

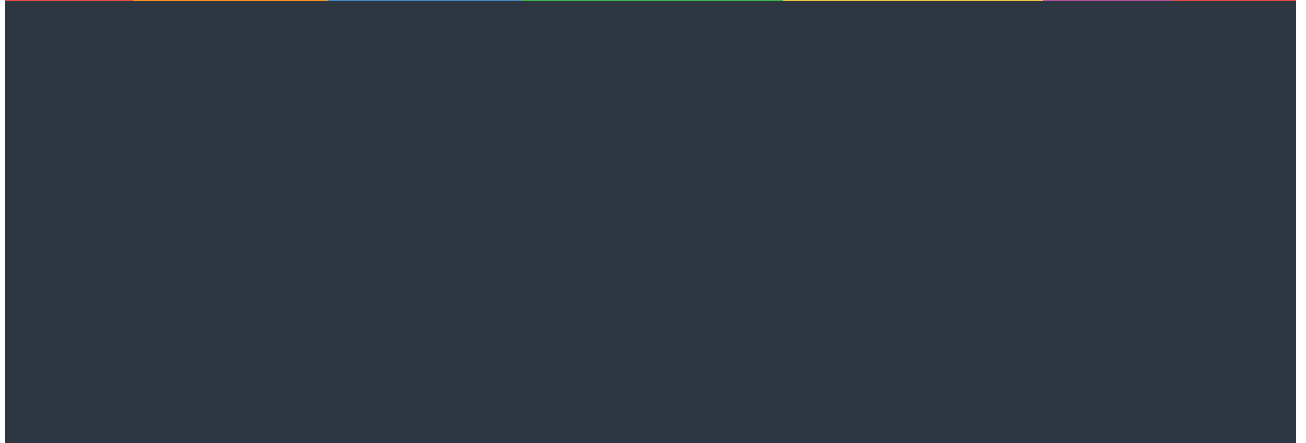


Northern Territory  
Anti-Discrimination Commission



# **ANNUAL REPORT**

## **2014 - 2015**



Anti-Discrimination Commission

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30 September 2015

The Hon John Elferink MLA  
Attorney-General and Minister for Justice  
Parliament House  
DARWIN NT 0800

Dear Minister,

In accordance with the requirements under section 16 of the *Anti-Discrimination Act*, I am pleased to present the Annual Report on the operations of the Northern Territory Anti-Discrimination Commission for the period 1 July 2014 to 30 June 2015.

Yours sincerely,



SALLY SIEVERS  
Anti-Discrimination Commissioner



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## FROM THE COMMISSIONER

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This is my third Annual Report on the operation of the *Anti-Discrimination Act* (Act). It has again been a pleasure and challenge working towards the three objectives of the Act. These are the promotion, recognition and acceptance within the community of the right to equality of opportunity, eliminating discrimination on the fifteen attributes in the defined public areas, including work, education etc. and eliminating sexual harassment.

It has again been a year of change, including saying goodbye to long term staff member Somsong Albert who had been with the Anti-Discrimination Commission (ADC) since close to its commencement. Somsong had a pivotal role in managing the ADC office. Somsong's efforts and dedication to the work of the ADC will be greatly missed.

This year also saw procedural amendments passed to the Act with the aim of making the complaint process more accessible and with a stronger focus on conciliation. It is hoped that the reforms will result in an increase in resolutions. A voluntary early conciliation process commenced 3 years ago; the initial success of this model has started to wane because of its voluntariness. The new reforms will enable us to run a compulsory early conciliation conference. Quicker and earlier resolutions mean better outcomes for all parties.



Staff of the ADC, whenever possible, also took up opportunities to be out in the community providing information on rights and obligations that exist under the Act, to service providers, employers and individual groups. In the last year we have been present in Katherine, Tennant Creek, Alice Springs and Nhulunbuy.

The ADC was also part of the highly successful Inaugural Human Rights Awards "The Fitzgeralds" – in honour of Tony Fitzgerald who was the Anti-Discrimination Commissioner from 2001 until his untimely death in 2009. It was an honour to work with the Steering Committee to bring The Fitzgeralds to the Northern Territory (NT) community and to see the extremely diverse array of nominations from across the NT. It was a privilege to be on the judging panel and to see the work being done in the NT on a day to day basis to promote recognition and acceptance of equality of opportunity, and to raise the profile of human rights generally, particularly anti-discrimination as a core human right.

A special thank you to the Director Traci Keys as a mainstay and constant in the office, working with changing staff and ensuring beneficial changes to the Act were finally passed. Her work has included getting the office ready for the changes, developing resources, providing training to service providers and staff and setting up systems to support the changes.

It is with great pleasure that I present the 2014-15 Annual Report to the Northern Territory Parliament showcasing the hard work and endeavour from the dedicated Anti-Discrimination team.





# THE OFFICE OF THE ANTI-DISCRIMINATION COMMISSIONER



Asylum Seeker Class, Anula Primary School – We are Stardust

(Rights on Show 2014)

# **THE OFFICE OF THE ANTI-DISCRIMINATION COMMISSIONER**

## **WHO ARE WE**

The Anti-Discrimination Commissioner is appointed under section 6 of the *Anti-Discrimination Act* (Act) to perform the functions set out in section 13 – see Appendix 2.

Our office is a small one. The current structure can be seen in Figure 1.

Broadly there are four areas within the Anti-Discrimination Commission (ADC):

- Complaints;
- Public education and training;
- Community engagement; and
- The Community Visitor Program.

The Community Visitor Program is the subject of a separate annual report.

## **COMPLAINTS**

The Act provides a formal mechanism for members of the community to lodge formal complaints regarding discrimination they believe they have experienced. This is a free and confidential process. There are three stages to the process being:

1. A preliminary assessment stage where a decision is made whether to accept or reject a complaint for further investigation.
2. Investigation.
3. Compulsory conciliation/hearing.

Voluntary conciliation is available at any stage of the process.

An enquiry line is also available for the general community and the business community to contact the ADC and get information on our complaint process or about obligations under the Act. This is a free and confidential service.

## **PUBLIC EDUCATION AND TRAINING**

Public education and training is a function of the Commissioner under section 13 of the Act. The ADC provides public education and training through:

- Formal public training;
- Participating in community events;
- Holding public functions; and
- Community engagement.

# ANTI-DISCRIMINATION COMMISSION ORGANISATIONAL CHART

STRUCTURE AS AT 30 JUNE 2015

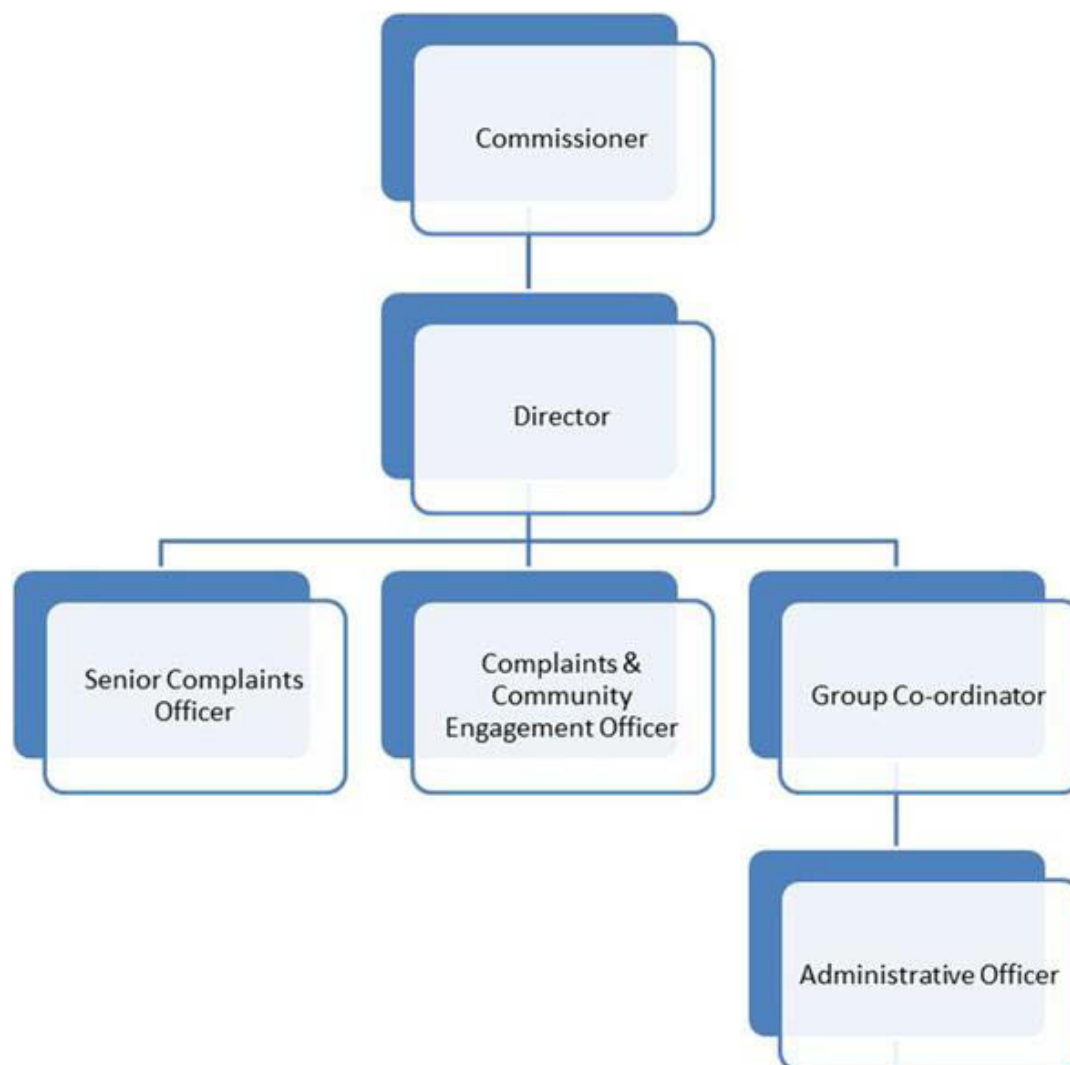


Figure 1



# EMERGING ISSUES



**Gilbery Alum (Henbury Secondary School) – Rainbow Love**

**(Rights on Show 2014)**

## DISABILITY<sup>1</sup>

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In 2014-15 disability was the highest ground of complaint, replacing race discrimination as the highest ground of complaint for the first time in the ADC history. In 2014-15 we saw a 31% increase in disability complaints compared to 2013-14. Almost half of these complaints related to mental health, with a majority of complaints in the area of work. Similar increases were seen in other disability related prohibited conduct with a 34% increase in complaints regarding failure to accommodate a special need, a 36% increase in seeking unnecessary information complaints and a 95% increase in association with a person complaints. For each of these grounds of prohibited conduct at least a third was about disability.

Stories from Complainants in the work context included concerns about being dismissed, harassed or not selected for work because of their disability. Employers and managers often struggle with disability in the workplace, lacking the confidence to know how to manage an employee's disability fairly. Frequently we see employers and managers in difficulty because they don't ask the employee what support they need in the workplace, either assuming they know what accommodations will or should work or not asking at all and managing the issue indirectly. In some instances employers and managers get themselves into difficulties because they see the disability before they see the person, it is important that people are not defined by their disabilities. Lastly, policies can also be an issue where they are applied inflexibly and do not take into account variations that might be required for a person with a disability to meet the requirements of the work.

In service complaints we mostly see issues relating to physical access to buildings and other facilities, including entrances and toilets. Often service providers are unaware of their obligations or are aware but have been slow in addressing the issue. The ADC in May 2015 welcomed an opportunity to make comment to the Steering Group Review by the Department of Industry and Science review of the Disability (Access to Premises – Buildings) Standards 2010 regarding access issues. The standards are a valuable guide and measure for individuals living with a disability and likewise for building owners to provide clear guidance on what access measures are required.

