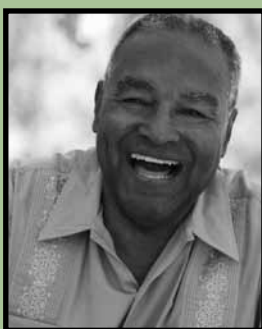




anti-discrimination board of nsw

Annual Report

2009-10



Anti-Discrimination Board of NSW

Annual report 2009-10

Contents

President's report	3
Review of operations	4
About the Anti-Discrimination Board	8
Culturally Diverse Communities Access Plan	10
Disability Strategies Plan	10
Statutory Board members	11
Anti-discrimination law in NSW	12
Enquiry service	14
Conciliation service	16
Education service	20
Consultations	27
Aboriginal and Torres Strait Islander service	29
Wollongong office	32
Newcastle office	33
Legal Officer	34
Exemptions granted 2009-10	35
Liaison and support	37
Financial statement	38
Structure of the Board	39

27 October 2010

The Hon. J. Hatzistergos, MLC
Attorney General
Level 33, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Attorney,

In accordance with section 122 of the Anti-Discrimination Act 1977 (NSW), the Anti-Discrimination Board of NSW presents its Annual Report covering the period 1 July 2009 to 30 June 2010.

Yours sincerely

Stepan Kerkyasharian AM
President



© 2010 State of New South Wales

You may copy, distribute, display, download and otherwise freely deal with this work for personal, educational or government purposes, provided that you attribute the Anti-Discrimination Board of NSW as the owner. However, you must obtain permission if you wish to (a) charge others for access to the work (other than at cost), (b) include the work in advertising or a product for sale, or (c) modify the work. ISBN 978-0-9750693-5-6

Printed October 2010



President's report

The Anti-Discrimination Board of NSW has continued its good work in 2009-10. Our main ongoing activities reflect our statutory obligations to handle complaints and to inform people about their rights and responsibilities under anti-discrimination law.

The first step for many people experiencing discrimination is to consult the Board's website. Our clear and attractive website contains a wide range of information which quickly enables people to understand their rights and responsibilities in specific areas. Tellingly, our main page on "anti-discrimination law" received more than 66,000 hits last year – over twice the number of any other page on the site.

Others feel more comfortable phoning our Enquiry Service, which can also provide advice about more complex situations and suggest other avenues to find assistance if the caller's problem is not covered by anti-discrimination law. We still receive thousands of enquiries each year, although the numbers are gradually declining due to increased use of the website.

The number of complaints we received this year decreased slightly from 2008-09, although it was still more than 2007-08. Disability, sex (including sexual harassment) and race discrimination continue to be the most frequent grounds of complaint.

The conciliation team continues to achieve excellent results, with an average time of 6.1 months to finalise complaints, and 91% finalised within twelve months. I am particularly pleased with the efforts of our Conciliation Officers, who investigate and resolve some very complex cases with consummate skill and diplomacy.

The Board's Education Service also continued its successful work in 2009-10, and our team of experienced trainers are well-respected for their lively, interactive presentations. However, bookings continued to be slow in the first half of the year due to the global financial crisis, and this impacted on the income of the workplace education program. Some training positions were held vacant during the year to cover this.

Community education is another vital aspect of the Board's work, as it reaches people who may not otherwise be aware of anti-discrimination law. Groups our Community Education Officer worked with this year included young gay, lesbian, bisexual and transgender people, people with a range of disabilities, and the Arabic, Vietnamese and Sudanese communities.

The Education Branch also ran our annual creative arts competition, this time to design a postcard about discrimination, bullying and harassment, with a focus on cyber-bullying. Despite a minimal publicity budget, we received some very strong entries, and the winning entry in particular was outstanding (see page 23). We will publish the three winning entries as postcards in 2010-11.

This year the Board embarked on several additional strategies to raise awareness about the role of the Anti-Discrimination Board. The publications team developed new postcards with a succinct message, which were also used as the basis for advertisements in a range of publications, new graphics for our website, weblinks which were sent to other organisations and fridge magnets.

Publications staff also developed a new brochure containing simple information in 14 languages, which can be unfolded and used as a poster, as well as versions of the new postcard in five languages. All this new material has proved very popular. In addition, the team continued their ongoing work to revise older publications, as well as updating the website.

Our Aboriginal and Torres Strait Islander team also continued its excellent work in 2009-10, although they were short-staffed for most of the year. As previously, the team worked with other agencies to provide joint information sessions for Aboriginal and Torres Strait Islander community workers and leaders, provided training for real estate agents and attended a number of fairs and information days.

We welcomed three new members to the Statutory Board in late 2009. Michael Christodoulou, Sigrid Patterson and Christine Regan all bring very valuable experience and insight to their role, and it has been my pleasure to begin working with them, along with ongoing member Peter Wertheim (see page 11 for more information about the Board members).

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

Stepan Kerkyasharian AM
President

Review of operations

Successful conciliation

Disability discrimination

A woman employed in the care industry made a complaint of disability discrimination because her employer failed to make reasonable adjustments to her job after she was diagnosed with multiple sclerosis. The employer also transferred her to another position without consultation, which resulted in a loss of job satisfaction and a drop in pay.

The employer said that the woman had not raised any concerns about discrimination until she resigned. They said they tried to discourage her from resigning by formally requesting that she reconsider and provide an opportunity to investigate her concerns, and tried to resolve the matter on a number of occasions.

The woman maintained that the employer was aware of her concerns before she resigned, and said that the invitation to reconsider the resignation was merely "damage control". She said that her trust in the employer had been so damaged that she could not return to work there. The complaint was settled when the complainant accepted a written apology and a payment of \$10,000.

Enquiry and conciliation service

Objectives

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

Outcomes

- Responded to 5,232 enquiries.
- Dealt with all enquiries immediately or within 24 hours.
- Dealt with 91% of enquiries in 14 minutes or less, an improvement on last year (85%).
- Received 1,168 new complaints (11% decrease from 2008-09).
- Finalised 1,210 complaints (1.7% decrease from 2008-09).

- Finalised 91% of complaints within 12 months of receipt, exceeding the 85% target for this timeframe.

