perform the inherent requirements of his job (one of the exceptions in the Act allows an employer to discriminate against a worker on the basis of the worker's inability to perform the inherent requirements of the work). On these bases it is unlikely that the complaint would have been successful in a claim of direct discrimination.

In the second part of his complaint the complainant alleged that the respondent had failed to accommodate a special need he had as a result of his mental illness.

Whilst it was accepted that the complainant was not diagnosed with a mental illness until after he was dismissed it was submitted by the complainant that, based on his recent erratic behaviour and the unusual nature of the final incident, the employer should have investigated the complainant's psychological, emotional and mental health before summarily terminating his employment.

There was no formal determination of this complaint, however after discussions with the ADC the complaint was resolved with the respondent paying the complainant compensation equal to the value of the sick leave that he would have been entitled to use had more reasonable accommodation of his mental illness been made at the outset.

## Performance Reporting

### Complaint Handling

This function involves the complaint acceptance, investigation, conciliation and hearing function of the Commission which operates to achieve the resolution of complaints in accordance with the provisions and requirements of the Act.

### COMPLAINTS STATISTICS:

#### FINANCIAL YEAR 1 JULY 2007 – 30 JUNE 2008

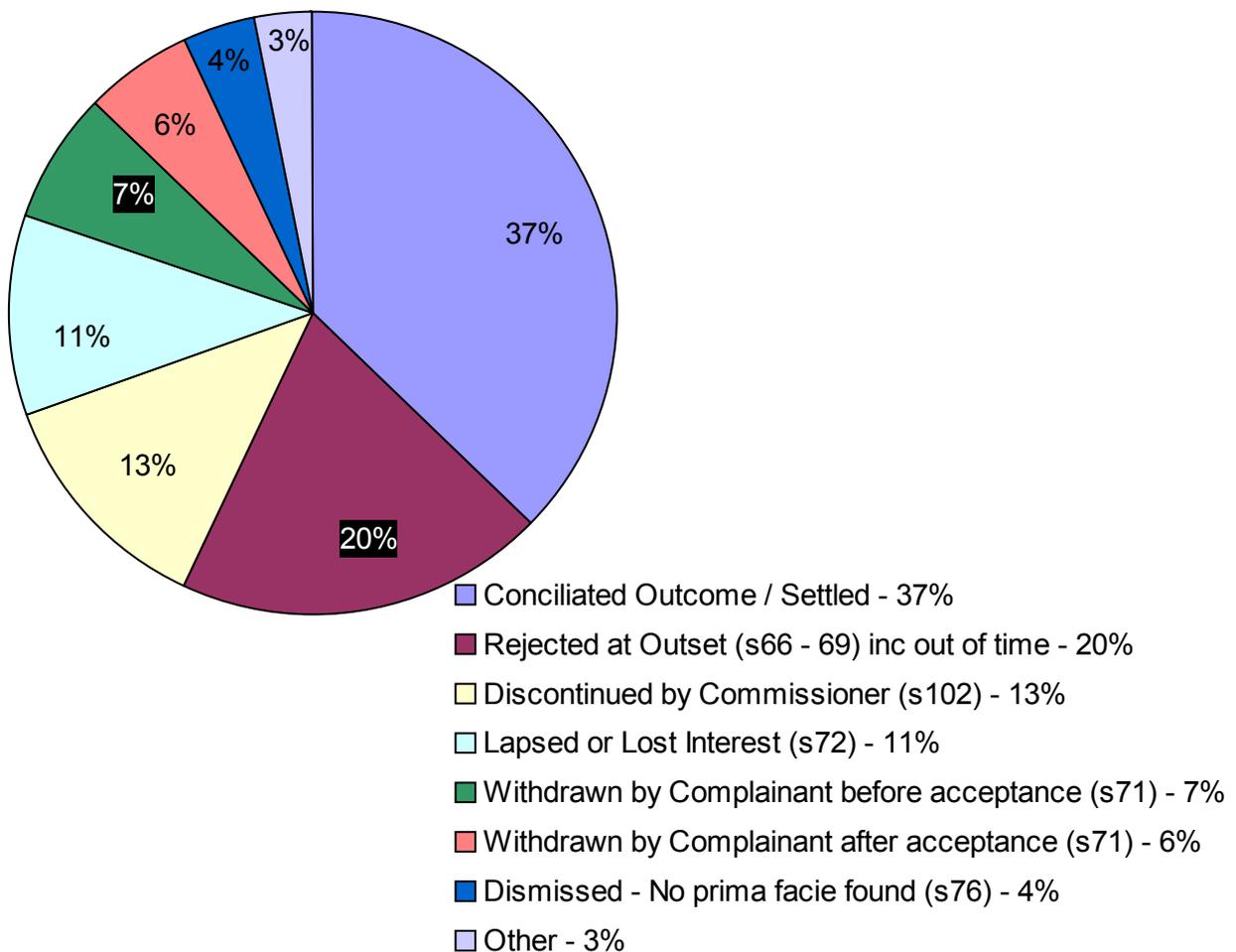
Outputs		2005-06	2006-07	2007-08	2008-09
		Actual	Actual	Actual	Estimate
Quantity	Complaints Received	148	132	130	130
	Complaints Closed	180	128	101 <sup>1</sup>	130
	Complaints Open at 30 June	50	46	68	
Quality	Percentage of accepted complaints conciliated	50%	53.5%	57%	50%
Timeliness	Average time from receipt of complaint to final resolution	4.5 mths	6.4mths	3.25mths <sup>2</sup>	6 mths

<sup>1</sup> One full time conciliator position was vacant for three months during the reporting period. This fact appears to have contributed to the figures being lower than estimated. As the position has been filled it is expected that complaint figures will return to more regular levels in 2008/09.

<sup>2</sup> This figure was abnormally low during 2007/08 due largely to the fact that there were no hearings in the reporting period. This figure will be monitored to determine if the estimate should be lowered in the future.