In the education setting stories we hear in complaints, enquiries and during our community engagement; are about the lack of appropriate accommodations to support learning. A growing challenge for educators is the issue of invisible disabilities such as autism and dyslexia that may require accommodations that do not always align with current classroom conventions and learning practices. Autism in particular presents a challenge because the accommodations required are not capable of standardisation as the needs of each individual are unique. We anticipate that this will be a growing area of complaint and concern and look forward to working with educators, parents and carers to find solutions to these challenges. In 2015 the ADC also welcomed an opportunity to make submissions in relation to the Commonwealth Disability Standards for Education.

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<sup>1</sup> The term impairment is used under the *Anti-Discrimination Act* due to the age of the legislation, for currency purposes the term disability is used instead throughout this report.

## **RACE DISCRIMINATION**

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In 2014-15 while we saw disability emerge as the leading ground of complaint, race complaints remained high with a 5%<sup>2</sup> increase. Anecdotally we know that there are many race discrimination issues that we are not seeing through our complaints process, particularly for Indigenous Territorians.

The ADC will explore ways to encourage Indigenous Territorians to talk about the discrimination they experience and its impact on their economic and social participation. The ADC wants Indigenous Territorians to know about their rights under the Act and how to exercise them. We are committed to exploring better ways to achieve this.

In addition to ensuring Indigenous Territorians know their rights; the ADC needs to get a better understanding of what obstacles Indigenous Territorians face in making a complaint to the ADC. This may include an understanding as to whether a formal complaints mechanism is the best mechanism or whether sometimes other approaches are required.

A possible obstacle for Indigenous Territorians and other racial groups in the Northern Territory (NT) is the lack of local vilification laws. This is particularly problematic in light of the increased use of various social media platforms, which provide a greater forum to vilify. We note an attempt in 2014 to introduce amendments to the Act<sup>3</sup> to provide race vilification as an additional ground of complaint, an amendment supported by the ADC. The Bill was however defeated in Parliament.

## **GENDER RELATED DISCRIMINATION**

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Gender related discrimination continues to feature highly in the complaints we receive and the stories we hear through our enquiries and our public engagement; in particular stories about discrimination against women.

The current spotlight being placed on family and domestic violence and the release in the mainstream media of Commonwealth funded campaigns such as Our Watch demonstrate an irrefutable link between gender inequality and domestic and family violence. Our work in primary prevention in this regard is critical as it helps to challenge unhelpful stereotypes of women and rigid gender roles, enabling a safer and fairer world for women and their children.

Gender related attributes under the Act include:

- Sex
- Sexual Harassment

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<sup>2</sup> It should be noted that in 2013-14 there was a significant decrease in race discrimination complaints (22% decrease). The increase in 2014-15 should be viewed in this context.

<sup>3</sup> Anti-Discrimination Amendment Bill.

- Sexuality
- Marital Status
- Parenthood
- Pregnancy
- Breastfeeding

Complaints have remained high on the grounds of sex, sexual harassment and sexuality with significant increases seen in complaints about parenthood (238%) and marital status (258%).

The types of stories the ADC are hearing from women include:

- Allegations in the workplace of sexual assault, inappropriate sexualised touching, unwanted after hours contact and offensive language.
- Assumptions being made about females sexual availability because of their single status.
- Exclusion or unfavourable treatment because of a former violent partner.
- Women being performance managed once they announce they are pregnant.
- Lack of accommodations at work for women who are caring for young children.

The release in June 2014 by the Sex Discrimination Commissioner Elizabeth Broderick of the Supporting Working Parents: Pregnancy and Return to Work National Review put parenting and other gender related issues in the spotlight and has likely encouraged women to lodge formal complaints. It is anticipated that the launch of the Supporting Working Parents website in August 2015 will be a valuable resource to support employers and employees better understand rights and obligations in this area (see [www.supportingworkingparents.gov.au/](http://www.supportingworkingparents.gov.au/)).



**SUPPORTING  
WORKING  
PARENTS**



# PERFORMANCE



David Nicholls – Riding Home

(Rights on Show 2014)

## **COMPLAINTS**

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### **ENQUIRIES**

The ADC provides a free and confidential enquiry line for the general public and also the business/professional community to obtain information on the Act and the ADC complaint process. The purpose of the enquiry line is to enable individuals to get information about the Act to assist them in deciding:

- Whether to lodge a complaint with the ADC;
- Practical steps they could take to avoid or redress discrimination that may have occurred or might be about to;
- Who is the most appropriate organisation to raise their concerns with;
- How to finalise or start a policy, project, practice, recruitment or some other activity in which the Act may have an impact; and
- Any other information a business may require to meet its obligations under the Act.

### **PROFESSIONAL ENQUIRIES**

Professional enquiries can come from private businesses, non-government organisations or government agencies seeking information on obligations under the Act. Enquiries often relate to how to advertise a particular position or may relate to issues regarding a staff member. Through the enquiry line the ADC is able to provide practical information to assist organisations in meeting their obligations under the Act. In 2014-15 6% of the enquiries were professional and business enquiries.

This service is free and can be accessed over the phone, by email or by attending the office in person. The enquiries are responded to by senior members of staff. Any information provided is kept confidential and is not subsequently used in any investigation or hearing. This encourages the caller to speak frankly about their concerns.

### **GENERAL ENQUIRIES**

General enquiries are received from the public seeking information about rights under the Act. As part of this service callers may be referred to other more appropriate organisations or given information about how to lodge a complaint. The service is free and confidential and any information provided is not used in any later investigation or hearing.

### **ENQUIRY TRENDS**

In 2014-15 190 enquiries were received about 261 attributes and areas. A majority of the enquiries were about the following areas and attributes:

## Attributes

- Not under the Act (22%)
- Race (17%)
- Disability (13%)
- Failure to accommodate a special need (8%)
- Age (6%)

## Not Under the Act

Not under the Act represents enquiries received that lack an attribute (for example “race”). The enquiry operates as an effective screening process for matters that cannot be handled by the ADC. The enquiry line enables members of the general public to get information about the relevance of their complaint to the Act prior to lodging a complaint. If the matter cannot be handled by the ADC all attempts are made to make appropriate referrals, and where necessary to facilitate that referral.

## Race

The majority of race related enquiries were concerned with race issues either at work (51%) or in goods, services or facilities (42%).

## Other Attributes

In regard to other attributes and prohibited conduct, a majority of enquiries<sup>4</sup> regarding disability (55%), failure to accommodate a special need (48%) and age (53%) also related to work (53%).

## Areas

- Work (46%)
- Goods, services and facilities (30%)
- Not under the Act (13%)

## Work

Work enquiries related to a diverse range of attributes, with enquiries received on most attributes under the Act. The highest attributes enquired about in the area of work were race (19%) and disability (15%)<sup>5</sup>.

## Goods, Services and Facilities

Goods, services and facilities enquiries were also about a diverse range of attributes. The highest number of enquiries was received in relation to race (24%)<sup>6</sup>.

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<sup>4</sup> Statistics based on percentage of work enquiries per attribute.

<sup>5</sup> Statistics based on percentage of overall enquiries received in relation to work.

<sup>6</sup> Statistics based on percentage of overall enquiries received in relation to goods, services and facilities.

## Not Under the Act

77% of enquiries that were not about an area under the Act also lacked a relevant attribute under the Act.

## MODE OF ENQUIRY

In 2014-15 a majority of enquiries were received by phone. A smaller number of enquiries were received by email or in person. It is noted that there has been a slight increase in the number of people attending the office in person for information. It is important to ensure individuals can access the enquiry service in a way that most meets their needs, particularly individuals who may have access issues that make telephone or email difficult.

## MODE OF ENQUIRY

Mode of Enquiry	2014-2015 (%) <sup>7</sup>	2013-2014 (%)	2012-2013 (%)
Telephone	82%	89%	87.2%
In person	8%	2%	8.7%
Email	9%	9%	4.1%

Figure 2

## COMPLAINTS RECEIVED

In 2014-15 formal complaints against 165 respondents were received. This is slightly down from 2013-14 when 191 were received.

Appendix 3 sets out the current complaint process, Appendix 4 provides case summaries.

## FORMAL WRITTEN COMPLAINTS RECEIVED

2014-15	2013-14	2012-13	2011-12
165	191 <sup>8</sup>	162	202

Figure 3

## FINALISATION OF FILES

In 2014-15 156 complaints were finalised. This is lower than 2013-14 where 192 complaints were finalised. It should be noted that in 2013-14 51 matters were rejected compared to 33 in 2014-15. Complaints that are rejected are generally finalised quicker than other files. The difference would explain in part the lower number of complaints finalised in 2014-15.

<sup>7</sup> One Enquiry was made via Letter and the method of enquiry for another was listed as Unknown.

<sup>8</sup> In 2013-14 Annual Report this figure was incorrectly sighted as 243, this was the figure for all complaints handled.

### COMPLAINTS FINALISED

2014-15	2013-14	2012-13	2011-12
156	192	212	250

Figure 4

### REASONS FOR FINALISATION

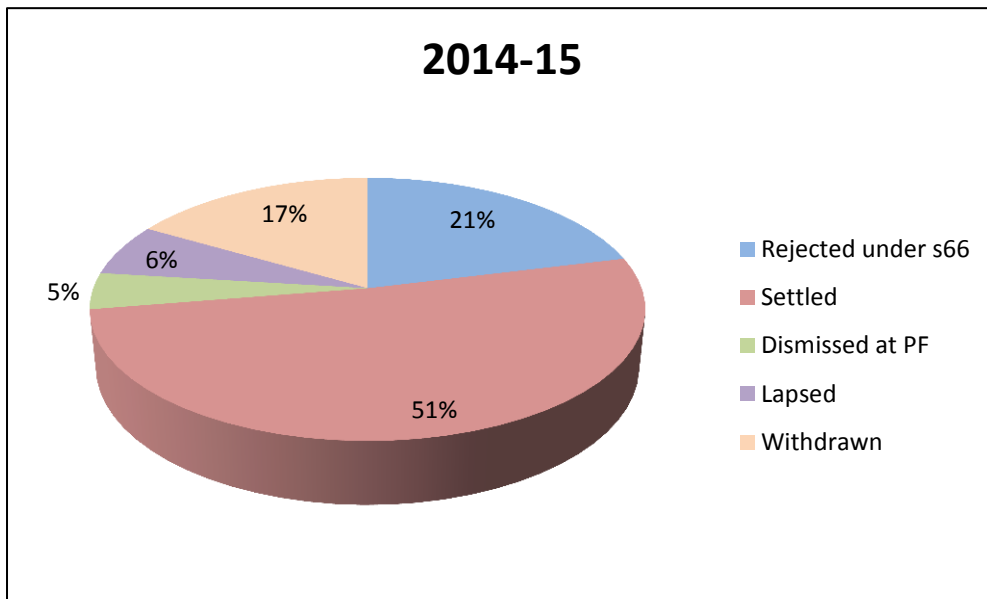


Figure 5

### COMPARATIVE DATA

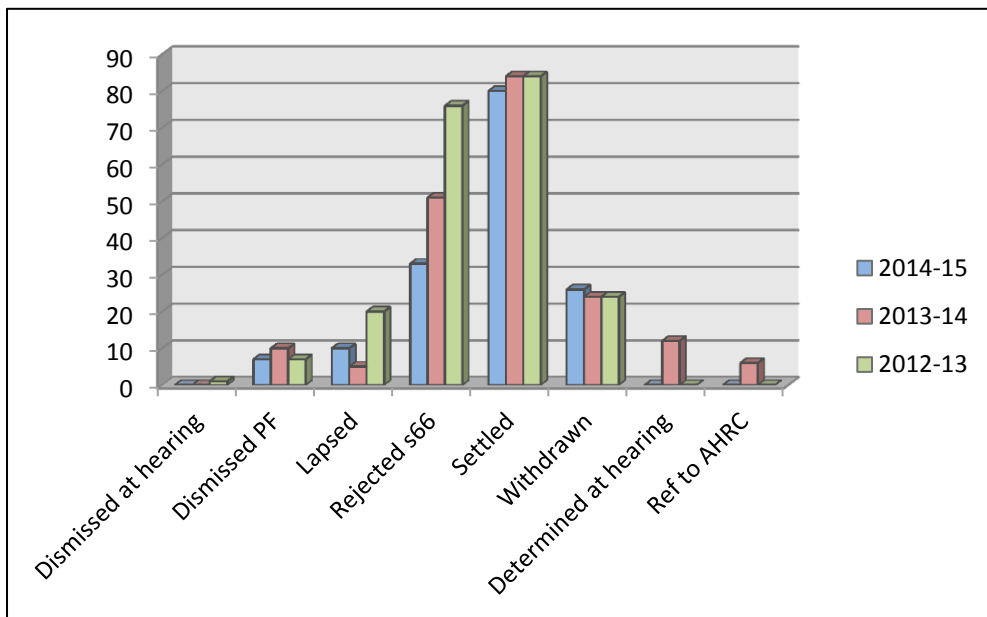


Figure 6

The following is a breakdown of the ways in which a matter may be finalised and the number of complaints concluded in each way for 2014-15.