Future directions

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

Education service

Objectives

- Educate employers, employees and service providers about their rights and responsibilities under anti-discrimination law.
- Educate the community of NSW about their rights under anti-discrimination law, and the role of the Anti-Discrimination Board.
- Develop quality information materials and website
- Develop networks with employer and community groups.
- Produced new multilingual brochure and postcards.
- Continued to update publications, including 5 factsheets and 2 guidelines.
- Continued production of email newsletter (3 issues), seminar calendar (2 issues) and annual report.
- Continued to revise and update website, including text, links and graphics.

Future directions

Outcomes

- 7,705 people participated in 458 workplace education sessions, raising \$455,232 in training fees.
- Ran 18 seminars for employers, employees and service providers in Sydney and Newcastle, raising \$89,860 in training fees.
- Provided community education sessions to groups including the Sudanese, Arabic and Vietnamese communities, Migrant Resource Centres, disability services, tenants, carers and gay and lesbian youth groups.
- Participated in community events such as Harmony Day, Law Week, and International Day of People with Disability.
- Ran a postcard competition for primary and secondary schools.
- Networked with other services and government agencies.
- Produced new postcards, weblinks and ads on the theme of "Say No to Discrimination".
- Continue to provide and improve workplace education.
- Consider the costing models and pricing strategies for workplace education to ensure they are reasonable and effective.
- Develop new markets for Board products and services, and new and improved training packages.
- Continue to develop contacts with employer and industry networks.
- Continue to run community training, participate in community events and develop community networks.
- Identify groups at particular risk of discrimination and develop relevant education campaigns.
- Continue to review and update publications, and produce new products where possible to address identified needs.
- Continue to develop website.
- Build partnerships with other departments and organisations.

Legal Officer

Objectives

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

Outcomes

- Advised President on issues arising during the year.
- Advised Enquiries and Conciliation Branch in relation to enquiries and complaints.
- Advised Education Services Branch on review and update of publications and website.
- Prepared case summaries for Board staff.
- Answered queries and advised the Statutory Board on exemptions from the Anti-Discrimination Act.
- Liaised with Crown Solicitor in relation to Administrative Decisions Tribunal review on an exemption application.

Future directions

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

Review of operations *continued*

Aboriginal and Torres Strait Islander service

Objectives

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

Outcomes

- 80 complaints lodged by Aboriginal and Torres Strait Islander people.
- Ran information stalls at 9 events in Sydney.
- Participated in 4 education sessions for real estate agents and landlords, with the NSW Office of Fair Trading.

- Liaised with government and community organisations at interagency meetings in Sydney.

Future directions

- Continue to advise the Aboriginal and Torres Strait Islander communities about their rights and responsibilities under anti-discrimination law.
- Continue to work in partnership with other government and non-government agencies.
- Continue to monitor issues with the assistance of the Board's Aboriginal and Torres Strait Islander Advisory Committee.
- Continue to develop contacts and networks in Sydney and rural NSW.

Liaison and support

Objective

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

Outcomes

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

Future Directions

- Continue to review and improve internal procedures and workplace information management systems.
- Continue to liaise with Department of Justice and Attorney General regarding corporate services reform and implement appropriate changes.
- Continue to refine in-house database, and to add additional modules to assist other branches of the Board with information management requirements.
- Subject to funds, contribute to the enhancement of the Education Services customer management system in relation to transaction processing and interface with the Department's accounting system.

Regional offices

Objectives

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

Outcomes – Newcastle

- Received 181 new complaints (compared to 208 in 2008-09).
- Finalised 209 complaints (compared to 184 in 2008-09).
- Settled 74 complaints (compared to 81 in 2008-09).
- Finalised 39% of complaints within 6 months and 91% within 12 months.
- Provided 79 on-site training sessions to 16 organisations, reaching approximately 950 participants.

Outcomes – Wollongong

- Received 211 new complaints (compared to 232 in 2008-09).
- Finalised 214 complaints (compared to 219 in 2008-09).
- Finalised 71% of complaints within 6 months and 95% within 12 months.
- Provided 35 on-site training sessions to 15 organisations, reaching more than 620 participants.
- Achieved 98% satisfaction rate with training sessions.

Future directions

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

Successful conciliation

Age and race discrimination

A man of Chinese ethnicity, who is in his 60s, had worked as a labourer for a manufacturing company for 11 years when he was sacked by his employer. His trade union made a complaint of age and race discrimination on his behalf as his written English was limited.

The company denied that the dismissal had anything to do with the man's race or age, but claimed it was because his work performance was unsatisfactory as he supposedly couldn't follow instructions and caused damage to materials. The union argued that there was no explanation of why his work performance had not been an issue before during his 11 years service.

The complaint was settled at conciliation when the employer agreed to pay the complainant \$6,000 compensation for the loss of his job.

About the Anti-Discrimination Board

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

Functions of the Board

The Anti-Discrimination Board has three main roles.

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

We do this through consultations, education programs, seminars, talks, participating in community functions, producing and distributing written information and our website.

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

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

The President and the Board

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

The members of the Board are the President as Chair, and four members appointed by the Governor of NSW. The members in 2009-10 were Michael Chistodoulou, Sigrid Patterson, Christine Regan and Peter Wertheim.

See page 11 for more information about the Board members.

The Board's structure

The Board has three branches:

- **Enquiries and Conciliation Branch** – responsible for handling initial enquiries and calls for advice about discrimination, and for investigating and conciliating discrimination complaints received by the Board. The Manager in 2009-10 was Elizabeth Wing.
- **Education Services Branch** – oversees the Board's provision of training, community education, information, publication and website services. The Manager in 2009-10 was Sharmalee Elkerbout, and Margaret White acted as Manager while Sharmalee was on secondment.
- **Liaison and Support Branch** – provides support services to assist in achieving the primary goals of the Board, particularly financial control and information technology. The Manager in 2009-10 was Darryl Brown. Mark Fairley, Tracie Harvey, Marilyn Newman and Molly Pang acted as Manager at different times while Darryl was on secondment.

The Board's Aboriginal and Torres Strait Islander team includes complaint handling and education staff who provide culturally specific services for Aboriginal and Torres Strait Islanders. The Team Leader in 2009-10 was Felicity Huntington.

The Board has regional offices in Newcastle and Wollongong that handle complaints and provide education services for those areas. The Newcastle Manager in 2009-10 was Paul Santone, and the Wollongong Manager was Gerardo de Liseo.

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

See page 39 for a diagram of the Board's structure.