## Outcomes of All Complaints Closed This Year (By Respondent)

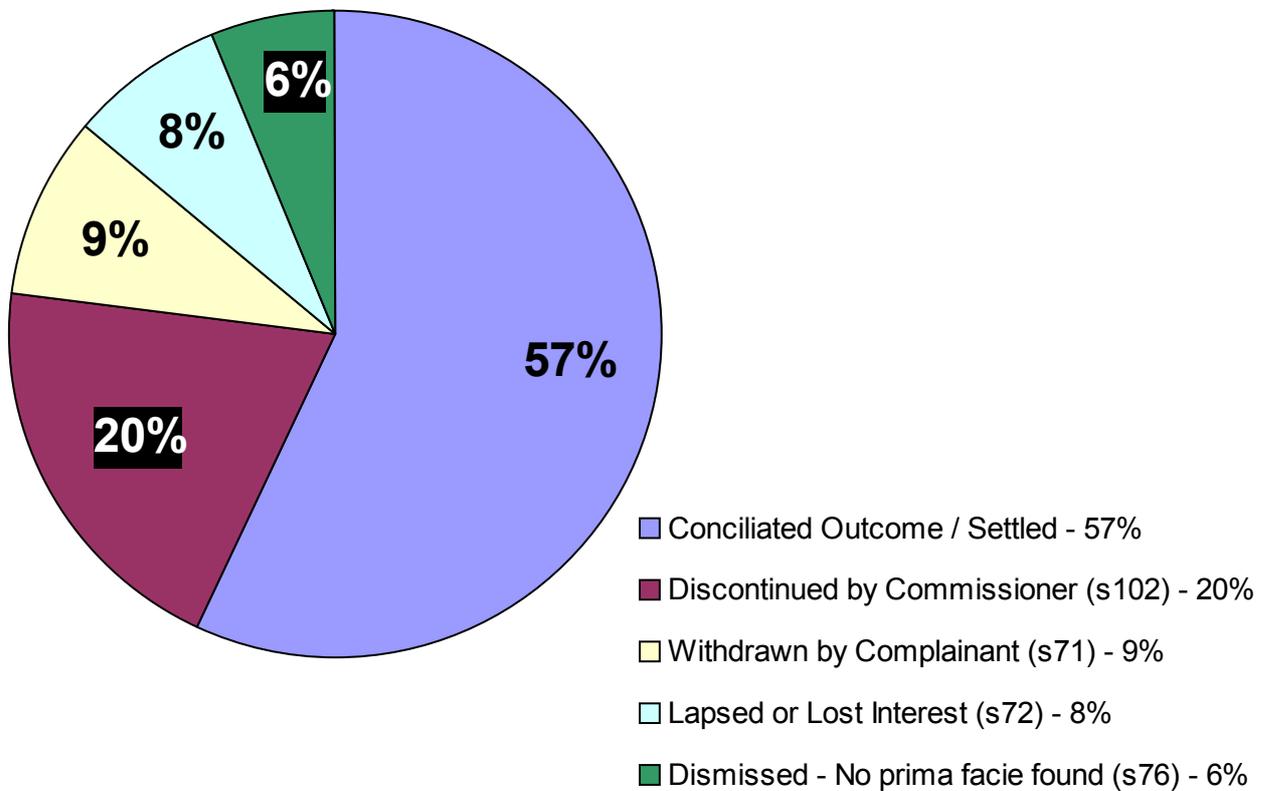
Rejected at Outset (s66-69) including out of time	20
Withdrawn by Complainant after acceptance (s71)	6
Withdrawn by Complainant before acceptance (s71)	7
Lapsed or Lost Interest (s72)	11
Dismissed - No prima facie found (s76)	4
Discontinued by Commissioner (s102)	13
Conciliated Outcome / Settled	37
Determined at Hearing	0
Other	3
<b>Total</b>	<b>101</b>



## Outcomes of Accepted Complaints Closed this Year (By Respondent)

(65 of 101 closed complaints were accepted)

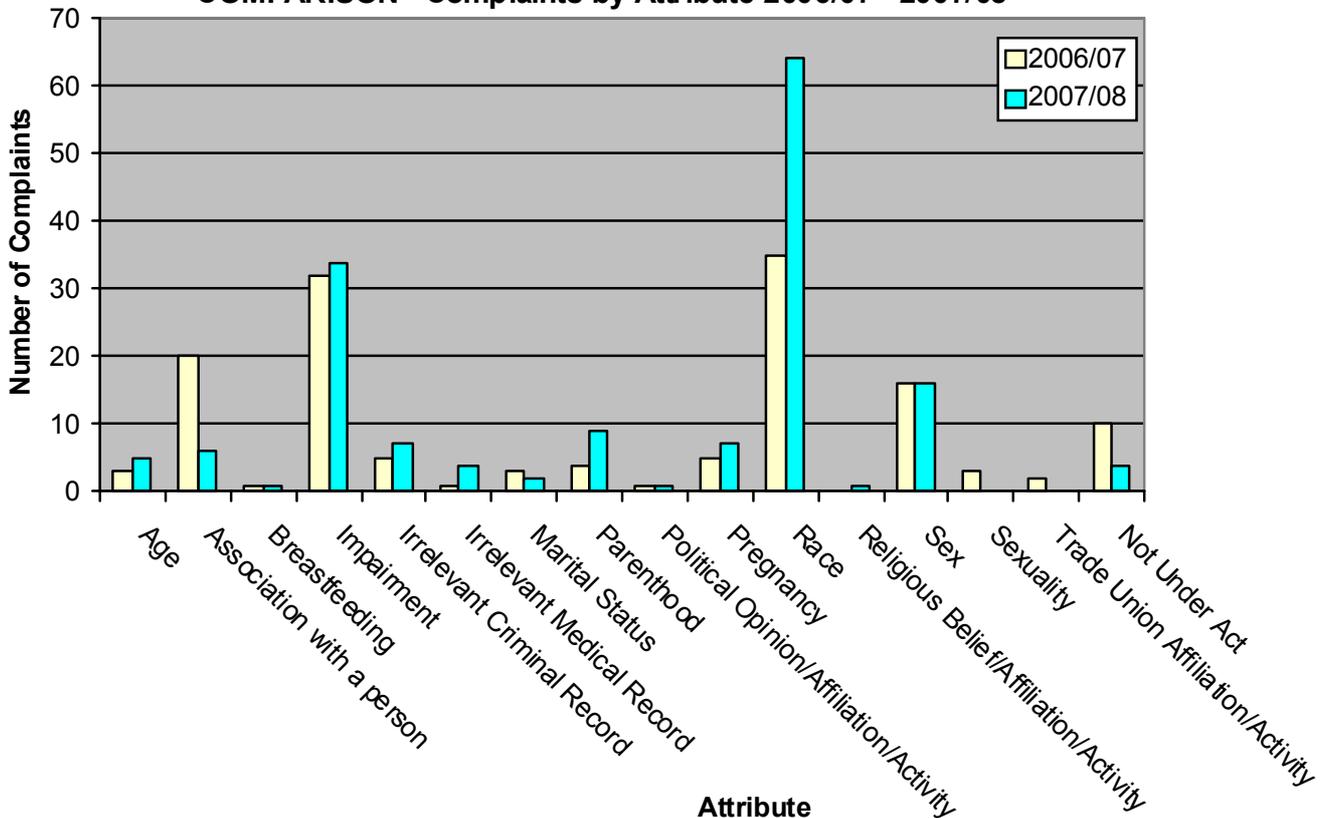
Conciliated Outcome / Settled	37
Determined at Hearing	0
Withdrawn by Complainant (s71)	6
Lapsed or Lost Interest (s72)	5
Dismissed - No prima facie found (s76)	4
Discontinued by Commissioner (s102)	13
<b>Total</b>	<b>65</b>