## **REJECTED UNDER SECTION 66**

In 2014-15 33 or 21% of complaints were rejected under the Act, compared to 2013-14 when 51 or 27% of complaints were rejected. This is significantly lower than the previous year and has had an impact on the number of matters finalised and on workload. In regard to the latter, if the percentage of complaints rejected is low; this means the number of matters accepted is relatively higher impacting on resource levels.

A matter is rejected if the ADC forms a view that the matters complained of were not within the ADC's jurisdiction. When we receive matters that we are unable to accept for further investigation, where possible we suggest to individuals alternative options for their issues or refer them to more appropriate bodies.

It is also worth noting the high level of enquiries made that were not issues covered by the Act. It is possible that the ADC has received fewer complaints that are rejected because individuals are making enquiries before lodging a complaint. This would be a good outcome as this is one of the purposes of the enquiry line.

## **DISMISSED AT PRIMA FACIE STAGE**

In 2014-15 7 or 5% of matters compared to 10 or 5% in 2013-14 were dismissed at the prima facie stage. This is a decision made following an investigation of an accepted complaint and is a decision that the matter lacks evidential merit in going further in the process.

If a matter is dismissed at this stage, the complaint comes to an end. If prima facie evidence is found the matter is either referred to a compulsory conciliation or a hearing.

## **LAPSED**

In 2014-15 10 or 6 % of matters were lapsed compared with 5 or 3% of matters in 2013-14. This is where a matter ends because the Complainant loses interest in the process. A complaint is only lapsed after the ADC has made all efforts to re-engage with the Complainant. The Act provides for a 60 day notice period prior to the lapse taking effect.

## **WITHDRAWN**

In 2014-15 26 or 17 % of matters were withdrawn compared with 24 or 13% in 2013-14. A Complainant may withdraw their complaint for many reasons, it maybe that they no longer wish to pursue their matter because there are other things going on in their life and they can no longer give their complaint the attention required or warranted. Following a conciliation where a settlement has not been achieved a party may decide they have heard

all they need to and decide not to continue. In some cases a Complainant may be dissatisfied with the process or may form a view that the Respondent will never settle and they don't want to pursue the matter any further. Some withdrawals happen not long after the lodging of a complaint, when Complainants may change their mind.

## **SETTLED**

In 2014-15 80 or 51% of matters settled compared to 2013-14 when 84 or 44% of matters settled. This equates to 65% of matters in which conciliation was made available, these are complaints that are accepted. Complaints that are rejected are not referred to conciliation and therefore are unable to be settled.

It is noted that conciliation rates have continued to lower from 2012-13 (78%), with 2013-14 being 60%. It is likely this is due to the "voluntary" nature of the early conciliation model. The ADC has over the last two years experienced some resistance from Respondents in attending early conciliations. The voluntary nature of the conciliations at this stage permits them to not attend. Amendments to the Act commencing on 1 July 2015 will enable the ADC to set matters down for a compulsory early conciliation. We anticipate this will improve settlement rates.

## **DETERMINED AT HEARING**

No matters were determined at hearing in 2014-15. There were two matters heard in 2014-15 together. The matters were heard in the later part of the financial year, a decision will be handed down in 2015-16 and reported on in next year's Annual Report.

## **TIME FRAMES**

In 2014-15 128 or 82% of complaints finalised were finalised within 8 months. This is the statutory period for determining a complaint made up of 60 days to decide whether to accept or reject a complaint and 6 months to investigate and determine if there is sufficient prima facie evidence for the matter to proceed to a compulsory conciliation or hearing. This is in line with time frames for 2013-14 in which 81% of complaints were finalised within 8 months.

At the end of 2014-15 82 matters remain open and 72 of these matters remain within the 8 month period, with the remainder falling outside 12 months and being matters that have been referred to hearing.<sup>9</sup>

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<sup>9</sup> All matters currently at the hearing stage were determined under s76 within the 8 month statutory period.

## APPEALS

### APPEAL NUMBERS AND OUTCOMES

No appeals were made against decisions of the ADC in 2014-15. The ADC was also not served with any judicial reviews.

Only final decisions of the ADC can now be the subject of an appeal under section 106 of the Act. There were no decisions in 2014-15 or within the appeal period from 2013-14 that could be appealed.

YEAR	NUMBER	OUTCOMES
2011/12	4	1 struck out, 3 continued into next year
2012/13	2	2 dismissed <sup>10</sup> , 2 discontinued, 1 struck out <sup>11</sup>
2013/14	Nil	1 dismissed <sup>12</sup>
2014/15	Nil	N/A

Figure 7

## HEARINGS

### NEW MATTERS REFERRED TO HEARING

2014-15	2013-14	2012-13	2011-12
5	6	7	11

Figure 8

### TOTAL NUMBER OF HEARINGS CASE MANAGED

2014-15	2013-14	2012-13	2011-12
10	10 <sup>13</sup>	22	20

Figure 9

<sup>10</sup> One matter at time of report on further appeal.

<sup>11</sup> These outcomes include the three appeals lodged in 2011-12 that were not completed in that year. Of the two matters lodged in 2012-13, one was dismissed, the other was struck out.

<sup>12</sup> This is Kennedy which was dismissed by court of appeal filed in 2012-13 not decided in that year – was dismissed at all three levels.

<sup>13</sup> 10 matters equates to complaints against 24 Respondents.



## MANNER OF REFFERAL

A complaint may be referred to hearing at three stages (Figure 10):

1. Section 83(c) direct referral, no investigation required.
2. Section 76(1)(ii) if the Commissioner believes it cannot be resolved by conciliation.
3. Section 84(1) if the ADC fails to complete an investigation within six months of accepting a complaint a party may request a matter be referred to hearing.

In 2014-15 five matters were referred to hearing, all matters were referred under section 76 of the Act and no matters were referred under sections 84 or 83. This is a good outcome as it indicates that statutory time frames were met for these matters, and that they were referred to hearing based on merit.

One of the five matters was finalised by way of settlement. The remaining four matters have been carried over into 2015-16 with an expectation that they will be heard and determined or otherwise finalised early in that period.

In 2014-15 ten matters were case managed at the hearing stage; this includes the five referred to in the above paragraph and a further five that were carried over from 2013-14. Of the remaining 5 matters carried over from 2013-14, 2 matters were heard and are awaiting a decision in 2015-16, two matters were withdrawn and one matter settled. In total there are six matters being carried over into 2015-16, including two matters listed for hearing on 25 August 2015.

## MANNER OF REFERRAL

YEAR	S 76	S84	TOTAL
2011-12	11	0	11
2012-13	5	2	7
2013-14	6	0	6
2014-15	5	-	5

Figure 10

## TOTAL NUMBER OF HEARINGS CASE MANAGED

2014-15	2013-14	2012-12	2011-12
10	10 <sup>14</sup>	22	20

Figure 11

<sup>14</sup> 10 matters equates to complaints against 24 respondents.

## **PUBLIC EDUCATION TRAINING & COMMUNITY ENGAGEMENT**

A critical role of the ADC is to educate individuals and organisations in the NT about its processes and rights and obligations under the Act. We also aim to educate the public about discrimination generally and equality of opportunity. We do this in the following ways:

- A free complaints enquiry line<sup>15</sup>
- A formal training program
- Information sessions
- Information stalls
- Networking
- Public events
- Presentations
- Resources
- Social media and website

Each of the above also enables us to hear concerns and issues around discrimination and equality of opportunity that impacts on individuals and broader communities in the NT. This information is used to inform the work we do.

### **PUBLIC EDUCATION & TRAINING**

In 2014-15 the following formal training program was offered three times in Darwin, twice in Alice Springs and once in Katherine, Tennant Creek and Nhulunbuy.

The training is provided by the Western Australian Equal Opportunity Commission (WAEOC). In 2014-15 WAEOC conducted a total of 116 hours of training for the public program. The ADC expresses its appreciation to the WAEOC for providing yet another year of training in such a professional, capable and effective way.

### **ANTI-DISCRIMINATION, HARASSMENT & BULLYING**

This training looks at the basics of the Act, and its impact on the workplace. It covers:

- The roles and functions of the ADC;
- Rights and responsibilities under the Act;
- The difference between bullying and harassment; and
- What is acceptable behaviour in the work place.

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<sup>15</sup> See page 16.

## **PREVENTING DISCRIMINATION; HARASSMENT AND BULLYING FOR MANAGERS AND SUPERVISORS**

This training covers some material from the introduction course with a greater focus on issues relevant to managers. This includes:

- Vicarious liability;
- The role and responsibilities of managers in developing and monitoring a positive workplace culture; and
- Taking action against unacceptable behaviour.

## **CONTACT OFFICER ROLE**

This training looks at the role and functions of a contact officer, and provides staff with the knowledge and resources to be a first point of contact for staff that have a discrimination grievance.

This is full day training. Attendees are required to have done either the basic course or the management course.

## **SEXUAL HARASSMENT**

This workshop explores:

- What is sexual harassment;
- The current statistics;
- Federal and Territory laws that cover sexual harassment;
- Workplace culture and how it can impact on behaviour;
- Legal cases; and
- Liability of individuals and organisations and strategies to help minimise the risk of sexual harassment.

## **TRAIN THE TRAINER**

This training is for organisations that want to provide their own in-house training about discrimination in the workplace. Participants are provided with a manual to assist with their future training. The focus of this program is to train trainers in how to deliver discrimination training.

This is a full day training course. Attendees are required to have done one of the other courses and have training experience or qualifications.

## **TAILORED TRAINING**

Tailored Training is also available upon request from an organisation. Material can be developed and presented that is tailored to the needs of the particular organisation. This is a popular form of training, as organisations are often seeking training in response to particular issues. Some organisations once they experience the benefit of this training elect to offer it on a recurrent basis, being yearly or every two years. Operating this way enables businesses and their staff to stay up to date with current rights and obligations in the workplace, and minimise the risk of a formal complaint being made against them.

In 2014-15 WAEOC conducted 93 hours of tailored training.

## **INFORMATION SESSIONS**

In addition to providing the public training program the ADC offers free information sessions for organisations. These sessions are not conducted by trainers but by ADC staff who work with complaints. These sessions can be tailored to meet the needs of the particular organisation, but generally are about the rights and obligations under the Act, information about our processes and best practice in responding to a complaint.

In 2014-15 the ADC conducted 20 information sessions equating to 29 hours. Most sessions would range from 1 - 2 hours with groups ranging from 1 - 88 participants.

Content of information sessions varied depending on the requirements of the organisation, topics covered included:

- About the ADC and its complaint process;
- Discrimination in a service setting;
- Sexual harassment and pregnancy and return to work discrimination;
- Elder abuse;
- Disability discrimination; and
- Bullying and harassment.

Information sessions are provided at no cost.

In June the ADC made a special trip to Nhulunbuy to provide information sessions and meet with several organisations to get an understanding of issues being faced by the community and what training needs were required. The community welcomed the visit and were keen for us to return.