Staff

The Board has 38.7 full-time equivalent salaried positions, of which 28.6 are located in Sydney and 10.1 in the two regional offices. Altogether there are 31 full-time positions and 13 part-time.

At 30 June 2010 the Board employed 42 people – 32 in Sydney and 10 in the regional offices. Two positions were held vacant to contribute to budget savings.

- **Employment status:** of the 42 employees at the Board on 30 June 2010, 40 (95%) were permanent employees and 2 (5%) were permanent employees on probation.
- **Turnover:** Four staff left the board permanently during 2009-10. Two of these had over four years' service and two had less than one year of service.
- **Tenure:** nine staff have been with the Board for 15 or more years, four for 10-14 years, fifteen for 5-9 years, five for 3-4 years, and seven for less than 3 years.
- **Gender:** nine staff are male (21%), and 33 are female (79%).
- **Diversity:** 23% of staff identify English as their second language, 7% identify as Aboriginal and Torres Strait Islanders, and 41% are from culturally and linguistically diverse backgrounds.



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

Training and development

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

All staff engaged in some form of training or development during the year, involving a total of 90 days. Training undertaken this year included: corruption awareness; legal seminars; first aid; financial management; effective team communication; departmental induction programs; writing skills; legal terminology; preventing and managing grievances; disability awareness; emotional intelligence; telephone techniques; assertiveness skills; networking;

dignity and respect – appropriate workplace behaviour; negotiation and conflict resolution; and risk and injury management for managers and supervisors.

New members of the Occupational Health and Safety Committee have undertaken mandatory training in OH+S from WorkCover accredited trainers. Staff also undertook refresher training in the use of TTY equipment.

During the year, the Manager, Education Services and Manager, Liaison and Support benefited from secondments, to the Department of Justice and Attorney-General and the NSW Historic Houses Trust respectively.

Access reports

Culturally Diverse Communities Access Plan

The Board implements the following to facilitate access to our services for people from culturally and linguistically diverse (CALD) communities:

- We have a poster with the words “Say no to discrimination” in 12 languages, and postcards in five languages.
- We have a brochure containing simple information about anti-discrimination law in 14 languages, which can also be used as a poster. The information in individual languages can also be downloaded from our website.
- We have an easy English factsheet specifically for people from CALD communities, which has pertinent cartoon illustrations.
- We have specific factsheets on race discrimination and racial vilification.
- The Enquiry Service and Conciliation Service use interpreters when required.
- Our complaint form has an attachment with a message in 23 languages explaining that people can make a complaint in their own language. The attachment is also given out separately at community events.
- We provide assistance for people who are unable to write their complaints themselves.
- Clients can submit complaints in their own language and we have them translated into English.
- The reverse of the Board's letterhead has a message in 21 languages about the Telephone Interpreter Service.
- The Conciliation Service uses standard letters in plain English when writing to the parties to a complaint.
- Our training sessions reached over 7,558 participants, including people from a wide range of cultural and linguistic backgrounds whose needs are accommodated as necessary.
- Around 3,000 people attended our community education stalls, seminars and talks, including many people from CALD or Aboriginal and Torres Strait Islander backgrounds. This year we provided specific sessions for the Arabic, Sudanese and Vietnamese communities, using interpreters in some cases.
- For information on cultural diversity among the Board's staff, please see page 9.

Disability Strategic Plan

The Board implements the following to facilitate access to our services for people with a disability:

- We seek guidance from the Department of Justice and Attorney General's Diversity Services Unit and follow its policies as appropriate.
- All our offices have a TTY facility, and key staff have been trained to operate it. The number is on all our forms, publications and online contacts.
- We provide assistance to all clients with special needs as required, including assistance with parking.
- Staff prioritise attending to clients with a disability, where appropriate meeting them in the building's foyer and escorting them to the office.
- All our offices are wheelchair accessible. The Newcastle office was relocated in 2009-10 to improve disabled access.
- The Sydney office has a disabled toilet and other facilities for clients with a disability.
- We provide assistance for people who are unable to write their complaints themselves.
- Clients can submit complaints in formats such as Braille, audio or video, or in Auslan, and we will transcribe them free of charge.
- Interpreters, advocates and support people may be involved in the Board's processes at the client's request.
- The Enquiries and Conciliation Branch uses standard letters in plain English when writing to the parties of a complaint.
- We provide documents in accessible formats as required by the parties to a complaint.
- All our free information, including all information on our website, is available in text format which can be read using a screen reader. Clients can also request material in other alternative formats as required.
- We will pick up documents for people who are unable to post them.
- The Board made a submission to the House of Representatives Inquiry into the Draft Disability (Access to Premises – Buildings) Standards.

Statutory Board members 2009-10

Stepan Kerkyasharian AM President

Stepan became President of the Anti-Discrimination Board in September 2003, and continues as CEO and Chair of the Community Relations Commission For a Multicultural NSW. He became a Member of the Order of Australia in 1992, and received the Olympic Order in 2000. In 1995 he was made a Fellow of the University of Technology Sydney. In June 2007 he was conferred with the degree of Doctor of Letters (honoris causa) by the University of Sydney.

Michael Christodoulou AM

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

Sigrid Patterson

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



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

Christine Regan

Christine is a Senior Policy Officer with the NSW Council of Social Service (NCOSS), specialising in older people, people with disability, carers and community care. She has strong commitment to social justice, having worked for many years in the NSW community sector. She has been on the Boards of a number of disability organisations including the Nepean Independent Living Committee, Dare to Care and the NSW Council for Intellectual Disability. She lives in Western Sydney and has three children including a daughter, Erin, who has Down syndrome.

Peter Wertheim AM

Currently the Executive Director of the Executive Council of Australian Jewry, Peter was recently appointed to the Australian Multicultural Advisory Council. Prior to this, he was a lawyer for 32 years, with major clients including trade unions and other not-for-profit organisations. He also acted as honorary solicitor for a number of charities including the Aboriginal Medical Service and the East Timor Relief Association. He has developed particular expertise in racial vilification law and has successfully represented the Jewish community in a number of racial vilification cases.

Anti-discrimination law in NSW

Discrimination occurs when someone is treated less favourably or harassed because they belong to a particular group of people or have a particular characteristic.

Under the *Anti-Discrimination Act 1977 (NSW)* (ADA), it is against the law to discriminate on certain grounds, in certain circumstances.