**COMPLAINTS BY GROUNDS AND AREAS 1 July 2007 - 30 June 2008\***

<b>PROHIBITED CONDUCT – DISCRIMINATION Attributes/Areas</b>	Education	Work	Accommodation	Goods/ Service/ Facilities	Clubs	Insurance/ Superannuation	Not Under Act	Total
Age		2		3				5
Association with a person		2	1	3				6
Breastfeeding	1							1
Impairment	1	24	1	8				34
Irrelevant Criminal Record		5		2				7
Irrelevant Medical Record		4						4
Marital Status				2				2
Parenthood	1	8						9
Political Opinion/Affiliation/Activity				1				1
Pregnancy		7						7
Race		34	11	19				64
Religious Belief/Affiliation/Activity		1						1
Sex		12		4				16
Sexuality								
Trade Union Affiliation/Activity								
Not Under Act		1		3				4
<b>Total</b>	<b>3</b>	<b>100</b>	<b>13</b>	<b>45</b>				<b>161</b>

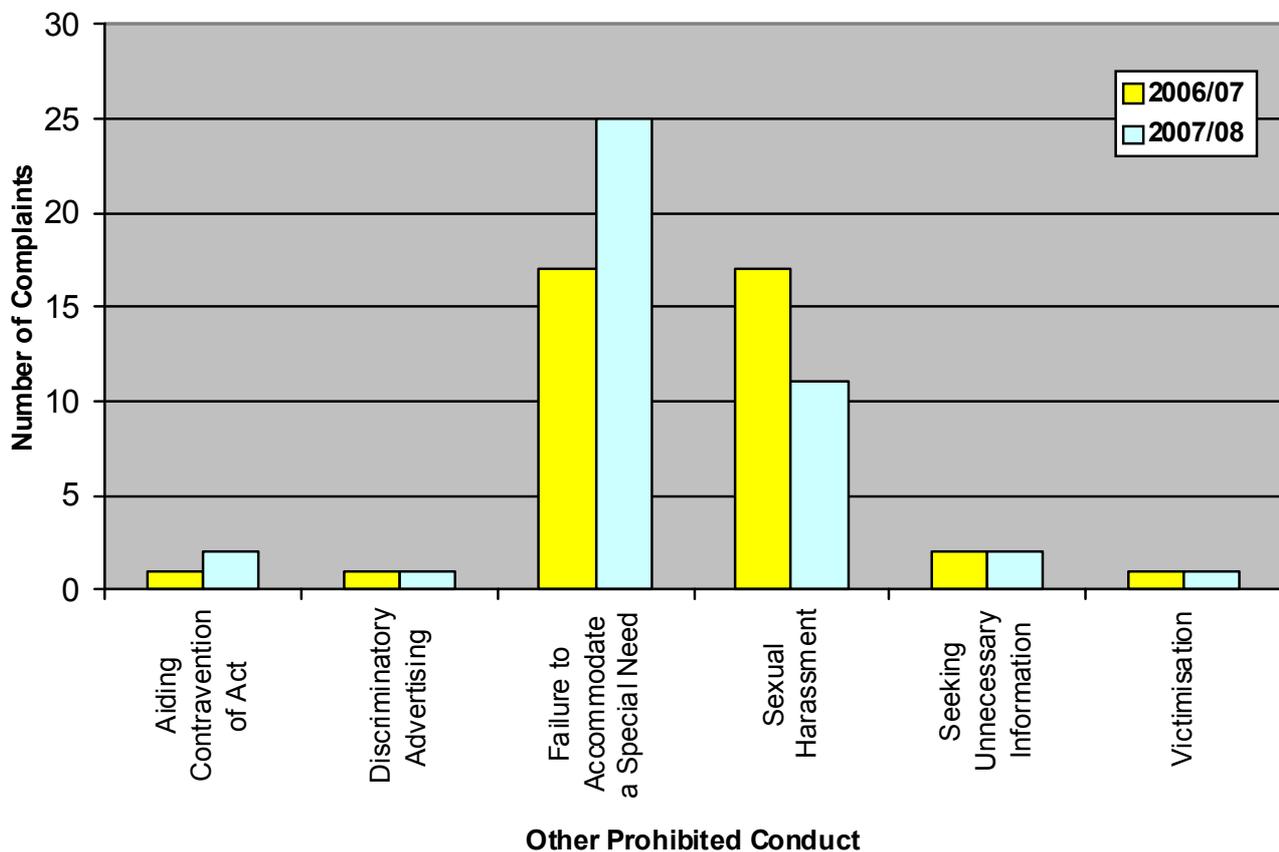
**COMPARISON - Complaints by Attribute 2006/07 - 2007/08**