## **INFORMATION STALLS**

Information stalls give the community an opportunity to come and talk to us about any issues or concerns they have that may relate to discrimination or equality of opportunity. It is also an opportunity for them to gather resources about the ADC that they can take away either for themselves or others. Low staff levels has restricted our ability to have an

extensive presence at all public events, so decisions were made to attend those events that were most relevant to our work and that were likely to have the greatest reach.

In 2014-15 we provided information stalls at the following events:

- Supreme Court Open Day
- International Women’s Day
- Harmony Day
- Welcome to Darwin (Greek Day)
- NDIS forum and workshop

At the Supreme Court Open Day in addition to the information stall we conducted 2 mock conciliations to show the public how conciliations work. Fairy-tales were used as the scenarios, see Appendix 6.



Supreme Court Open Day

At the International Women’s Day stall to encourage public engagement we posted photos of women we felt were significant and invited the public to add their own women to a tree we created (see below photos).



International Women’s Day

A similar exercise was undertaken at our Harmony Day stall where we found images of significant sporting figures from a multicultural background and again encouraged people to add names to the list.

Each of these activities was well received by the public.

## NETWORKING/PUBLIC EVENTS/PRESENTATIONS

In 2014-15 the Commissioner, Ms Sally Sievers, engaged with community around a rights based perspective of discrimination. The Commissioner and her staff participated or attended each of the events set out below:

### August

- Northern Territory Launch of the Supporting Working Parents, Pregnancy and Return to Work National Review
- R U OK? Day
- Women in Super
- Behind the Wire Art Exhibition
- Supreme Court Open Day
- Australian Commissioners of Human Rights Agencies teleconference



R U OK? Day



Tiwi Ashes

### September

- Launch of the Domestic Violence Strategy
- Farewell lunch to NT Administrator Her Honour the Honourable Sally Thomas AC
- Electoral Trade Union – Women’s Conference
- Disability Awareness Week
- Wear it Purple Day
- Australian Human Rights Commissioner Tim Wilson – consultation on People’s Rights and Freedoms

## October

- Tiwi Ashes
- Play by the Rules Conference

## November

- Rights on Show
- Commercial Passenger Vehicle Industry Review – Information Session
- COTA Christmas Party
- Disability Awards
- ACHRA Conference Sydney
- White Ribbon March



White Ribbon Day

## December

- Inaugural NT International Human Rights Awards “The Fitzgeralds”

## January

- Muslims in the Current Climate

## February

- Opening of the Legal Year
- Welcome to Darwin Greek Community
- 40 years of the Racial Discrimination Act Conference 2015
- Australian Commissioners of Human Rights Agencies meeting
- Race Roundtable



Welcome to Darwin Greek Community



NT International Human Rights Awards

## March

- International Women's Day March / Information stall, YWCA Lunch, MCNT Event, Women's Lawyers Lunch
- Harmony Day Information Stall
- NEMBC Youth Media Conference
- FECCA Disability Access and Equity Consultation at the MCNT

## April

- 40 Years of the Racial Discrimination Act – Darwin consultation
- National Youth Week
- Disability (Access to Premises) – Building Standards 2010 consultation
- Palmerston Chalk a Rainbow



Palmerston Chalk a Rainbow

## May

- Islamic Society Event at the Mosque
- 2015 Review of the Disability Standards for Education 2005 consultation
- Integrated Disability Action Inc. AGM
- Candlelight AIDS Vigil
- NT Community Legal Education Development Workshop

## June

- NTCOSS conference Alice Springs
- Elder Abuse Awareness Day



Elder Abuse Awareness Day



National Youth Week – Couch Race



The Commissioner gave presentations at the following:

- Liz Broderick Launch: Supporting Working Parents: Pregnancy and Return to Work National Review
- Disability Awareness Week – Northern Territory *Anti-Discrimination Act*: How can it work for people with a Disability
- Deaf NT & Community *Anti-Discrimination Act*
- Presentation to Independent Seniors (NT) Round Table Meeting – Discrimination & Ageing
- Race Discrimination Know your Rights at the Multicultural Centre of the Northern Territory
- Muslims in the Current Climate – Info Session
- Elder Abuse Awareness Day – Presentation
- Northern Territory Aboriginal Justice Agency – *Anti-Discrimination Act*
- Solicitor for the Northern Territory 2014 Master-class – using the *Anti-Discrimination Act* to solve problems



Liz Broderick Launch: Supporting Working Parents: Pregnancy and return to Work National Review

## NORTHERN TERRITORY HUMAN RIGHTS AWARDS

The highlight of 2014-15 was the ADC's involvement in the Inaugural Northern Territory Human Rights Award "The Fitzgeralds". It is intended that this event will be an annual event.

The awards were held on International Human Rights Day which is celebrated around the world on 10 December in recognition of the adoption and proclamation of the Universal Declaration of Human Rights by the United Nations General Assembly on 10 December 1948. The United Nations General Assembly proclaimed Human Rights Day on 10 December 1950. It is intended as a day for individuals to be reminded of the declaration. Each year has a theme, in 2014 this theme was Human Rights 365, and every day is human rights day.

The awards seek to recognise the important work of Northern Territorians in the human rights space. The absence of such awards in the NT made it extremely difficult to select winners for 2014-15 as there were so many amazing individuals that could have been recognised.



The event has been named after the former Anti-Discrimination Commissioner Tony Fitzgerald. Tony will be remembered for his 7 years in office from 2001 - 2009; and his practical, determined, "no fuss" approach to human rights. Tony was a particularly fierce advocate of Indigenous Territorian rights and worked tirelessly to raise Indigenous Territorian issues, including speaking out publicly against the Northern Territory Commonwealth Intervention.

Tony came to the NT in 1978 where he started his work as a young lawyer for the Aboriginal Legal Service. He passed away in early 2009, leaving a significant legacy. There can be no better ambassador for these awards than Tony

Fitzgerald.

The ADC was part of the steering committee that organised the event; the committee consisted of the following people representing the stated organisations:

- Sally Sievers, Northern Territory Anti-Discrimination Commissioner
- Caitlin Perry, Executive Director, Darwin Community Legal Service
- Kim Gates, Executive Director, Northern Territory Aids and Hepatitis Council
- Caz Coleman, Director Melaleuca
- Russell Goldflam – President of Criminal Lawyers Association of the Northern Territory

The judging panel consisted of:

- Sally Sievers, Northern Territory Anti-Discrimination Commissioner
- The Honourable Justice Jenny Blokland, Supreme Court Judge
- Professor Ned Aughterson, Head of School, Law Faculty, Charles Darwin University

The event was opened by a Welcome to Country from Larrakia Elder, Bilawara Lee, who has a long association with the NT ADC and was hosted by Daryl Manzie.



Larrakia Elder Bilawara Lee



Daryl Manzie



The guest speaker for the evening was Carine Kapiamba. Carine arrived in Australia in 2008 as a refugee from the Democratic Republic of Congo. When she arrived she was unable to speak English. After living in Australia for 6 years, and with no English language, she now has 6 certificates, a Diploma and a Bachelor of Commerce and works full time in Darwin. She arrived with her husband and four children whom she has encouraged to embrace the human rights and civil liberties available in Australia, rights not available in her Homeland. Carine courageously shared her story with guests at the event and her optimism for her and her family's future in Australia.

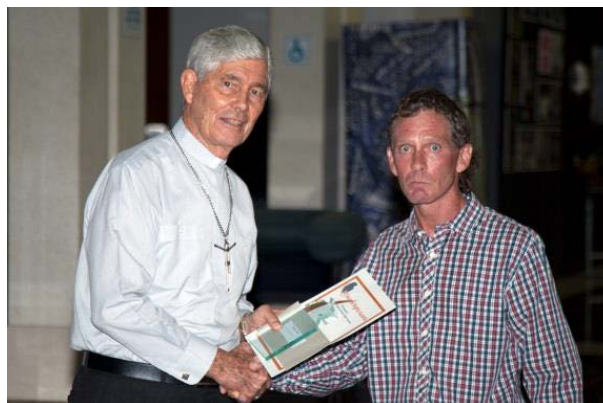
Following speeches, the winners for each award was announced, listed below are the awards and the successful recipients:

### THE FITZGERALD YOUTH AWARD

For a person or organisation living or based in the NT who has taken action to ensure the promotion, protection and fulfilment of human rights of young people.

Presented by: Bishop Hurley

**Winner – Stewart Willey**, for his work with disadvantaged youth in Tennant Creek.



### THE FITZGERALD SOCIAL CHANGE AWARD

For a person or organisation living or based in the NT who has taken action to achieve or ensure the promotion of social change in the area of human rights.

Presented by: Shane Fitzgerald

**Winner – NT Working Women’s Centre**, who have provided advice and support to women about work related issues in the Territory for the last 20 years.



Commendations:

- Alice Springs Integrated Response to Family and Domestic Violence Reference Group
- The Darwin Asylum Seeker Support and Advocacy Network
- Italk Library

## THE FITZGERALD JUSTICE AWARD

For a person or organisation living or based in the NT who has taken action to ensure the promotion, protection and fulfilment of human rights in the area of Justice.

Presented by: Bishop Hurley

**Winner – NAAJA**, for 40 years work representing the human rights of Aboriginal and Torres Strait Islander people in Northern Australia.



Commendations:

- Kunga Stopping Violence Project

## THE FITZGERALD DIVERSITY AWARD

For individuals or organisations whose activities focus on promoting, protecting and fulfilling human rights of diverse communities in the NT.

Presented by: Shane Fitzgerald

**Winner– Jeswynn Yogaratnam**, CDU lecturer in human rights, for his diverse involvement in NT community, asylum seeker, Indigenous Territorians and LGBTI human rights.

Commendations:

- My Sisters Kitchen
- David Nicholls



## RECOGNITION OF STAFF

In 2014-15 we recognised the length of public service by two of our staff members in a formal afternoon tea. Somsong Albert who was with the Public Service for 30 years, a majority of this time with the ADC and Karyn Jessop for 20 years, also a majority of this time with the ADC. Karyn had in fact also been with the Public Service for 30 years but due to a break in her service was recognised for 20 years, we do however acknowledge her fuller contribution.

It was a very positive event, with many of Somsong and Karyn's work colleagues from over their 30 years joining us to celebrate. It is an incredible achievement by both women.



## **PRESENTATIONS/MEDIA**

In 2014-15 the following media releases were issued:

- Sexual Harassment – Annual Report Increase – October 2014
- The Fitzgeralds: The Inaugural NT Human Rights Awards – calling for nominations
- The Fitzgeralds: The Inaugural NT Human Rights Awards – announcing the winners
- Widespread Discrimination Against Pregnant Workers Still occurring in 2015 – International Women’s Day – 4 March 2015
- Australian Council of Human Rights Agencies Communique
- Anti-Discrimination Commission Promotes Travellers Rights on Sexual Harassment – 9 June 2015

## **POLICY WORK**

The ADC contributed to the following policy work in 2014-15:

### **NORTHERN TERRITORY LEGISLATION/POLICY**

- Submission to the Northern Territory Government Strategy to Reduce Domestic and Family Violence
- Northern Territory Civil and Administrative Tribunal Bill
- Justice Legislation Amendment Bill
- Fines and Penalties (Recovery) Bill

### **SENATE/FEDERAL INQUIRIES/REVIEWS**

- Tim Wilson – Rights and Responsibilities 2014
- Inquiry into Access to Legal Assistance Services for Aboriginal and Torres Strait Islander People
- Review of the Disability Standards for Education 2015
- Submission to the Steering Group Review of the Disability (Access to Premises – Buildings) Standards 2010
- CEDAW Report fact sheet
- Supporting Working Parents – Employment Guides
- International Labour Organisation Report
- Amendment to the Australian Road Rules – Disability Parking in Loading Zones
- National Sexual Orientation, Gender Identify and Intersex (SOGII) Rights Consultation
- Advancing Employment for Aboriginal and Torres Strait Islander People
- Target Recruitment, Special Measures and Exemptions under Australian Discrimination Law
- ACHRA submission into the Social Services Legislation Amendment Bill 2015 – Inquiry and Report

## **REFORMS TO THE ANTI-DISCRIMINATION ACT**

On 28 April 2015 the Justice Legislation Amendment Bill 2015 was passed making procedural amendments to the Act to commence on 1 July 2015. The impact of these reforms will be discussed in the ADC's next Annual Report. The new process is set out in Appendix 7.