Grounds of discrimination

It is against the law to discriminate against or harass a person because of any of the following characteristics in NSW:

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

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

Areas of discrimination

All these types of discrimination and harassment are against the law in certain areas, apart from discrimination

because of carer's responsibilities, which is only against the law in employment.

The areas are as follows:

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

Direct and indirect discrimination

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

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

Vilification

Vilification because of a person's race, homosexuality, HIV/AIDS or transgender status is also against the law. Vilification is defined as any public act that incites others to hate, have serious contempt for, or severely ridicule a person or group of people who have the relevant characteristic.

Victimisation

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

Other unlawful acts

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

Making a complaint

If a person thinks they have been discriminated against, they should contact our enquiry service to find out whether their situation is covered by the ADA. If it is not covered, our Enquiry Officers will suggest other avenues to find help.

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

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

Making a complaint involves completing a complaint form, or sending a letter to the President of the

Board describing the type of discrimination, harassment, vilification or victimisation that has occurred, and why the person thinks it was unlawful. Complaint letters can be written in any language, or in Braille.

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

Conciliation

If after investigation the complaint appears to involve a breach of anti-discrimination law, and it has not yet been resolved, the Board helps to conciliate the complaint. This means we assist the parties to the complaint to come to an agreement or settlement that will resolve it.

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

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

Examples of the kind of solutions included in settlements are:

- the complainant accepting the

Exceptions and exemptions

The ADA includes some specific exceptions where jobs and services can be targeted towards a particular group. These mainly relate to:

- the reasonable requirements for particular types of jobs – for example it is not unlawful to advertise for a woman to clean female toilets;
- services aimed at the “special needs” of a particular race or age group – for example English classes that are only for people from non-English speaking backgrounds;
- some special categories such as sport and superannuation.

The President and the Attorney General can also grant exemptions from the ADA, which permit discrimination in relation to specific jobs, programs or services. They are generally granted to improve opportunities for people covered under the ADA (for example, an Affirmative Action program for women), or to meet the “special needs” of certain groups covered under the ADA (for example, a support group for single fathers).

See pages 35-36 for a list of exemptions granted in 2009-10. A full list of all current exemptions is available on the Board's website.

respondent's explanation of why the events occurred;

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

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

The Administrative Decisions Tribunal

If a complaint cannot be conciliated, and in certain other cases, it will be referred to the NSW Administrative Decisions Tribunal (ADT). The Tribunal

provides a legal judgement that can be enforced or appealed.

Remedies available to the ADT include:

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

2010 amendment

In 2009-10 there was one amendment to the ADA, enabling the Anti-Discrimination Board to investigate matters relating to discrimination or racial vilification referred by the Community Relations Commission.

Enquiry service

The Board provides two specialised advisory services – one for general calls, and one for employers and service providers. Callers include individual members of the public, employers, service providers, managers, employees, public servants, advocates and community workers.

For general calls, Enquiry and Liaison Officers do the following:

- consider if the caller's situation is covered by the NSW Anti-Discrimination Act (ADA);
- provide information about where to get further assistance if the caller's problem is not covered by the ADA;
- give advice about how to deal with discriminatory situations;
- provide general information about what is covered by anti-discrimination law;
- take and transfer requests for publications and other Board services.

For the Employers and Service Providers Advisory Service, the Enquiry and Liaison Officers give specialised advice on how to comply with anti-discrimination law, and how to prevent discrimination and harassment from occurring in the workplace and in service provision.

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

than double the number of hits than any other page on the site in 2009-10 (66,881 hits). However some people will always need to consult our Enquiry Service for advice on more complex matters, and others may prefer personal verbal advice.

Many complaints about discrimination are resolved at the initial enquiry stage, as the Enquiry and Liaison Officers inform callers about their rights and suggest strategies for dealing with their situation. In many instances this means that a formal complaint is not necessary, which reduces the number of complaints the Board receives.

Calls in 2009-10

During 2009-2010, our Enquiry and Liaison Officers answered 5,232 enquiries, which is an average of around 21 calls per day. This is a 24% decrease over 2008-09, where we answered 6,904 enquiries. We also answered an additional 33 written enquiries.

Of the total calls, 513 (9.8%) were for our Employers and Service Providers Advisory Service. The remainder of calls were to the general service.

As in previous years, women used the general service more than men. We received 2,618 calls from women (50% of total calls), 1,890 from men (36.4%), and 724 calls (13.6%) from employers, students, teachers and individuals contacting us on behalf of another person or organisation.

The majority of enquiries (5133 or 98%) were made by phone; the remainder were made by letter, TTY (telephone typewriter), email or visit to one of our offices. The majority of calls (3327 or 63.6%) took between five and 14 minutes to deal with.

There was a slight increase in calls that took between 15-29 minutes (407 or 7.8%), and a slight decrease in calls that took 30-59 minutes (45 or 0.9%). Similar to previous years, only 0.3% of calls took an hour or more.

The majority of callers (4,047 or 77.4%) wanted to discuss a situation where discrimination was occurring. Only 1,246 callers (16.1%) were advised that they could lodge a formal complaint of discrimination.

Types of discrimination

The change first observed in 2007-08 in which disability discrimination replaced sex discrimination as the type of discrimination most frequently enquired about has continued. In 2009-10, 953 calls (17.8%) were about disability discrimination. The next most frequent were sex discrimination (732 calls or 13.7%) and race discrimination (702 calls or 13.1%).

The majority of calls (2,859 calls or 53.4%) continued to be employment-related. The second largest area was the provision of goods and services with 890 calls (16.6%).

Problems not covered

Problems that were not covered under anti-discrimination law accounted for 1,448 (27%) of calls, with 673 (12.6%) of these about employment situations. The Enquiry Service was generally able to give the caller advice about how to resolve their problem within the workplace, or refer them to another organisation that could help them.