**COMPLAINTS BY GROUNDS AND AREAS 1 July 2007 - 30 June 2008\* (cont'd)**

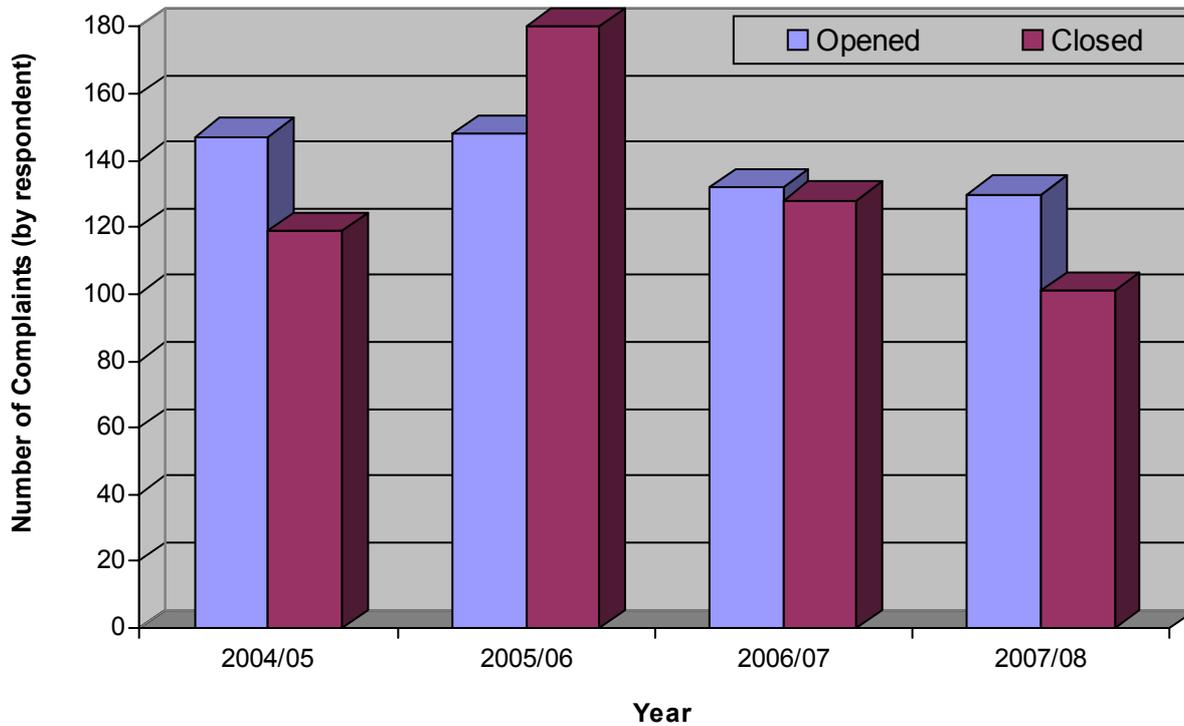
<b>PROHIBITED CONDUCT – DISCRIMINATION Other Prohibited Conduct/Area</b>	Education	Work	Accommodation	Goods/ Service/ Facilities	Clubs	Insurance/ Superannuation	Not Under Act	<b>Total</b>
Aiding Contravention of Act		2						<b>2</b>
Discriminatory Advertising		1						<b>1</b>
Failure to Accommodate a Special Need	2	17	1	5				<b>25</b>
Sexual Harassment		11						<b>11</b>
Seeking Unnecessary Information		1		1				<b>2</b>
Victimisation		1						<b>1</b>
<b>Total</b>	<b>2</b>	<b>33</b>	<b>1</b>	<b>6</b>				<b>42</b>

\*note that in 2007/08 from a total of 130 received complaints, 51 identified more than one ground of prohibited conduct. These tables record each separate complaint

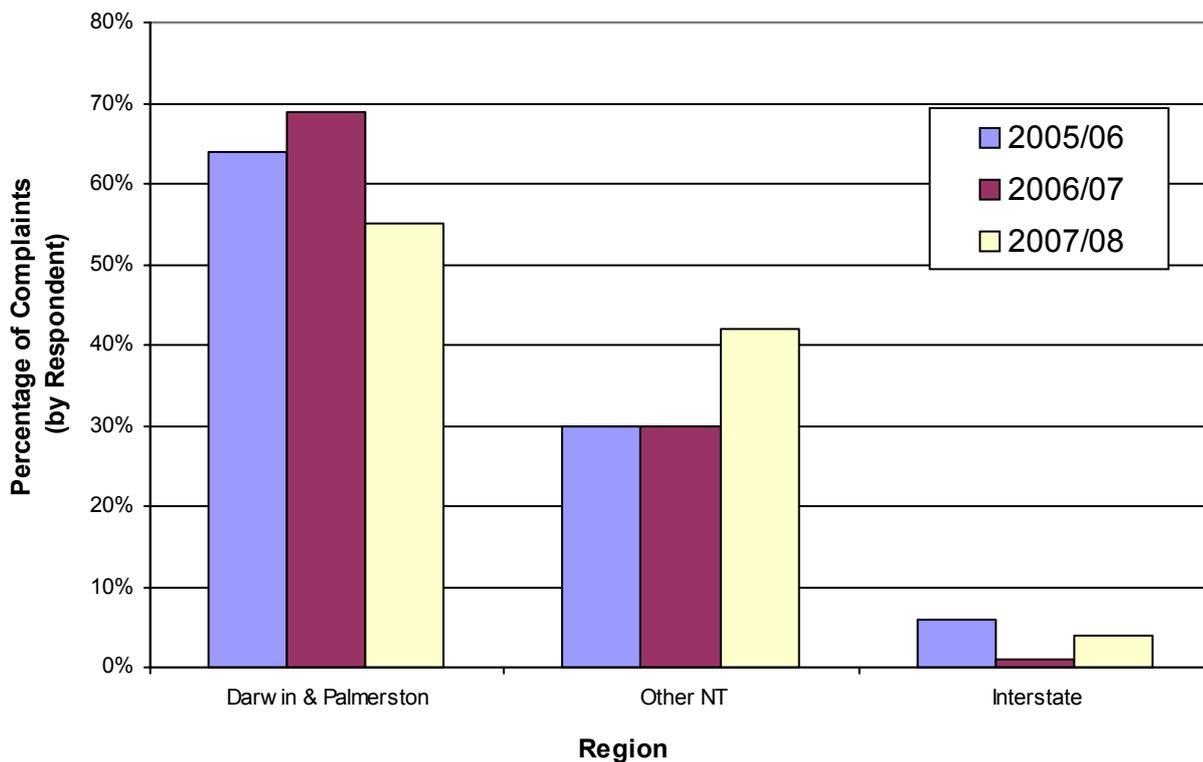
**COMPARISON - Complaints by other Prohibited Conduct 2006/07 - 2007/08**