The purpose of these reforms was to make urgent procedural amendments to the complaint process under the Act and to facilitate the hearing of matters under the Act to the Northern Territory Civil and Administrative Tribunal (NTCAT). The objectives of the reforms were:

- To provide a more streamlined, flexible complaint process;
- Support a focus on conciliation; and
- To provide better support for unrepresented parties.

The reforms create a 2 stage process for complaints:

1. Assessment; and
2. Evaluation.

### **SUMMARY OF REFORMS:**

#### **LODGING A COMPLAINT**

The time for lodging a complaint has changed from 6 months to 12 months.

#### **ASSESSMENT**

Once a complaint is lodged it can be accepted or declined. Prior to accepting, in exceptional cases, the ADC can approach the Respondent for more information if they believe it is required to make a decision to accept or decline.

If a matter is accepted the Respondent is notified and the matter is set down for a compulsory conciliation. As a matter of practice in most cases the ADC will not seek a formal response from a Respondent prior to the conciliation conference. This enables the Respondent to come and hear the Complainant's account without being required to adopt a position on the issues. It also reduces the need for the Respondent to seek legal advice or spend time formulating responses that may later get used at a hearing. If the matter settles then all the Respondent is required to do is attend the conciliation. It is also possible for a respondent to resolve a matter privately or through the ADC prior to conciliation.

The ADC aims to have all matters set down for conciliation within 6 weeks of receiving the complaint. The ADC aims to have made a decision to accept or decline a complaint within 10 days of receipt.



The ADC has clearer powers to determine who can attend a conciliation conference. Authority is required for lawyers, advocates or support persons to attend. The ADC will develop guidelines that will be placed on its website to assist parties seeking such authorisation.

If a matter resolves that is the end of the complaint. If a matter does not resolve then a Complainant has 21 days to elect to proceed to an evaluation stage. If they do not make an election their complaint lapses and cannot be brought again.

## **EVALUATION**

If a Complainant elects to have their complaint evaluated the ADC will then look at what evidence exists to determine if their matter would have a reasonable prospect of success if heard by the NTCAT. The ADC aims to have an evaluation completed within 2 months of the election.

To assist with the evaluation the ADC has clear powers to compel both witnesses and documents to assist in determining the evidence for a matter before it.

If the ADC finds that the matter has a reasonable prospect of success the matter is referred to the NTCAT. The ADC prepares a brief of evidence for the NTCAT to enable the Tribunal to hear the matter quicker.

If the matter is not referred to NTCAT a Complainant may still, within 21 days, file their matter with NTCAT for hearing.

Data will be recorded over 2015-16 to measure the success of these reforms.

## **RESOURCES – SOCIAL MEDIA**

### **WEBSITE**

2014-15 saw the first full year of our newly designed website. Unfortunately data was only available for the website for the last 6 months.

Data collected from 1 January – 30 June 2015 demonstrated the follow:

- Total sessions 6,206
- Users 4,776
- Page views 15,704
- 76.4% of visitors were new to the site
- A clear steady increase of visitors from January – June 2015, with visitors increasing each month, starting with 695 in January and increasing to 1,205 by June 2015.

### **SOCIAL MEDIA**

In 2014-15 the ADC actively engaged in both Twitter and Facebook as platforms to distribute key messages about our work and to promote positive information from other organisations doing work in allied areas. The overarching strategy is to present an alternative message to mainstream media, in regard to positive achievements of Indigenous Australians, those with a lived experience of disability and other groups protected by the Act; to challenge stereotypes and stigma that impedes equality of opportunity. Tweeting and posting Facebook articles that positively portray groups not represented this way in mainstream media, is part of our primary prevention model.

Figure 12 provides a collage of different postings on our Facebook page in 2014-15. At 30 June 2015 we had received 119 likes.



Figure 12

## RESOURCES

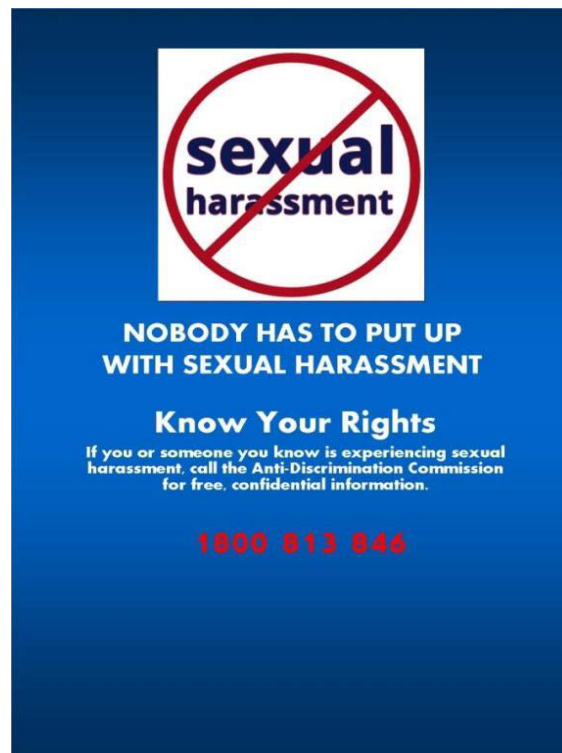
In 2014-15 we produced three new resources; the first was braille business cards. While braille on our cards enables vision impaired members of the community to become aware and access our service, it also provides a useful reminder for other services and individuals to ensure that their material and information is accessible for a diverse audience.



Our second resource was an Easy English conciliation brochure. This document is aimed at individuals with a literacy level below grade 2. It is aimed at assisting people where literacy may be an issue due to education levels, language or disability. The document provides easy English with images to assist in understanding. It does require a base level of reading. Attached at Appendix 8 is a copy of the brochure.

In 2015-16, we intend to produce further documents in Easy English and consider how we might further translate documents into Indigenous Australian English. The ADC sent a staff member in 2014-15 for training in how to develop brochures in Easy English to progress this project.

The third resource was a sexual harassment poster that was developed in response to public concerns that backpackers were being sexually assaulted and harassed at work and in accommodation. The ADC spoke to backpacker's accommodation around Darwin and distributed the below poster to backpackers and local hostels and pubs, sticking them behind toilet doors to ensure female backpackers were aware of their rights.



# TRENDS



Richard Rankin (Henbury Secondary School) – GPS Map

(Rights on Show 2014)

## COMPLAINTS

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### WHO IS COMPLAINING?

#### GENDER

In 2014-15 51% (121) of Complainants were male compared to 48% (114) identifying as female and 0.4% (1) as gender X. As in 2013-14 there were a higher number of male Complainants to other genders. A closer analysis of the data however shows that the slight difference is due to multiple complaints being lodged by one male Complainant against several respondents.

#### GENDER OF COMPLAINANT

Year	Male	Female	X
2014-15 <sup>16</sup>	121	114	1
2013-14 <sup>17</sup>	128	121	2
2012-13	120	162	0
2011-12	101	101	0

Figure 13

#### REGION

In 2014-15 58% (139) of complaints were handled from Darwin; down from 69% (175) in 2013-14. There was a noticeable increase of complaints from Alice Springs during this period, representing 24% (56) of complaints compared to 14% (36) in 2013-14. The data suggests no observable trends in the types of complaints coming from Alice Springs with complaints being about a range of attributes and areas and against a diverse range of respondents. It is likely that the increase in complaints is the result of continued work by the ADC to engage with Alice Springs and service providers in this area and thereby reflecting an increased awareness of the ADC as an avenue for complaint.

Overall there was a general increase in complaints outside the Darwin area, including 4% (10) complaints coming from Katherine, 4% (10) from Remote NT and 3% (8) from Rural NT. Complaints in 2014-15 came from a diverse range of locations around the NT. To preserve the confidentiality of these complaints particular data on these locations will not be disclosed for the purposes of this report.

#### REGION

Year	Darwin	Other NT	Interstate	Total
2014-15	139	94	5	238
2013-14	175	72	3	253 <sup>18</sup>
2012-13	157	87	20	272 <sup>19</sup>
2011-12	137	64	1	202

Figure 14

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<sup>16</sup> The gender on 2 complaints was unknown.

<sup>17</sup> The gender on 2 complaints was unknown.

<sup>18</sup> Three matters were unknown.

<sup>19</sup> Five matters were unknown.

## WHO ARE PEOPLE COMPLAINING ABOUT?

In 2014-15 39% (95) of complaints were handled against individuals, 31% (74) against companies and 21% (49) against Government. Most complaints against individuals are in the context of a company or government, generally employees of the entity. Companies continue to be the most complained about entity, meaning a majority of complaints are from the private sector. This aside, complaints against government also remain high.

A smaller number of complaints were handled against non-government organisations, clubs and local government see figure 15.

## COMPARATIVE DATA

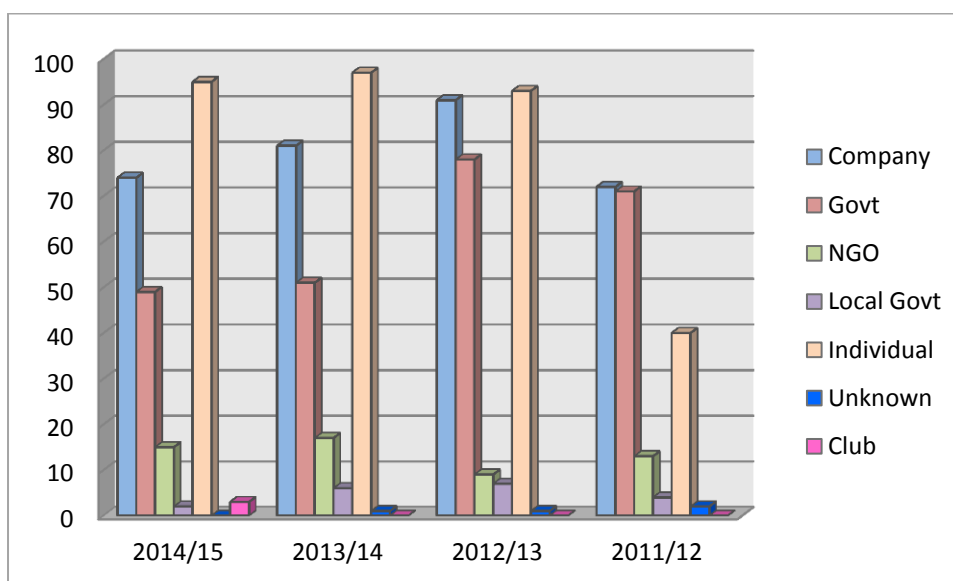


Figure 15

## RESPONDENT PROFILE

Year	Company	Govt	NGO	Local Govt	Individual	Club	Unknown	Total
2014-15	74	49	15	2	95	3	0	238
2013-14	81	51	17	6	97	0	1	253
2012-13	91	78	9	7	93	0	1	279
2011-12	72	71	13	4	40	0	2	202

Figure 16

## WHAT ARE PEOPLE COMPLAINING ABOUT?

### ATTRIBUTES

A list of the attributes in the Act is located in Appendix 5. Figure 18 sets out the attributes complained of in 2014-15.

For the first year, in the history of the ADC, disability is the most complained of attribute under the Act, historically it has been race. However the difference between the two is insignificant, with disability representing 84 complaints and race representing 83. However the rise in disability complaints is significant. Equal in number to race complaints are complaints regarding failure to accommodate a special need, which is a prohibited area of conduct under the Act. This ground may apply to any attribute, however a majority of these complaints would relate to disability accommodation.