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

Enquiries received by ground and area 2009-10

	<i>Emp</i>	<i>Gds &</i>	<i>Acc</i>	<i>Educ</i>	<i>Clubs</i>	<i>Qual</i>	<i>Racial</i>	<i>Homo</i>	<i>HIV</i>	<i>Trans</i>	<i>All</i>	<i>Other</i>	<i>Total</i>	<i>%</i>
	<i>Servs</i>					<i>bodies</i>	<i>vil</i>	<i>vil</i>	<i>vil</i>	<i>vil</i>	<i>areas</i>			
Disability	495	293	43	51	23	2	0	0	0	0	7	39	953	17.8
Sex	610	58	7	20	19	0	0	0	0	0	6	12	732	13.7
Race	399	159	40	38	17	1	0	0	0	0	8	40	702	13.1
Age	156	76	32	4	7	0	0	0	0	0	1	5	281	5.2
Carers' responsibilities	224	2	3	1	1	0	0	0	0	0	0	0	231	4.3
Homosexuality	57	30	6	6	6	0	0	0	0	0	3	2	110	2.1
Racial vilification	0	0	0	0	0	0	73	0	0	0	0	0	73	1.4
Victimisation	60	0	0	1	0	0	0	0	0	0	1	2	64	1.2
Marital status	24	18	15	1	4	0	0	0	0	0	0	1	63	1.2
Transgender	17	14	1	1	4	0	0	0	0	0	1	2	40	0.7
Homosexual vilification	0	0	0	0	0	0	0	19	0	0	0	0	19	0.4
HIV/AIDS vilification	0	0	0	0	0	0	0	1	5	0	0	0	6	0.1
Aiding unlawful act	3	1	0	0	0	0	0	0	0	0	0	1	5	0.1
Obstruction	3	0	1	0	0	0	0	0	0	0	0	0	4	0.0
Advertisement	0	0	1	1	0	0	0	0	0	0	0	0	2	0.0
Transgender vilification	0	0	0	0	0	0	0	0	0	1	0	0	1	0.0
All grounds	138	27	10	4	4	0	0	0	0	0	411	28	622	11.6
Not covered – Workplace harassment	300	0	0	0	0	0	0	0	0	0	0	0	300	5.6
Not covered – other	373	212	72	45	42	1	2	0	0	0	12	389	1148	21.4
Total	2859	890	231	173	127	4	75	20	5	1	450	521	5356*	100
%	53.4	16.6	4.3	3.2	2.4	0.1	1.4	0.4	0.1	0.02	8.4	9.7	100	

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

Conciliation service

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

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

For more information about the complaint process, see pages 12-13.

Complaints received

The Board received 1,168 formal complaints of discrimination in 2009-10, with a profile similar to previous years. This is 155 fewer complaints than 2008-09, a decrease of 11.7% from last year although still more than 2007-08 (1,144 complaints). As the table shows, the most common complaints continue to be on the grounds of disability, sex and race.

The proportion of complaints received under each ground is also very consistent with previous years. Disability discrimination complaints fell to 269 (23% of total complaints) compared to 339 (25.62%) in 2008-09, but were still more than the 239 (20.9%) in 2007-08.

Sex discrimination complaints, which include sexual harassment, numbered 237 (20.3%) compared to 299 (22.60%) in 2008-9. As a percentage of the total number of complaints received, the number of sex discrimination complaints has been fairly stable over the last three

years. Sexual harassment complaints numbered 145, comprising 61.2% of the complaints under this ground.

We received 205 race discrimination complaints (17.5%), which is consistent with the 208 (15.72%) last year. Racial vilification complaints rose slightly this year to 22 (1.8%) compared to 14 (1.06%) in 2008-09 and 16 (1.4%) in 2007-08.

Also consistent with previous years, employment-related complaints continue to be the single largest area of complaint at 704 (60.3%), compared to 821 (62.1%) in 2008-09 and 681 (59.5%) in 2007-08.

In terms of employment complaints, sex discrimination was the most common ground of complaint (206 complaints). The next highest group of employment-related complaints was on the ground of disability.

Problems in the work environment and harassment remained the most frequent category of employment-related



complaint with 474 complaints (67.3%). This is a proportional increase compared with previous years – there were 496 of these complaints (60.4%) in 2008-09 and 415 (60.9%) in 2007-08. The next highest category was dismissal from employment with 87 complaints (12.4%), which was less than the 143 complaints (17.4%) in 2008-09.

See page 18 for tables relating to employment complaints.

Complaints relating to the provision of goods and services were the second largest area of complaint with 252 complaints, (21.6%) compared with 327 (24.7%) in 2008-09. Disability discrimination was the most frequent ground of complaint in this area with 86 complaints (34% of total goods and services complaints).

Women represented 53.4% of all complainants. Although a high

proportion did not identify their ethnicity, the largest group that did were Aboriginal complainants with 80 complaints (6.8%). This is more than the 67 (5.1%) in 2008-09 and 62 (5.4%) in 2007-08. The second largest group identified China as the country of origin (28 complaints or 2.4%). The third largest group identified India as the country of origin or descent (27 complaints or 2.3%).

Complaints received by ground and area 2009-10

	<i>Emp</i>	<i>Gds & Servs</i>	<i>Acc</i>	<i>Educ</i>	<i>Clubs</i>	<i>Qual bodies</i>	<i>Racial vil</i>	<i>Homo vil</i>	<i>HIV vil</i>	<i>Trans vil</i>	<i>Other</i>	<i>Total</i>	<i>%</i>
Disability	139	86	6	11	11	3	0	0	0	0	13	269	23.0
Sex	206	15	2	2	8	0	0	0	0	0	4	237	20.3
Race	95	76	11	6	7	0	0	0	0	0	10	205	17.6
Victimisation	97	13	0	2	14	1	0	0	0	0	2	129	11.0
Age	31	23	4	1	2	0	0	0	0	0	2	63	5.4
Carer's responsibilities	55	0	0	0	0	0	0	0	0	0	0	55	4.7
Homosexuality	10	12	1	0	2	0	0	0	0	0	1	26	2.2
Racial vilification	0	0	0	0	0	0	22	0	0	0	0	22	1.9
Aiding unlawful act	18	0	0	0	0	0	0	0	0	0	2	20	1.7
Homosexual vilification	0	0	0	0	0	0	0	15	0	0	0	15	1.3
Marital status	6	3	0	0	1	0	0	0	0	0	0	10	0.9
Transgender	2	1	1	0	1	0	0	0	0	0	3	8	0.7
HIV/AIDS vilification	0	0	0	0	0	0	0	0	6	0	0	6	0.5
Transgender vilification	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Other	45	20	4	1	4	1	0	0	0	0	20	95	8.1
Not specified	0	3	1	0	2	0	0	0	0	0	2	8	0.7
Total	704	252	30	23	52	5	22	15	6	0	59	1168	100
%	60.3	21.6	2.6	2.0	4.5	0.4	1.9	1.3	0.5	0.0	5.1	100	