**COMPLAINTS OPENED AND CLOSED 2007/08**

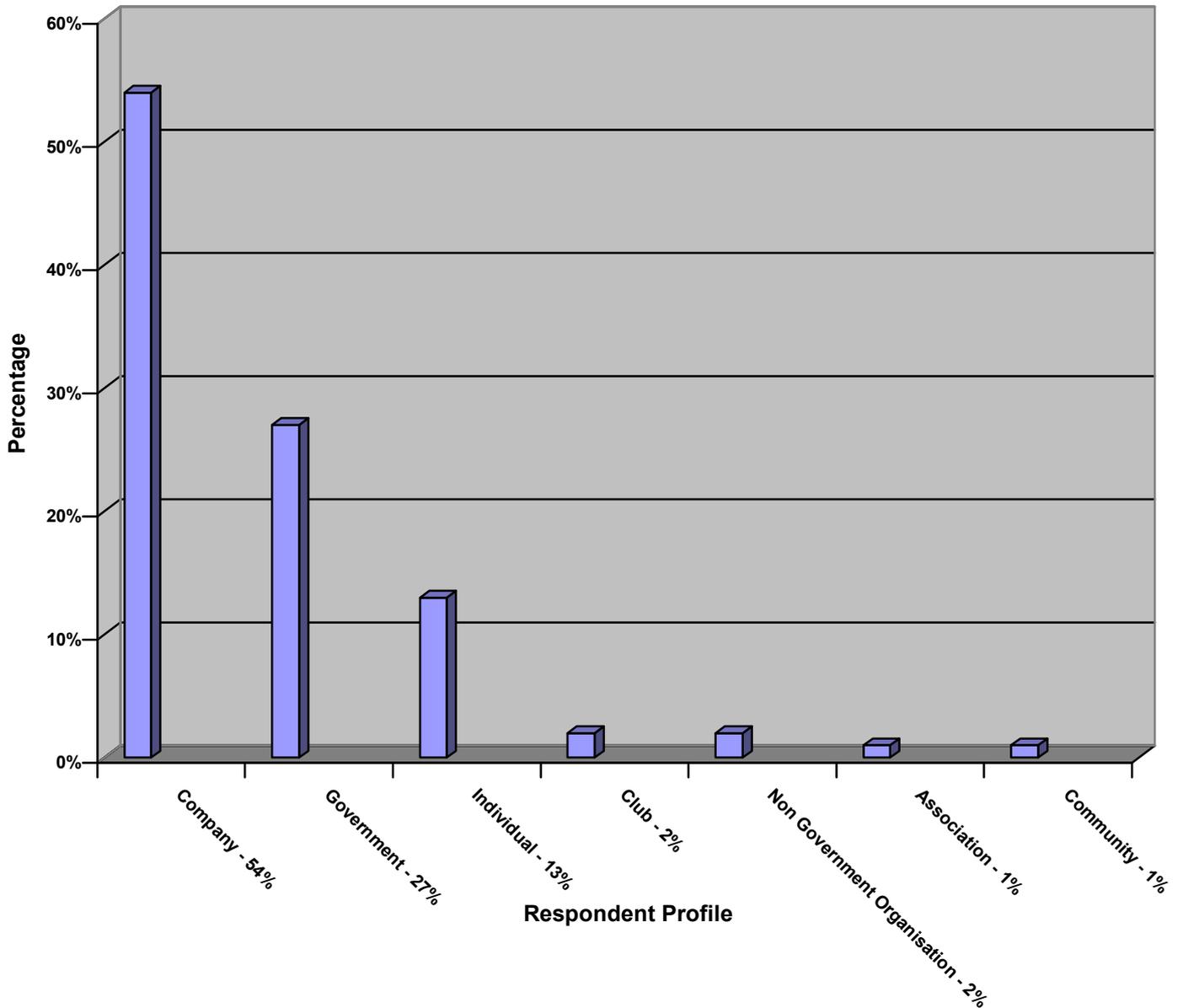
	OPENED				CLOSED			
	04/05	05/06	06/07	07/08	04/05	05/06	06/07	07/08
<b>Total</b>	<b>147</b>	<b>148</b>	<b>132</b>	<b>130</b>	<b>119</b>	<b>180</b>	<b>128</b>	<b>101</b>



**COMPLAINTS BY REGION**



**RESPONDENT PROFILE 2007/08**



Complainant Target Groups*	
Culturally and Linguistically Diverse	2
Women	53
Disability	17
Aboriginal	40

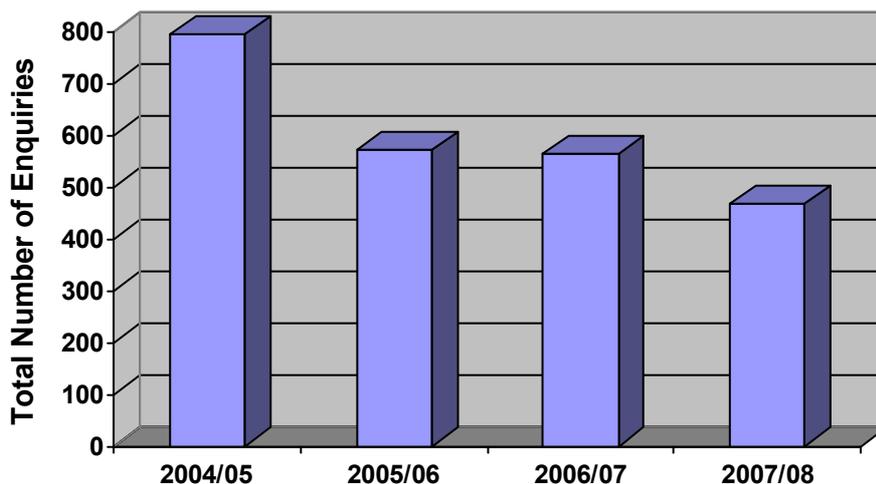
Sex of Complainant	
Female	67
Male	63

\*complainants are asked to self-identify at the time of making a complaint

**ENQUIRY STATISTICS FINANCIAL YEAR 1 JULY 2007 – 30 JUNE 2008**

**Comparison Number of Enquiries Received by Year**

	2004/05	2005/06	2006/07	2007/08
<b>Total</b>	<b>794</b>	<b>571</b>	<b>563</b>	<b>468</b>



**AVERAGE TIME SPENT ON AN ENQUIRY**

	<b>Average Time in Minutes</b>
<b>Average Time 2007/08</b>	<b>17</b>

**TYPE OF ENQUIRY**

	<b>Professional</b>	<b>General Information</b>
	<b>99</b>	<b>369</b>

**MODE OF ENQUIRY**

	<b>Telephone</b>	<b>In Person</b>	<b>Mail</b>	<b>E-Mail</b>
<b>Total 2007/08</b>	<b>403</b>	<b>40</b>	<b>4</b>	<b>21</b>

**WEB STATS:**

Total Visits	<b>53,591</b>
Average Visits Per Day	<b>159</b>
Average Pages Viewed Per Visit	<b>10</b>
Most frequent keywords used in the Department of Justice website search function	<b>What is Discrimination?</b>

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## Public Education



Surya Silva  
A/Director  
Public Education &  
Training

### Public Education and Training Objectives

Section 13 of the *Anti-Discrimination Act* NT (“the Act”) requires the Anti-Discrimination Commission (ADC) to undertake public education and training.