The highest attributes complained of in 2014-15 were:

- Disability (31% increase)
- Race (5% increase)
- Failure to accommodate a special need (34% increase)
- Seeking unnecessary information (36% increase)
- Sex (2% decrease)
- Victimization (263 % increase)
- Sexual harassment (12% decrease)
- Marital status (258% increase)
- Association with a person (95% increase)
- Age (6% increase)



The table below sets out the top eight attributes complained of in 2014-15 compared with 2013-14.

2014-15		2013-14	
1. Disability	84	1. Race	79
2. Race /Failure to accommodate a special need	83	2. Disability	64
3. Seeking unnecessary information	64	3. Sex <sup>20</sup>	63
4. Sex	62	4. Failure to accommodate a special need	62
5. Victimization	58	5. Sexual harassment	57
6. Sexual Harassment	50	6. Seeking unnecessary information	47
7. Marital Status / Association with a person	43	7. Age	35
8. Age	37	8. Sexuality	31

Figure 17

## DISABILITY

Strong themes come through from this data indicating that disability discrimination is a significant issue, with many of the highest grounds of complaint relating to disability issues:

- Disability (direct discrimination).
- Failure to accommodate a special need.
- Seeking unnecessary information.
- Association with a person.

Direct disability discrimination complaints are complaints about discrimination that have been directly *because* of the Complainant's disability. For example a prospective employee being told that they are not suitable for a job because of their disability. The types of disability Complainants have been alleging discrimination about are set out below<sup>21</sup>:

- Physical disability 25%
- Mental Health 43%
- Sensory disability 5%
- Medical condition 14%
- Neurological condition 5%
- Acquired brain Injury 1%
- Intellectual disability 2%

<sup>20</sup> In 2013-14 the figures for the top 8 grounds of complaint there were minor errors in the data reported; this has been corrected in this year's report.

<sup>21</sup> The remaining complaints were matters where disability was ticked by the complainant but it was not in fact their disability they were complaining about.

A majority of these complaints were about work (49%), with 30% being about goods, services and facilities, 13% about education and 6% about accommodation. A majority of the complaints were from men (57%) with 43% coming from females. It is noted that 26% of disability complaints came from Alice Springs, equating to 14% of overall complaints handled from this region.

As noted in the Emerging Issues section and above, increases were also seen in other disability related prohibited conduct with a 34% increase in complaints regarding failure to accommodate a special need (66% were disability complaints), a 36% increase in seeking unnecessary information (38% were disability related complaints) and a 95% increase in association with a person complaints (37% disability related complaints).

## **FAILURE TO ACCOMMODATE A SPECIAL NEED**

Failure to accommodate a special need applies to all attributes and areas. It imposes a positive obligation on employers, service providers, educators and accommodation providers to reasonably accommodate a special need a person may have because of an attribute (e.g. race, disability, parenthood). The most common complaints relate to special needs an individual may have because of a disability, for example an individual in a wheel chair will need a ramp to access a building. It can however apply to other attributes such as parenthood, sex, breastfeeding. Examples would be accommodating needs a parent may have to work flexible hours, or provide appropriate facilities for women to express breast milk while at work. The ADC receives complaints against other attributes, but they are predominantly regarding disability. It is noted that 16% were parenthood complaints in 2014-15 (see further comment ahead).

## **SEEKING UNNECESSARY INFORMATION**

Seeking unnecessary information is also an area of prohibited conduct and could be applied to any attribute or area under the Act. However a significant number of complaints in this area relate to questions about disability. An example would be if an employer asked for information about a prospective employee's health status and then used that information to justify not employing them, without considering the relevance of the disability or what accommodations could be made to work with the prospective employee.

## **ASSOCIATION WITH A PERSON**

Association with a person is also an area of prohibited conduct and may relate to any attribute or area. However these types of complaints are generally a parent or carer of a child with a disability or may be someone married or associated with a person of another race. An example of the type of complaint the ADC may receive is where a parent with a child who has a physical disability tries to engage with her child's school but is dismissed and turned away when she tries to arrange a meeting because the school do not want to answer her questions. In regard to race an example is where a non-Indigenous Australian goes to a bar with a group of Indigenous Australians and the group is asked to leave, including the non-Indigenous Australian because the bar does not allow Indigenous Australians to drink there.

Of note is the substantial increase in complaints in the areas of victimisation and marital status.

## **VICTIMISATION**

Victimisation has a very specific meaning under the Act. It provides protection for people making complaints under the Act. The protection extends to any witnesses who may give evidence. The Act provides that “victimisation takes place if a person subjects or threatens to subject another person or an associate of the other person to any detriment.” A majority of these complaints will be from a Complainant who has filed a complaint with the ADC and subsequently alleges that they have been subjected to detriment because they lodged the complaint.

Respondents when they are notified of a complaint are warned about these provisions and that any negative conduct towards the Complainant may result in a further complaint.

## **MARITAL STATUS**

Marital status relates to whether a person is or is not married and may include who they are or were married to. In 2014-15 we saw a 258% increase in complaints on this ground with an increase from 12 complaints in 2013-14 to 43 complaints in 2014-15. Marital status represented 5% of complaints handled in 2014-15. In terms of gender, 56% of these complaints were from women and 44% from men. In regard to the complaints from women 50% were accepted (not including 13% of complaints from women resolved prior to a decision being made to accept or reject) compared to 5% of male complaints.

## **PARENTHOOD**

In 2014-15 we saw a 238% increase in parenthood complaints, with parenthood complaints representing 3% of overall complaints. Some of these complaints are linked to the increase in marital status complaints, an attribute that can relate to parenthood (example: single parent). Also of note is that 16% of complaints regarding failure to accommodate a special need were complaints regarding parenting accommodations.

It is expected that this increase is due to the launch in June 2014 of the Sex Discrimination Commissioner Elizabeth Broderick review on *Supporting Working Parents: Pregnancy & Return to Work National Review*. The review was the first time national data had been collected regarding discrimination on this ground. The NT was included in this review, and the ADC contributed data to it. Many of the complaints handled reflected the stories shared in the review.

## **SEX**

Sex discrimination remains in the top 8 grounds complained of and 8% of complaints handled. Whilst there was a 2% decrease in complaints since 2013-14 the number of complaints handled remains high at 62 compared with 63 last year. Complaints from women represent 68% of these complaints with 57% of complaints from women being accepted compared to 6% for men. For female complainants, work (67%) is the highest area of complaint.

## **SEXUAL HARASSMENT**

In 2014-15 there was a 14% decrease in sexual harassment complaints, but they remain high with 50 complaints handled compared to 58 in 2013-14. Women represent 64% of these complaints, with 78%<sup>22</sup> of women's complaints being about sexual harassment in their workplace. Again when complaints are analysed by gender, 52% of females were accepted compared to 20% of male complaints on this ground.

Sexual harassment training was included in our public education program in 2014-15 for the first time in many years. This was in response to a 93% increase of this type of complaint in 2013-14. We continue to hear about the prevalence of sexual harassment for women outside the complaint process, through enquiries and through community engagement, public education and information sessions. Research conducted by the Australian Human Rights Commission found that 1 in 4 women experience sexual harassment in the work place and many women will not bring formal complaints.

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<sup>22</sup> It should be noted that the balance were male (32%) and gender X (4%). In regard to the male complaints 56% were ambit claims. An ambit claim is where a complaint is lodged with random attributes selected, often all attributes, irrespective of the allegations made.

## ATTRIBUTES & PROHIBITED CONDUCT IDENTIFIED IN FORMAL COMPLAINTS

Attribute	2014-15	2013-14 <sup>23</sup>	2012-13	2011-12
Age	37	35	34	48* <sup>24</sup>
Aiding the contravention of the Act	22	17	20	16*
Association with a person	43	22	29	33*
Discrimination Advertising	3	5	7	1
Failure to accommodate a special need	83	62	75	44*
Guide/Assistance Dog	1	0	0	0
Disability	84	64	76	10
Irrelevant criminal record	29	3	3	32
Irrelevant medical record	31	14	17	15
Marital status	43	12	8	18*
Parenthood	27	8	17	5
Political Beliefs/Opinions	15	6	11	0
Pregnancy	8	7	11	6
Race	83	79	101	69
Religious beliefs/activity	24	11	19	6
Seeking unnecessary information	64	47	38	47
Sex	62	63	43	16
Sexual harassment	50	57	30	16
Sexuality	24	31	17	4
Trade union activity	12	13	11	5
Victimisation	58	16	25	16

Figure 18

<sup>23</sup> Minor errors were reported in the 2013-14 for attributes, this contributed to other reporting errors in this report. Each of these errors referred to again has been correctly reported and file noted accordingly.

<sup>24</sup> It is noted that in 2011/12 multiple complaints received from one complainant against 16 respondents were received alleging multiple allegations of discrimination against a range of attributes. While it would be inappropriate to remove this data completely from the records, it is likely that it has some impact on trends in complaints. Attributes impacted are asterisked.

## AREAS OF COMPLAINT

An area of complaint is where alleged discrimination occurred, for example at work. The Act is limited to discrimination in the following public areas of life:

- Work;
- Education;
- Goods, services and facilities;
- Superannuation and insurance;
- Accommodation; and
- Clubs.

### AREAS

Area	2014-15	2013-14	2012-13	2011-12
Accommodation	37	56	10	14
Clubs	10	2	3	1
Education	71	19	34	22
Goods Services and Facilities	243	118	198	86
Insurance and Superannuation	Nil.	1	Nil.	4
Not under Act	32	Nil.	13	1
Work	419	375	334	217

Figure 19

In 2014-15 the highest area of complaint was work (see Figure 19); this is consistent with past years. Of note is a 106% increase in complaints in the area of goods, services and facilities. It is also noted that there is a 274% increase in education complaints. The reason for this significant increase is due to multiple complaints being lodged by a small number of complainants relating to the same incident, it is therefore not of such significance.

## AREAS AND ATTRIBUTES

### ATTRIBUTES AND AREAS COMPLAINED ABOUT

Prohibited Conduct (Attribute)	Education	Work	Accommodation	Goods Services and Facilities	Clubs	Insurance and Superannuation	Not Under Act	Total
Age	4	16	3	13	0	0	1	37
Guide Dog	0	0	0	1	0	0	0	1
Disability	11	41	5	25	0	0	2	84
Irrelevant Criminal Record	3	9	0	13	2	0	2	29
Irrelevant Medical Record	2	16	3	8	0	0	2	31
Marital Status	5	21	1	14	1	0	1	43
Parenthood	4	12	1	9	0	0	1	27
Political Beliefs / Opinions	2	3	1	8	0	0	1	15
Pregnancy	0	7	0	1	0	0	0	8
Race	0	46	5	28	2	0	2	83
Religious Belief / Affiliation / Activity	2	6	1	12	0	0	3	24
Sex	2	31	4	19	0	0	6	62
Sexuality	0	13	1	9	0	0	1	24
Trade Union Affiliation/ Activity	0	12	0	0	0	0	0	12
Prohibited Conduct (Other)	Education	Work	Accommodation	Goods Services and Facilities	Clubs	Insurance and Superannuation	Not Under Act	Total
Aiding Contravention of Act	5	14	0	3	0	0	0	22
Association with a Person	15	13	0	14	1	0	0	43
Discriminatory Advertising	0	2	1	0	0	0	0	3
Failure to Accommodate Special Need	9	47	6	20	1	0	0	83
Sexual Harassment	2	30	1	13	0	0	4	50
Seeking Unnecessary Information	3	35	3	19	2	0	2	64
Victimisation	2	42	1	12	1	0	0	58
Not Under the Act	0	3	0	2	0	0	4	9
<b>TOTAL</b>	<b>71</b>	<b>419</b>	<b>37</b>	<b>243</b>	<b>10</b>	<b>0</b>	<b>32</b>	<b>812</b>

Figure 20

The most common combinations of complaints were as follows:

- Disability and work;
- Disability and goods, services and facilities;
- Race and work;
- Race and goods, services and facilities;
- Failure to accommodate a special need at work;
- Failure to accommodate a special need in goods, services and facilities;
- Seeking unnecessary information at work (and GSF);
- Sex and work;
- Victimization work;
- Sexual harassment work; and
- Marital status work.