Conciliation service *continued*

Types of employment complaints 2009-10

	No	%
Work environment and harassment	474	67.3
Dismissal	87	12.4
Classification/benefits	73	10.4
Recruitment/selection	49	7.0
Retrenchment/redundancy	8	1.1
Resignation	7	1.0
Demotion	5	0.7
Transfer	1	0.1
Promotion	0	0.0
Retirement	0	0.0
Award and enterprise agreement	0	0.0
Total	704	100

Type of employer 2009-10

	No	%
Private enterprise	367	52.1
State govt department	105	14.9
Individual male	77	10.9
State statutory body	56	8.0
Local government	25	3.6
Hospital	16	2.3
Individual female	16	2.3
Education (public)	14	2.0
Non-profit association	6	0.9
Registered clubs	4	0.6
Education (private)	4	0.6
Commonwealth dept	3	0.4
Government business enterprise	2	0.3
Commonwealth statutory authority	1	0.1
Trade union	1	0.1
Other	5	0.6
Not known	2	0.3
Total	704	100

Complaint processing

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

The Board brought in a new database in 2008-09 which is designed to be both a file registration system and a case management tool. This has now been largely implemented and has significantly improved our ability to manage complaints and produce statistics. However we still need to iron out some minor issues and complete user documentation.

The staff have continued to achieve very good results in meeting the target timeframes for finalisation of complaints. As last year, we finalised 91% of files within 12 months of receipt, again exceeding the target of 85%. The average time taken to finalise files in 2009-10 was 6.1 months, slightly longer than the 2008-09 time of 5.8 months.

Following are the targets and their rate of achievement this year:

Complaint to be finalised within	Target	Actual
2 months	20%	19%
3 months	30%	28%
6 months	80%	54%
12 months	85%	91%
18 months	100%	98%

The closure rate at 12 and 18 months were the same as for 2008-09 and 2007-08. All other rates were slightly lower than last year.

The Board is committed to providing an accessible service to rural and remote areas. This year six officers made a total of 34 days travel to conduct conciliation conferences in regional and country NSW.

Complaint outcomes

The Board finalised 1,210 written complaints of discrimination this year, which is comparable to last year's total of 1,231.

The number of complaints resolved at or after a conciliation conference was 244 (20.2%), very similar to the 252 (20.5%) in 2008-09 and 221 (20.6%) in 2007-08. A further 126 complaints (10.4%) were settled by negotiation without the need for a formal conciliation conference, similar to the 129 (10.5%) in 2008-09 and 114 (10.6%) in 2007-08.

147 complaints (12.1%) that were not conciliable were referred to the Administrative Decisions Tribunal (12.1%). This is similar to 2008-09 (154 complaints or 12.5%).

The number of complaints declined under s 92 of the Anti-Discrimination Act (for reasons such as lacking in substance, being misconceived or not being a contravention of the Anti-Discrimination Act) increased to 160 (13.2%) in 2009-10, compared with 139 (11.3%) in 2008-09.

Of these 160 declined complaints, 43 complainants (3.6% of total complaints) exercised their right to ask the President to refer the complaint to the Administrative Decisions Tribunal. These complainants are required to seek leave of the Tribunal before their matter can be heard.

Outcome of complaints finalised 2009-10

	No	%
Settled at or after conciliation	244	20.2
Settled before conciliation	127	10.5
Referred to ADT – conciliation unsuccessful or not suitable	173	14.3
Referred to ADT – older than 18 months	2	0.2
Declined before investigation – not a contravention	156	12.9
Declined before investigation – out of time	27	2.2
Declined before investigation – no standing to lodge vilification complaint	4	0.3
Declined after investigation – s 92	117	9.7
Declined after investigation and referred to ADT	43	3.6
Withdrawn s 92B	120	9.9
Abandoned s 92C	197	16.3
Total	1210	100

The number of complaints that were declined and then referred to the Tribunal was less this year than in the previous two years (54 or 4.4% in 2008-09 and 54 or 5% in 2007-08).

The number of complaints formally withdrawn this year was 120 (9.9%), which is much less than last year's figure of 167 (13.6%) and more similar to the 2007-08 figure of 96 (8.9%). Complainants withdraw complaints for a number of reasons, including lack of evidence to support the complaint, inability to provide information requested by the Board, or lack of confidence that the respondent will provide a satisfactory response.

The number of complaints abandoned this year was 197 (16.3%), which is similar to 188 (15.3%) in 2008-09 and 168 (15.1%) in 2006-07, whereas the 2007-08 figure was 202 (18.2%). Complaints may be regarded as abandoned if the complainant fails to respond to requests for information, or there is no indication of the complainant's intention to proceed with the complaint, or we lose contact with a complainant.

Education service

The Education Services Branch performs one of the Board's key functions as defined by the Anti-Discrimination Act. This is to:

- acquire and disseminate knowledge on all matters relating to the elimination of discrimination and the achievement of equal rights;
- arrange consultations and discussions, seminars and conferences; and
- develop human rights programs and policies.

To do this, the branch has three main activities:

- providing fee-paying workplace education, which is mainly aimed at employers and service providers;
- giving talks to community groups, holding stalls at community events and running other projects aimed at specific groups;
- producing a range of publications and a comprehensive website.

Workplace education

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

The Board's team carry out tailored in-house training for managers and staff in a wide range of organisations across all industries and sectors. Our programs are designed to:

- educate employees about their rights and responsibilities;
- inform managers about how to make equitable decisions;
- assist managers to take "all reasonable steps" to prevent bullying, harassment and discrimination;
- educate organisations about the benefits of complying with EEO principles; and

- give organisations the skills to handle grievances fairly and effectively.

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

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

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

As well as in-house training, the branch runs seminars during the year. The 2009-10 program included the following seminars:

- Implementing EEO (Equal Employment Opportunity);

The Board's Senior Workplace Relations Consultants (back row, L-R) Lesley Coombs, Julie Garry, Margaret White, (Front) Diane de Souza, Rhonda Stewart-Crisanti and Manager Education Services Sharmalee Elkerbout.



What people have said about our training

- Skills for Contact Officers;
- Grievance handling skills;
- Grievance management and resolution skills;
- Harassment and bullying prevention;
- Managing psychiatric disabilities in the workplace;
- Case law update;
- EEO for Chief Executive Officers;
- Recruitment and termination;
- Breakfast seminar for lawyers (Continuing Legal Education).