ADC public education also incorporates the vision and mission of the ADC developed at a planning day in November 2006.

**The Vision:** A fair, equal and inclusive Northern Territory.

**The Mission:** The ADC will lead the community in promoting human rights and achieving equality of opportunity and community harmony in the NT.

### Objectives under section 13:

- Institute, promote or assist in research, the collection of data and the dissemination of information relating to discrimination and the effects of discrimination;
- consult with organisations, departments and local government and community government bodies and associations to ascertain means of improving services and conditions affecting groups that are subjected to prohibited conduct;
- promote in the Territory an understanding and acceptance, and public discussion, of the purposes and principles of equal opportunity;
- promote an understanding and acceptance of, and compliance with, this Act;
- promote the recognition and acceptance of non-discriminatory attitudes, acts and practices;
- promote within the public sector the development of equal opportunity management programs;
- prepare and publish guidelines and codes of practice to assist persons to comply with this Act;
- promote human rights and equality of opportunity in the Northern Territory;
- support the Northern Territory Government’s commitment to equality of opportunity for all people across the Territory; and

- promote community harmony in the Northern Territory by encouraging people, groups, management and organisations to build cultures of respect.

### **Achievements 2007/08**

Achievements throughout 2007/08 include:

- public education programs being given a higher priority than previous years as part of a new strategic direction. The ADC celebrated several highly successful events, including International Human Rights Day and International Women's Day;
- the conversion of the ADC's existing free video, "Your Rights Your Responsibility" to DVD resulting in the distribution of twelve hundred DVDs throughout the Territory in the past year particularly to Indigenous persons;
- a community awareness survey conducted throughout the Territory to investigate attitudes and responses to anti-discrimination information as discussed in the next section;
- conducting consultations with accommodation industry representatives in Alice Springs in response to incidents of discrimination towards Indigenous persons which is discussed in a separate section;
- re-run of the three TV advertisements (produced in 2006/07) on the themes of sex, disability and race discrimination;
- 79.51% of training programs conducted in the private sector, non-government organisations and for education providers;
- training programs conducted in a range of workplaces as well as the formal training programs offered in the half-yearly calendar;
- publications distributed to peak bodies including: Aboriginal groups, Chamber of Commerce, specific industries, libraries, local government bodies, schools, Office of Multicultural Affairs, Multicultural Community Services of Central Australia, Multicultural Council of the Northern Territory and voluntary organisations;
- promotion of non-discriminatory attitudes and practices through the provision of information, conducting consultations and liaising with Aboriginal organisations, employer or employee groups, advocates, private sector businesses and organisations;
- maintenance of the ADC's toll free telephone (1800 813 846) number;
- maintenance of the Helpline for Managers and Supervisors;
- publication and distribution of the "Fair Go" newsletter on a quarterly basis;

- regular visits to regional and remote areas in order to provide training and consult with the community;
- engagement with a diverse range of community groups and public events; and
- maintenance of a Telephone Typewriter (TTY) for clients with a hearing impairment (TTY helps people who are deaf or have a communication impairment to use the telephone to communicate by allowing them to type messages back and forth to one another instead of speaking and listening).

### **Public Education Initiatives**

- International Human Rights Day is celebrated on 10 December each year and 2007 marked the beginning of a year of world wide celebrations for the 60<sup>th</sup> Anniversary to take place in 2008. ADC organised an evening of inspiring speakers with entertainment by the Chooky Dancers. The function was held in the Supreme Court foyer and was a huge success with approximately 300 people attending.
- On International Women's Day 8 March 2008 the ADC, in conjunction with the Multicultural Council of the NT, co-hosted a highly successful gala dinner to celebrate women's global and local achievements. More than 300 people attended, many of whom were from different ethnic and community groups including Africa, Burma, Cambodia, Thailand, the Philippines, India and Sri Lanka. The key note speaker was the Deputy Chief Minister and Minister for Women's Policy, Marion Scrymgour.
- In September 2007, the ADC conducted an on-line Community Awareness Survey to assess the level of Territorians' knowledge of and attitudes to discrimination, equal opportunity and human rights. 18,600 people had the opportunity to participate through emailing a link to the ADC website or completing a hard copy. 2,044 responses (1% of the NT's population) were received and analysed.

The survey revealed: 87% of respondents were from the NT Public Sector; aged between 22 and 59 years; half were from Darwin and the other half were from regional areas; 15% of respondents were unsure about various sections of the Act; there was considerable confusion about which attributes could form the basis for a complaint; 95% of respondents indicated it was appropriate to have anti-discrimination legislation; and 61% of respondents thought positive discrimination in favour of disadvantaged groups to be inappropriate.

The full report and analysis will be available on the new ADC website.

- In April the ADC conducted consultations with accommodation industry representatives in Alice Springs in response to incidents of alleged discrimination towards Indigenous persons. Forty-one independent industry representatives including the Central Australian Tourism Industry Association attended over two

nights. They were addressed by NT Chamber of Commerce CEO Chris Young and Commissioner Tony Fitzgerald. Proprietors in general were cooperative and enthusiastic about participating in an industry-wide initiative. The ADC is collaborating with Tourism Central Australia (TCA) to develop policy for all TCA members to adopt and integrate into their businesses. Indigenous Corporations will be invited to make comment on the policy development. When the Alice Springs program is complete (early–mid 2009) the ADC plans to expand the initiative Territory wide. It's envisaged that an education program will be attached to the policy.

- The ADC was involved in and supported the YWCA with the 'Week Without Violence' campaign. Working with the NT Working Women's Centre, a program was co-presented on workplace harassment, which was both well attended and well received.
- The website upgrade was a major focus during early 2008 with templates being developed for the accepted design. Completion is scheduled for late 2008 with the current logo being incorporated into the new look site.
- The ADC took part in the Disability Awareness Week in August including a community market in Raintree Park. Information about impairment was available.
- During the NT Council of Social Services conference in April, an ADC display booth provided resources and DVDs to people who might otherwise not have access to the materials.
- ADC materials were distributed to all participants of the Australian Education Union conference with a further 300 DVDs being sent to sub-branches for teachers to use in programs.
- Raising awareness of and respect for the Muslim Community in the NT was the focus for the Edition 15 newsletter, which included collaboration with community leaders, discussions and development of ideas, and participation in events at Islamic Awareness Week.