## HEARINGS

In 2014-15 the ADC case managed 10 matters. The main attributes represented equally at hearing were race (2), sexual harassment (2) disability (2)<sup>25</sup> and victimisation (2). The main area of complaint was work, with work representing 8 of the 10 hearings.

Of the 10 hearings, 2 were settled and 2 were withdrawn, the remaining 6 will be determined in 2015-16.

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<sup>25</sup> One of these matters was failure to accommodate a special need on the basis of a disability.



# APPENDICES



**David Nicholls – Sad World**

**(Rights on Show 2014)**

## KEY DELIVERABLES 2014-15

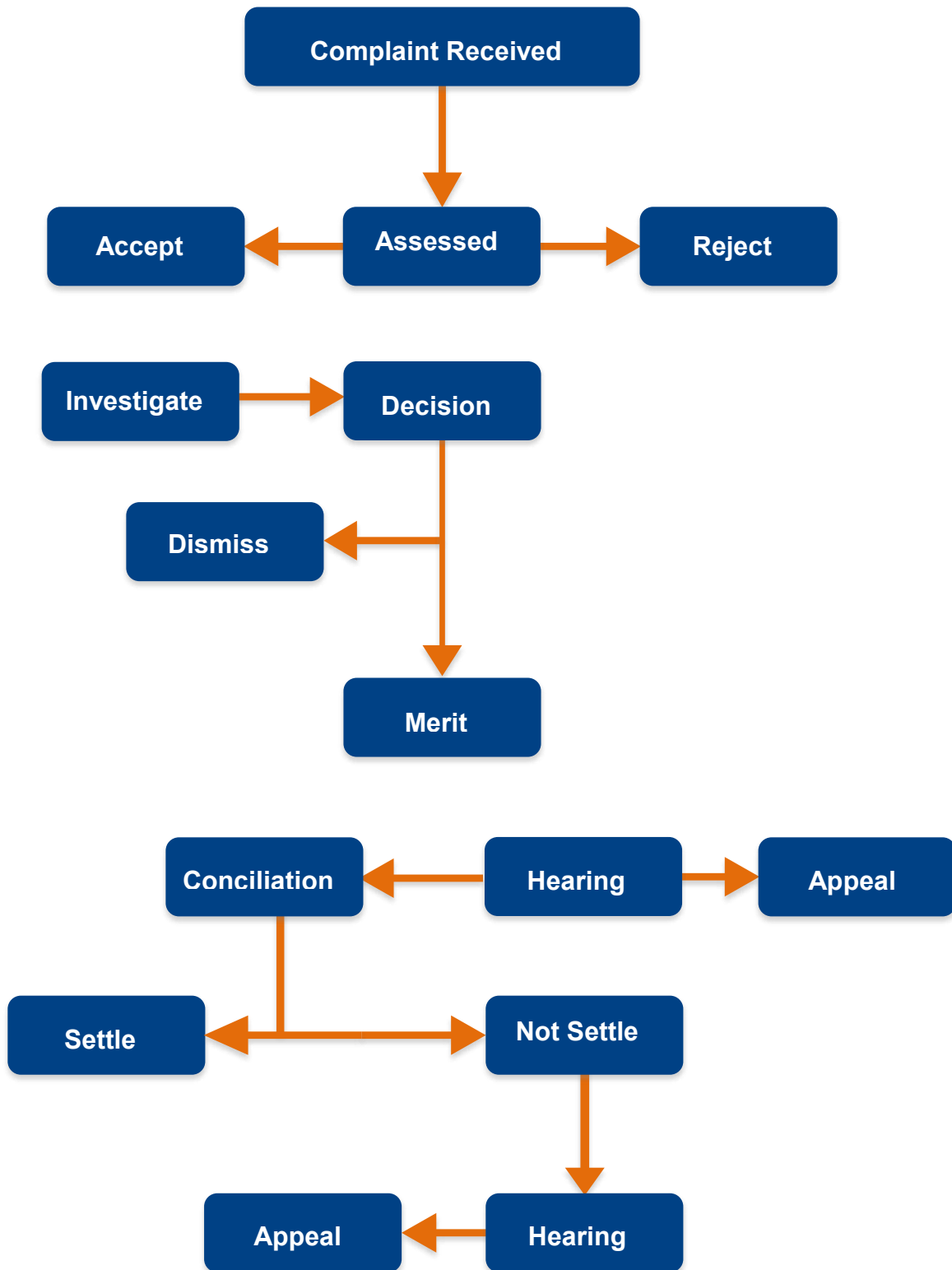
Key deliverables	Current Year		Targets	Previous Years	
	2014-15 Estimate	2014-15 Actual	2015-16 Estimate	2013-14 Actual	2012-13 Actual
Public awareness / community-based events, development of educational resources and training (hours)	80	174	80	91	176
Complaints (includes complaints carried over)	200	238	200	253	279
Complaints conciliated	40%	65%	50%	60%	78%
Complaints closed within 8 months of receipt	40%	82%	40%	81%	72%

**FUNCTIONS OF THE COMMISSIONER**

The Anti-Discrimination Commissioner is appointed by the Administrator under section 6 of the Act. The functions of the Commissioner are set out in section 13 of the Act.

- To carry out investigations and hearings into complaints and endeavour to effect conciliation;
- To examine Acts and regulations and proposed Acts and regulations of the Northern 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;
- To institute, promote or assist in research, the collection of data and the dissemination of information relating to discrimination and the effects of discrimination;
- 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;
- To research and develop additional grounds of discrimination and to make recommendations for the inclusion of such grounds in this Act;
- 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;
- To promote in the Northern Territory an understanding and acceptance, and public discussion, of the purposes and principles of equal opportunity;
- To promote an understanding and acceptance of, and compliance with, this Act;
- To promote the recognition and acceptance of non-discriminatory attitudes, acts and practices;
- To promote within the public sector the development of equal opportunity management programs;
- To prepare and publish guidelines and codes of practice to assist persons to comply with this Act;
- To provide advice and assistance to persons relating to this Act as the Commissioner thinks fit;
- To advise the Minister generally on the operation of this Act;
- 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;
- Such functions as are conferred on the Commissioner by or under this or any other Act; and such other functions as the Minister determines.

### ADC Complaint Process



## CASE SUMMARIES

### **Failure to accommodate a special need in goods, services and facilities**

A woman had urinary incontinence and because of her condition was nervous about going out in public. Her daughter persuaded her to come and see a dance performance, ensuring her that the venue had toilets. When they arrived at the venue there was a long queue for tickets. She needed desperately to go to the toilet and could not wait. Her daughter told her to go and she would mind their spot in the queue. When approaching the toilets she was stopped by one of the ushers who asked to see her ticket. When she said she had not yet bought her ticket she was advised she could not use the toilets until she had bought her ticket.

The woman lodged a complaint with the ADC against the event organisers on the basis of failing to accommodate a special need (being her need to urgently use the toilet because of her disability – urinary incontinence) in the area of goods, services and facilities.

The matter was referred to conciliation and was settled. The event organiser apologised to the woman and agreed to create and promote a special entry card for people with special needs. They developed a new policy and provided training to the staff on the new arrangements. This enabled the woman to return to the venue for future performances without any concerns that she could not use their toilets.

### **Race in Goods, Services and Facilities**

A young Indigenous Territory man attended a café to buy some lunch. When he approached the counter he was told by the waiter that the kitchen was closed. As he was leaving he heard the waiter take a lunch order from another customer who was not an Indigenous Australian. He made a complaint to the ADC saying he had been denied service because of his race. The matter was referred to an early conciliation. While the café did not concede that it had discriminated against him, they apologised for the offence that was caused and arranged for him to have a free lunch at their café to show him that he was welcome.

### **Sexual Harassment/Marital Status/ Sex in the Workplace**

A woman worked for a private business and was placed in an office by herself with her manager working in a central office in town. Her manager came to visit her one day when there were no clients visiting and he approached her and touched her on her breasts. She complained to senior management and they elected to move her to a different office saying she was not safe to work there alone as a single woman.

She subsequently lodged a complaint in relation to the ADC alleging sexual harassment and discrimination on the basis of marital status and sex. The matter settled with the organisation agreeing to compensation and to attend discrimination training.

## SECTION 19 – LIST OF ATTRIBUTES

- Race;
- Sex;
- Sexuality;
- Age;
- Marital status;
- Pregnancy;
- Parenthood;
- Breastfeeding;
- Disability;
- Trade union or employer association activity;
- Religious belief or activity;
- Political opinion, affiliation or activity;
- Irrelevant medical record;
- Irrelevant criminal record; and
- Association with a person who has, or is believed to have, an attribute referred to in this section.

## Mock Conciliation 9:30 – 10:30

26

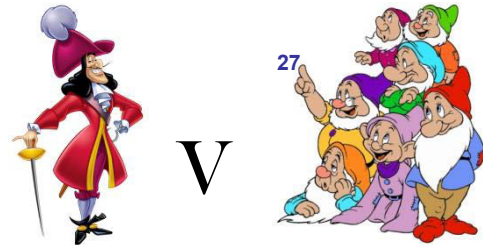


### **Irrelevant Criminal Record in the area of Accommodation**

The Big Bad Wolf applies for rental accommodation at the ‘Enchanted Forrest Rentals’ which is operated by Snow White. Snow White is good friends with Little Red Riding Hood and she is aware of the Big Bad Wolf’s reputation and criminal history. She also has a property in the Enchanted Forrest and doesn’t want a Wolf, living in her neighbourhood. Snow White rejects his application for accommodation.

The Big Bad Wolf is very upset at Snow White’s decision. He was convicted of eating Granny and was previously sentenced to a term of imprisonment. He has been rehabilitated and he just wants to live out his days peacefully in the Enchanted Forrest without always being judged. He says that his criminal history is ‘irrelevant’ and is therefore lodging a complaint with the ADC.