In 2009-10 we delivered 458 in-house training sessions for employers and service providers, and ran 18 seminars. These reached a total of 7,705 participants.

On-site training fees totalled (\$455,232), which is 4% more than 2008-09 (\$435,873). Income from seminars was \$89,860, which is 22% less than 2008-09 (\$115,000). This included seminars in Newcastle which were run for the first time in 2009-10.

The total earnings from workplace education, including training fees, seminars and sale of publications, was \$560,571. This figure did not reach the projected target set by the Department of Justice and Attorney-General.

This is for several related reasons. Bookings for both on-site training and the seminar program were relatively slow in the first part of 2009-10, possibly as a lingering consequence of the global financial crisis. Because of this, the full-time Senior Workplace Relations Consultant position in Sydney was kept vacant for six months.

"DOOLEYS regularly provides face to face training via NSW ADB with staff at all levels to ensure everyone across the business has a crystal clear understanding of what constitutes discrimination, harassment and bullying. The training is always delivered professionally by a knowledgeable and experienced trainer who has consistently shown flexibility by customising the training to meet the changing needs of the business. Staff and management feedback is always positive which keeps us coming back for more."

*Naomi Myers,
People and Learning Coordinator
DOOLEYS Lidcombe Catholic Club*

"Fashion Fair found the refresher anti-discrimination training extremely informative due to periodic changes in the act. [Trainer's] knowledge was so comprehensive that we have booked her for an ADB session at our annual Manager's Conference in August, 2010."

*Cathy Tobin, Sales Manager
Fashion Fair*

"The feedback from those who attended our EEO awareness training was very positive. The case examples were a good interpretation of how current harassment, discrimination and bullying laws operate in Australia. ADB were very supportive in delivering a program that enabled our interstate based workforce to link in via telephone conference and net meeting. This was further enhanced through the presenter's broader knowledge of interstate EEO legislation. We will definitely consider engaging the services of ADB in the future."

*Matthew Brady, Human Resources
Advisor, Norske Skog*

"The NSW ADB tailored their grievance handling course for Valspar's senior managers and line managers. The training was closely aligned to our policies, which were reviewed by the ADB and included in the training material.

[Trainer] demonstrated her expertise in delivering the material to our managers, both as a trainer and through her experience and knowledge. The theory was supported with practical and effective case studies and real life issues. The style of the training was effective and facilitated involvement from all the participants, whose feedback was also extremely positive."

*Kristina Cilia, Human Resources and
Rehabilitation Coordinator, Valspar*

"Recently we engaged the services of the NSW Anti-Discrimination Board to provide training for our Contact Officers.

The majority of our staff have had no prior experience in corrections and this can be very stressful for them. It was imperative that the company establish internal support systems in conjunction with the HR department so that employees could approach fellow staff members to seek guidance on policy and procedure.

The training facilitated by the NSW Anti-Discrimination Board was invaluable, especially as it incorporated the GEO Group Australia policies and procedures relating to bullying and harassment as well as raising grievances. I would not hesitate in using the services of the NSW Anti-Discrimination Board again."

*Janice Krieger, Human Resources
Manager, Parklea Correctional Centre*

Education service *continued*

Community Education

With only one part-time Community Education Worker, the Education Service had some very positive achievements in 2009-10.

Gay, lesbian and transgender community education sessions

The Community Education Officer facilitated three education workshops with members of Twenty10, a support organisation for young people who are gay, lesbian, bisexual, transgender, same-sex attracted or gender questioning, and their families and communities.

The three sessions were with three different groups run by Twenty10: SHOUTOUT in Newtown, GAL@H in Hornsby and GenderQ in Newtown. The young people spoke about discrimination and bullying that occurred at school and in their part-time work when they told people about their same sex attraction.

Transgender young people talked about the difficulties they experienced in day-to-day life, being stared at in shops and when using services. All the young people voiced their frustration with laws that did not recognise their status.



Thai education delegates

The Board assisted the Continuing Legal Education Department at the University of NSW by sharing information about the Board and its legislative framework with a delegation from Thailand.

The group included officials from the Education Department and Ministry of Interior and school principals from Thailand's predominantly Muslim southern provinces. They were interested in Australian multicultural programs and the way these are supported by anti-discrimination law.

The delegates were surprised at the number of enquiries and complaints the Board receives, and the extensive grounds the NSW Anti-Discrimination Act covers. They said that Muslims in Thailand experience a great deal of discrimination and are often wrongly associated with terrorism.

The Board's Community Education Officer, Claire Williams (3rd from right) with Christopher Lemerrier from the University of NSW (back), interpreter Dao Pornaksol-Coorey (2nd from right) and the Thai delegates.

BEECHAC Conference

In July 2009 the Community Education Officer presented at the BEECHAC conference on urinary tract malformations. Participants said they had experienced bullying at school and difficulties in employment because of their condition, and parents had difficulty accessing medical help for their children at school.

Adults often felt they would not get a job if they mentioned their condition at interview, and were too uncomfortable to disclose it at work. They often needed frequent breaks to deal with the condition and some received comments about "bludging".

Participants at the GenderQ workshop at Newtown.



Children at Tempe Public School responded enthusiastically at their anti-bullying seminar.

Other community training

In 2009-10 we continued to work with community groups to develop their understanding of anti-discrimination law. Involving over 1,200 participants, this work included talks and stalls at community events.

Groups worked with this year included:

- South-East Area Health Service;
- Arabic Australian Welfare Foundation (aged services);
- Sydwest Multicultural Services;
- Auburn Diversity Services;
- Liverpool Migrant resource Centre;
- Glebe Area Tenant Group;
- Northern Suburbs Area Tenant Group;
- Meadowbank TAFE;
- St George College;
- Tempe Public School;
- Studio Artes (arts for people with a disability);
- University of NSW;
- University of Sydney;
- University of Western Sydney;
- People with Disabilities;
- International Day of People with Disability;
- Ryde Council;
- North Sydney Councils;
- NSW Carers' Association.

Law week postcard competition

For the past five years the Board has run a creative arts competition for school children alongside Law Week in May. This year we held a competition to design a postcard, with the theme 'JUSTice DO IT'.

We invited all primary and secondary schools in NSW to participate, and sent class exercises to explore the issues of bullying and cyberbullying. Students were asked to design a postcard promoting anti-discrimination, bullying and harassment, using whatever media they chose.