## Training Programs Offered in 2007/08

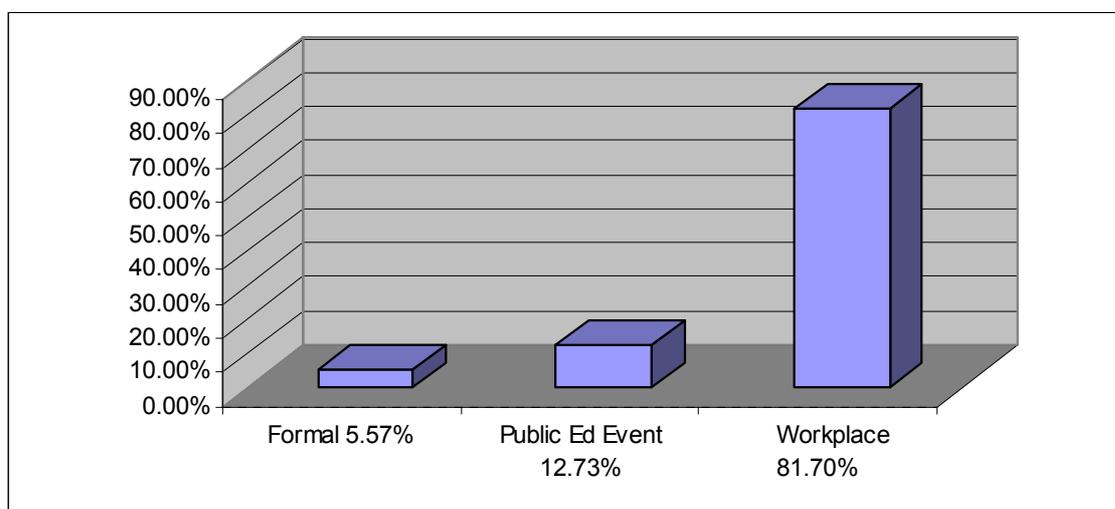
### Formal Training

The ADC continued to offer a range of learning programs through the training calendar that is produced biannually and circulated throughout the Territory with the “Fair Go” newsletter. Programs included:

- Introduction to Anti-Discrimination Law;
- Anti-Discrimination Law, Harassment and Bullying in the Workplace;
- Contact Officer Training; and
- Preventing Harassment and Bullying for Managers and Supervisors.

Seven of these formal training sessions were conducted in this financial year compared with 13 sessions in the preceding year. There has been a significant increase in requests for workplace training from the non-government sector, with fewer responses to programs offered in the training calendar.

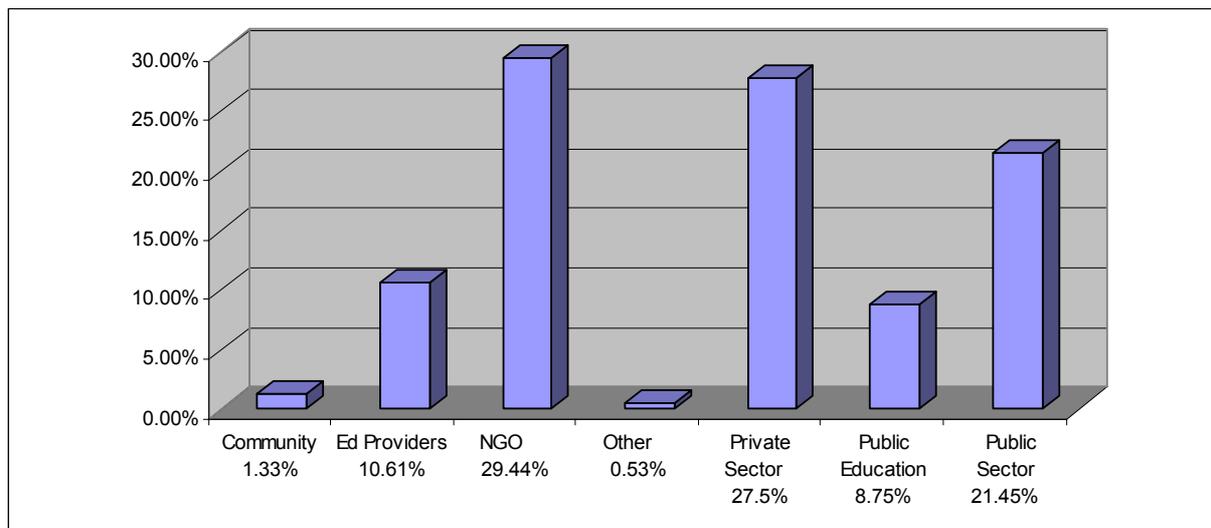
### By Types



### Workplace Training

Ninety seven workplace training sessions were facilitated during this financial year, compared with 85 in the 2006/07 and 66 in the 2005/06 financial years. The breakdown of sectors requesting training is shown below.

## By Sectors



Anti-Discrimination, Harassment and Bullying in the Workplace training is the most highly requested workplace program. It combines information about the Act, including harassment on the basis of an attribute, with some information about bullying in the workplace. Legislative obligations are incorporated in the program and participants leave the session better equipped to handle situations as they arise and/or support others to do the same.

Preventing Harassment and Bullying for Managers and Supervisors is a more advanced and higher level program that invites participants to explore their responsibilities in regard to discrimination and harassment. It equips people with the skills for preventing and/or managing workplace incidents.

Developing more appropriate or updating existing policies is often an outcome of the management programs as are discussions with managers about how to avoid complaints. ADC is also available to work with staff to draft policies.