## Mock Conciliation 12:30 – 1:30



### **Impairment in the area of work / Failure to accommodate a special need**

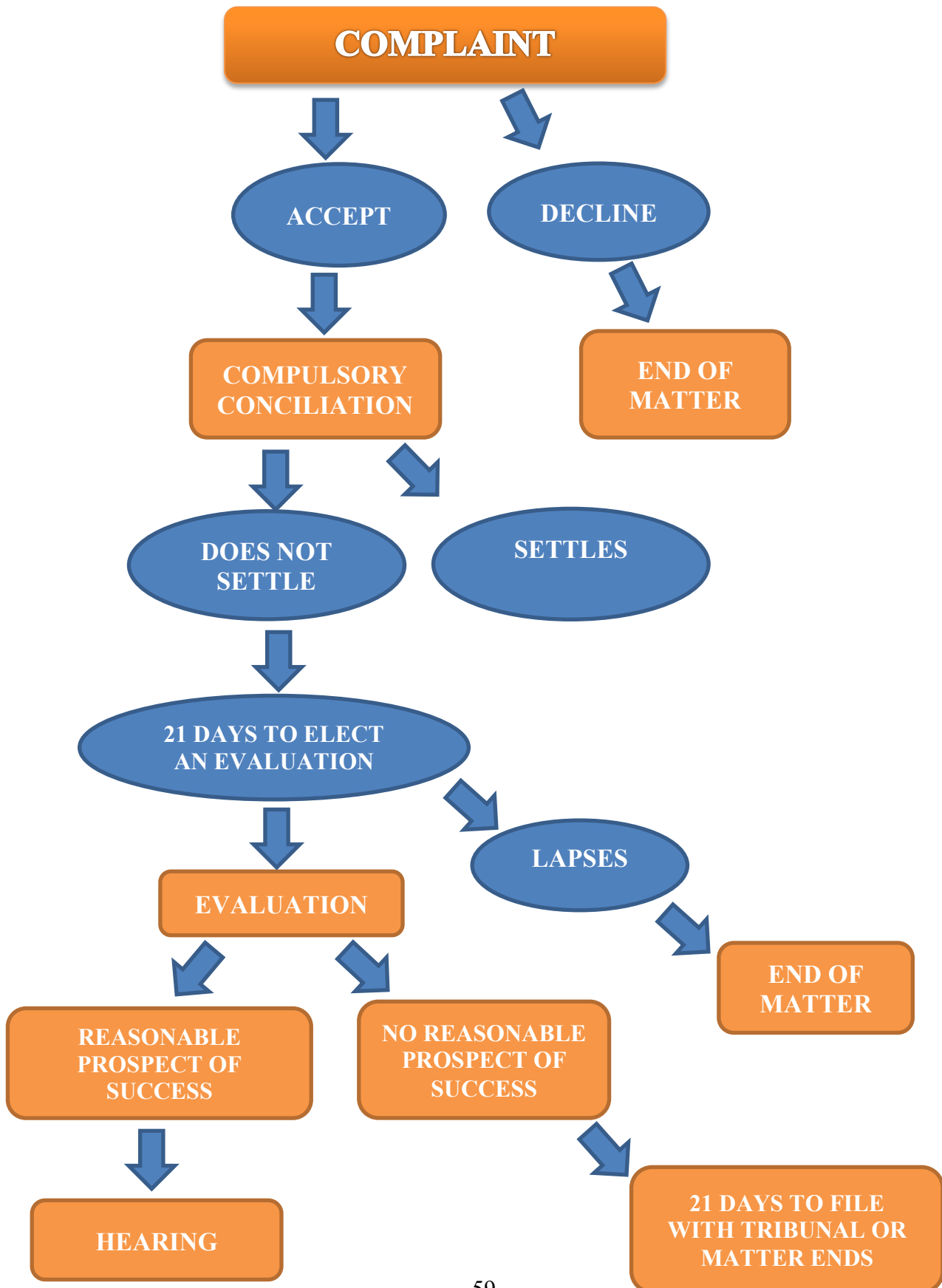
Captain Hook applies for a job with the 7 Dwarfs at the Hi Ho Mine Site. The 7 Dwarfs representative ‘Grumpy’ has told Captain Hook that he will not get a job with Hi Ho Mining because he has a peg leg and a hook hand. These impairments will affect his ability to perform the duties required of workers employed at Hi Ho Mining.

Captain Hook is very upset at the narrow mindedness of Hi Ho Mining in rejecting his application for employment, so he lodges a complaint with the ADC.

<sup>26</sup> <http://www.doctordisney.com/wp-content/uploads/>



# NEW COMPLAINT PROCESS







## Conciliation Conferences



Northern Territory  
Anti-Discrimination Commission



Easy English 2014

## About this book

### Words in this book

There are words in this book that may be hard to read. The words are in **blue**.

You can ask someone to help you.

### Discrimination

**Discrimination** is when another person treats you unfairly.

There are lots of reasons you should **not** be treated unfairly.



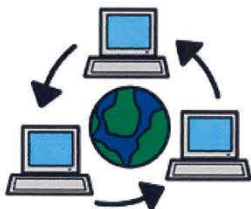
For example,

- race or culture
- being a man or woman
- age
- sexuality. For example, gay.
- disability
- religion.

You can read about the other reasons on our website.

[www.adc.nt.gov.au](http://www.adc.nt.gov.au)

Click on discrimination.



**This book is about how to fix  
discrimination complaints.**



A discrimination complaint is when you tell us you have been treated unfairly. For example, you did **not** get a job because you have a disability.



The **Anti-Discrimination Commission NT** is in charge of discrimination complaints.

## People in this book



### Complainant

The complainant is the person who

- made the discrimination complaint
- thinks they have been discriminated against.

This means treated unfairly.



### Respondent

The respondent is the person who

- was complained about.

The respondent may be an

- organisation
- or
- individual.



### Conciliator

- works for the  
Anti-Discrimination Commission
- helps fix the complaint
- does **not** take sides.

## Conciliation conferences



A **conciliation conference** is a meeting.

The meeting is with

- the complainant
- the respondent
- a conciliator.

At the conciliation conference you will

talk about

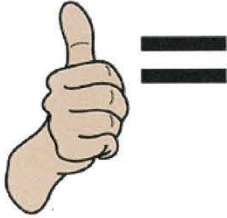
- the complaint
- what you think happened
- how you could solve the complaint.



The conciliator may meet with you before the conciliation conference.

You can ask questions.

## What we will do



The conciliator does **not** take sides.  
This means the conciliator treats everyone the same.

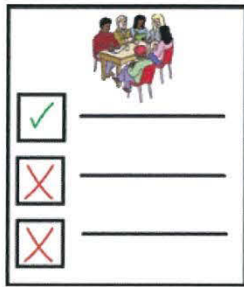


Complaints are private and confidential.  
This means we will

- **not** tell the media about a complaint
- make sure our phone calls to you are private
- make sure our letters to you are private.

The complainant and respondent must **not** talk about the complaint to other people.





## The rules

At the conciliation conference you must follow the rules.

- 1 person talks at a time.



- Keep information about the conference private. This means do **not** tell anyone
  - what you talk about.
  - what the other people talk about.

- Only talk about the complaint.  
Do **not** talk about anything else.

- Do **not** interrupt the other person.

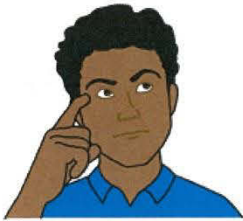
- No personal attacks.



### Before the conciliation conference

Think about

- what happened
- what you are worried about
- how you want to fix the complaint.



Think about the other person.

What might the other person think

- happened
- is a problem.



Get some advice. You might talk to

- a lawyer
- someone about money.

**Who should go to the conciliation conference?**



- **Complainant**

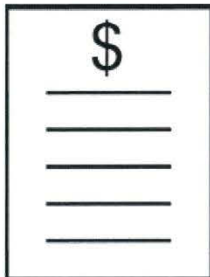


- **Respondent**

Send someone from your organisation who can make decisions.



You can bring a support person. The support person does **not** talk at the conciliation conference.



**Do I have to go to the conciliation conference?**

Yes.

You can get a fine if you do **not** go.



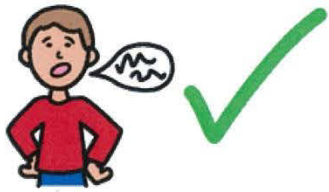
### On the day

- Find a good place to park your car.  
Look for all day car parks.
- Turn off your mobile phone.
- The conciliation conference might go for  
2 or 3 hours.  
Make sure you have lots of time.



### During the conciliation conference

- Stay calm.
- Listen. Do **not** interrupt other people.
- Ask for a break.



## How to fix the complaint

There are lots of ways to fix the complaint.  
This means the respondent can do something  
for the complainant.



For example,

- write a letter to say sorry
- staff training
- pay money
- give the complainant the service  
they wanted.

There are lots of other ways to fix  
the complaint.



## After we fix the complaint

At the conciliation conference you can fix the complaint. The conciliator will write down what everyone will do. This is called an agreement.

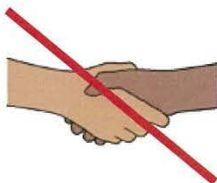


## Broken agreement

This means that you or the other person did **not** do what the agreement says.

If the agreement is broken you can

- talk to the Anti-Discrimination Commission
- go to the Local Court.



## No agreement

A complaint that does **not** get fixed at conciliation will go to a public hearing.

This means the **Anti-Discrimination Commissioner** will make a decision about what happened.

The **Anti-Discrimination Commissioner** is in charge of the Anti-Discrimination Commission NT.



## More information

Call the Anti-Discrimination Commission

08 8999 1444

Get advice from

- a lawyer
- community legal centre
- your union.



## **Other places who can help you**

### **Darwin Community Legal Service**

Freecall 1800 812 953

Phone 08 8982 1111

Fax 08 8982 1112

Email [info@dcls.org.au](mailto:info@dcls.org.au)

Website [www.dcls.org.au/contact.html](http://www.dcls.org.au/contact.html)

### **North Australian Aboriginal Justice Agency**

Website [www.naaja.org.au/](http://www.naaja.org.au/)

Email [mail@naaja.org.au](mailto:mail@naaja.org.au)

Darwin 1800 898 251

Katherine 1800 897 728

Nhulunbuy 1800 022 823



**Central Australian Aboriginal  
Legal Aid Service**

Website [www.caalas.com.au/HOME.aspx](http://www.caalas.com.au/HOME.aspx)

Freecall 1800 636 079

**Tennant Creek**

68 Patterson Street

Tennant Creek NT 0860

Phone 08 8962 1332

Fax 08 8962 2507

Email [tcreception@caalas.com.au](mailto:tcreception@caalas.com.au)

**Alice Spings:**

55 Bath Street

Alice Springs NT 0870

Phone 08 8950 9300

Fax 08 8953 0784

Email [reception@caalas.com.au](mailto:reception@caalas.com.au)

**Top End Women's Legal Service:**

Phone 08 8982 3000

Freecall 1800 234 441

Fax 08 8941 9935

Email [admin@tewls.org.au](mailto:admin@tewls.org.au)

Website [www.tewls.org.au/index.php](http://www.tewls.org.au/index.php)

**Central Australia Women's Legal Service**

Phone 08 8952 4055

Free call 1800 684 055

Email [enquiries@cawls.org.au](mailto:enquiries@cawls.org.au)

Website [www.cawls.org.au/](http://www.cawls.org.au/)

**Katherine Women's Information  
and Legal Service**

Phone 8972 1712

Toll Free 1800 620 108

Fax 08 8972 1572

Email [info@kwils.com.au](mailto:info@kwils.com.au)

Website [www.kwils.com.au](http://www.kwils.com.au)

**Northern Territory Legal Aid Commission**

Website [www.ntlac.nt.gov.au](http://www.ntlac.nt.gov.au)

**Legal Aid Helpline**

1800 019 343

Monday to Friday from 8am to 4:30pm

Email [info@ntlac.nt.gov.au](mailto:info@ntlac.nt.gov.au)

**Darwin**

6th Floor 9-11 Cavenagh St. Darwin NT 0800

Locked Bag 11, Darwin NT 0801

Fax 08 8999 3099

**Palmerston**

Shop 6 Goyder Centre

25 Chungwah Terrace Palmerston NT 0830

Fax 08 8999 4747

**Katherine**

20 Second St. Katherine NT 0850

PO Box 145 Katherine NT 0851

Fax 08 8973 8551

**Tennant Creek**

Shop 3 163 Paterson St.

Tennant Creek NT 0860

PO Box 749 Tennant Creek NT 0861

Fax 08 8962 2439

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**Alice Springs**

77 Hartley St. Alice Springs NT 0870

PO Box 969 Alice Springs NT 0871

Fax 08 8951 5378

**Aboriginal Interpreter Service**

24 hour service 08 8999 8353

**Darwin Office**

GPO Box 4450 Darwin NT 0801

Ground floor Pella House

40 Cavenagh Street

Darwin NT 0800

Phone 08 8999 8353

Fax 08 8923 7621

**Alice Springs Office**

PO Box 1596 Alice Springs NT 0871

Leichhardt Building  
19-21 Gregory Terrace  
Alice Springs NT 0870

Phone 08 8951 5330

Fax 08 8951 5244

**Interpreting and Translating Service NT**

GPO Box 2850 Darwin NT 0801

Ground floor, RCG House,  
83-85 Smith Street  
Darwin NT 0800

Phone 08 8999 8506

Email [itsnt@nt.gov.au](mailto:itsnt@nt.gov.au)

Scope's Communication and Inclusion Resource Centre  
wrote the Easy English.

August 2014 [www.scopevic.org.au](http://www.scopevic.org.au)

To see the original contact Northern Territory Anti-Discrimination  
Commission

Mayer-Johnson LLC says we can use the Picture  
Communication Symbols

Valuing People ClipArt © Inspired Services, UK.

[www.inspiredservices.org.uk](http://www.inspiredservices.org.uk)

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