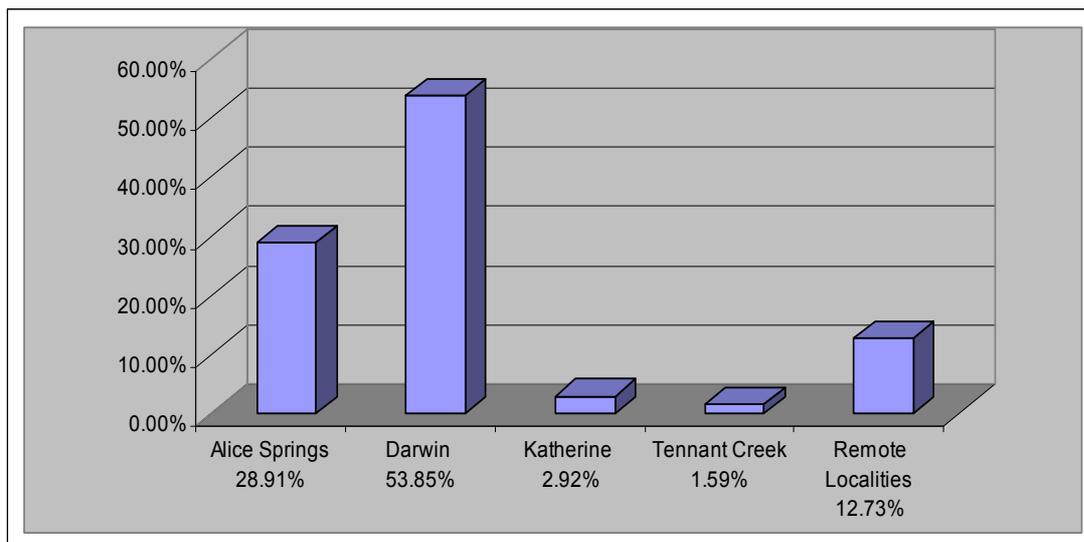
A further outcome of the management program is that organisations request Contact Officer training, where participants learn the skills of being able to provide information and/or referral about discrimination, harassment and bullying for colleagues in the workplace.

## Training throughout the Territory

Training was regularly conducted in regional and remote centres in order to raise public awareness or to offer specific workplace programs. These visits provide crucial information about topics that are impacting upon people in regional and remote areas, and will remain a priority for the ADC.

Regions	Participant numbers	Hours	Percentage of training hours
Alice Springs	433	109	28.91%
Darwin	2138	203	53.85%
Katherine	23	11	2.92%
Tennant Creek	14	6	1.59%
Remote localities	87	48	12.73%
Totals	2695	377	100%

### By Regions



## Maintaining Quality of Programs

The ADC is committed to best practice in education and training and regularly reviews program content and methodologies with a view to making improvements where appropriate. A direct result of this approach is the consistent positive feedback from both trainees and management of the organisations requesting training.

The process begins when the ADC is approached to provide workplace training. Dialogue with an organisation may include:

- discussion about what outcomes are being sought from the training;
- relevant training that has occurred in the past;
- the organisation's discrimination, harassment and grievance policies and procedures;
- additional training requirements for management; and/or
- ongoing support options offered by the ADC.

## Performance Measures and Evaluation

Performance measures, including numbers of participants and training hours are recorded following each program.

All training participants are asked to complete an evaluation form and approximately 95% of people comply with this request.

Details are as follows:

Performance measures	Unit of Measure	2006/07 Actual	2007/08 Actual	2008/09 Estimate
Quantity	Public awareness and training hours	276	377	300
	Number of participants	1898	2695	2200
Quality	Participants' rating of training	84%	93%	80%

## Developing the Training Programs

Developing specific strategies to meet organisational requirements is a further way that ADC maintains its commitment to best practice. This process may include:

- consulting with management from organisations on specific workplace issues and then incorporating those issues into programs;
- working with organisations to develop anti-discrimination and harassment policies and procedures;

- providing on site training for organisations or community groups across the Territory;
- providing follow up support for employees or management in the workplace; and
- evaluating all programs.

## Your Rights Your Responsibilities DVD

The conversion of the ADC's existing video to DVD has been highly successful, with more than 1200 copies distributed throughout the Territory. The DVD features Indigenous actors portraying various discrimination scenarios. The following 14 languages are available upon request and have been widely distributed as the regional and remote education and training presence has been increased.

<ul style="list-style-type: none"> <li>• Burrarra</li> <li>• Murrinh-Patha</li> <li>• Djambarrpuynngu/Gupapuyngu</li> <li>• Kriol</li> <li>• Kunwinjku</li> <li>• Modern Tiwi</li> <li>• Anindilyakwa</li> </ul>	<ul style="list-style-type: none"> <li>• Warlpiri</li> <li>• Western Arrernte</li> <li>• Southern Arrernte</li> <li>• Pitjantjatjara</li> <li>• Alyawarra</li> <li>• Warumungu</li> <li>• Eastern Arrernte</li> </ul>
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## Harassment Free Sports Strategy

The Australian Council of Human Rights Agencies (ACHRA) and the National Standing Committee on Recreation and Sport have endorsed the ongoing development and promotion of the Play by the Rules website. This includes a shared commitment of resources and staffing between the State and Territory Equal Opportunity and Anti-Discrimination Commissions, the State and Territory Sports and Recreation offices and the Australian Sports Commission.

The ADC is represented on the national management committee and values the ongoing working relationship between the NT Office of Sport and Recreation and the ADC. Staff work closely to implement and promote discrimination and harassment free sport right across the Territory.

The ADC conducts training in harassment and discrimination free sport on request.

Play by the Rules website: [www.playbytherules.com.au](http://www.playbytherules.com.au).

## ADC Publications

### Fact sheets

- Anti-Discrimination General Information
- Complaints Procedure
- Sexual Harassment
- Eliminating Sexual Harassment – Guidelines for Employers
- Are You Treated Unfairly Because You Are Aboriginal
- People With An Impairment (Disability)
- Criminal History Factsheet
- Guide to Conciliation Conferences

Factsheets are also available in:

- Tagalog
- Indonesian
- Japanese
- Vietnamese
- Mandarin
- Talking tapes/ Large type for the visually impaired
- Portuguese
- Thai

### Posters

- Anti-Discrimination Commission Poster
- Fair Go – This is what it's really about!
- Fair Go – Creating a Fair Go for everyone!
- Sexual Harassment – Nobody has to put up with it!
- Know Your Rights, Know Your Responsibilities – Top End
- Know Your Rights, Know Your Responsibilities – Central Australia
- Welcome to my Country
- Play by the Rules

### Fair Go Newsletter

Quarterly editions of the Anti-Discrimination Commission's "Fair Go" Newsletter were distributed throughout the Northern Territory.

### Training Calendar

A schedule of formal training programs offered by the ADC is published biannually and distributed with the newsletter. This strategy has proven to be very successful, with numerous requests for training coming from organisations and individuals.

### Website

The ADC has an extensive website at [www.adc.nt.gov.au](http://www.adc.nt.gov.au). It contains fact sheets, past and present newsletters, annual reports, the most recent training calendar, ADC decisions and related links.