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

- 1st prize: Michael Arvithis, aged 17, from The McDonald College, Strathfield.

- 2nd prize: Sally Lu, aged 15, from North Sydney Girls High School.
- 3rd prize: Mac McFarland, aged 10, from Corowa Public School.

The first prize was a \$250 book voucher for the student and a \$250 voucher for their school library, second prize was \$100 vouchers for the student and their school library, and third prize was \$50 vouchers. Ten runners up received certificates. We will also publish the three winning designs as postcards by the Board.

This year we also published the winning entry in the kindergarten to year 2 category in 2008, a design by four-year-old Jessica Eddy of Five Mile Tree Public School, as a poster in two sizes. It is entitled "A bully has a mean mouth".



Education service continued

Publications

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

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

In 2009-10 we embarked on a major initiative to produce new information in a variety of community languages. This took the form of a brochure with simple information in 14 languages, which can be unfolded to create an attractive poster (see page 26 for details of the languages).

The individual language pages from this brochure were also put on the Board's website as pdfs which can be downloaded and copied by individuals and community workers for specific communities.

We also developed a new postcard with the message "Say No to Discrimination", and produced this in five other languages as well as English. The Sydney Star Observer newspaper included 13,000 of the postcards as an insert in the paper.

The "Say No" design was also adapted and used on fridge magnets, as advertisements in a range of publications and as a graphic on our home page with a direct link to our complaint form. We also made smaller graphics and sent them to other relevant organisations, asking them to put this on their websites with a link to the Board's site.

We also continued to update, revise and redesign our existing publications. In 2009-10 we began revising our series of factsheets to simplify the language, reflect amendments to the Anti-Discrimination Act and include more examples. Publications updated this year include:

- Guidelines for Grievance Investigators;
- Know your rights: a guide for Aboriginal and Torres Strait Islander people;
- Age discrimination factsheet;
- Disability discrimination factsheet;
- Transgender discrimination factsheet;
- Treated unfairly because you are an Aboriginal and Torres Strait Islander person factsheet;
- Discrimination, EEO and affirmative action factsheet.

We produced two editions of our email newsletter Equal Time during 2009-10, and a third in August 2010 which covered the first part of 2010. Issues covered included:

- recent research into workplace diversity;

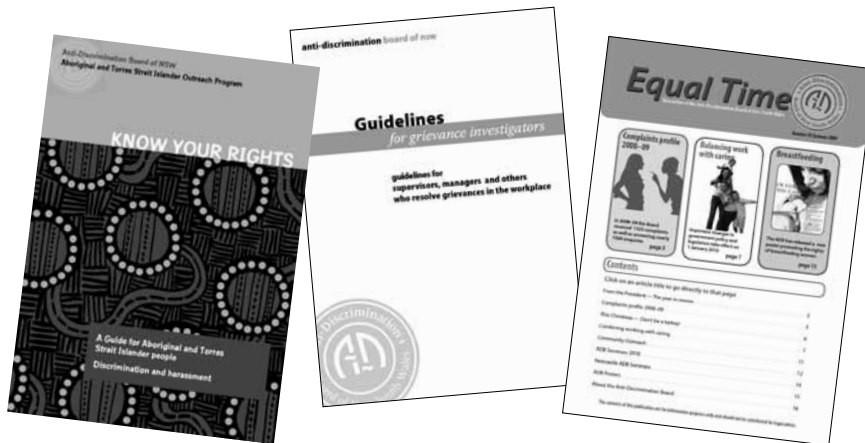
- recent case law on sexual harassment at work; and
- legislative changes relating to combining work and caring.

Other projects in 2009-10 included a range of materials for the annual competition for schoolchildren such as worksheets for teachers, entry forms and certificates, two editions of our seminar calendar, the Board's annual report, a Christmas e-card, other advertisements and ongoing creation of text, graphics and documents for the Board's website.

Work has also begun on the following:

- revising the rest of the factsheets;
- an updated, revised and redesigned edition of our *Guidelines for local government councillors and managers*, to be produced in partnership with the Local Government Division of the NSW Department of Premier and Cabinet;
- an updated, revised and redesigned edition of our *Guidelines for real estate agents*;
- a comic book for young people.





Website

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

The website covers information about anti-discrimination law, how to make a complaint, training services, publications, advice for employers and service providers, and the Board's electronic newsletter, Equal Time. It also contains news about recent activities and special projects.

The Board's Publications Officers continued to work with the Information Technology Support Officer to update, manage and improve the website in 2009-10. We are constantly reviewing and consolidating existing material to ensure that the website is accurate and up-to-date.

Our ability to customise the website is limited by DJAG's predetermined site structure. However, where possible we develop new graphics to make the site more visually appealing.

This year we brightened the home page with our new "Say No to Discrimination" graphic and an animated graphic linking to our new multilingual material. This has received a strong response,

with many requests for copies of both the "Say No" postcard and the multilingual brochure. We hope to add translations in more languages to the website later in 2010.

The number of hits for the Board's website in 2009-10 was 911,400, an average of 75,950 per month. The most popular pages were, in descending order:

1. Anti-discrimination law – main page (66,881 hits for the year).
2. Harassment and sexual harassment information and factsheet (32,307 – hits).
3. Discrimination and the Anti-Discrimination Board – general information about anti-discrimination law and factsheet (28,338 hits).
4. Poster – Stop harassment and bullying (27,466 hits).
5. How to deal with discrimination, unfair treatment or harassment – general strategies and contacts for different areas of life, and factsheet (26,694 hits).
6. ADB home page (22,830 hits)
7. Making a complaint (19,267 hits).
8. Discrimination, EEO and affirmative action – information and factsheet (19,258 hits).
9. Employers and managers main page (14,926 hits).
10. About us (14,038 hits).

Successful conciliation

Sexual harassment

A young male apprentice made a complaint of sexual harassment after he was subjected to an initiation which involved being held face down by his co-workers and having car grease applied to his rear. He had been bullied previously by the same people but that had not been of a sexual nature.

After the incident, the man had lodged a complaint with his employer and gone on stress leave. The employer asked several of the perpetrators to resign and another, who was employed by a third party, was transferred out of the company. However the young man was too upset to go back to work and eventually resigned.

In conciliation, all parties agreed on what had occurred but the company argued that it did not constitute sexual harassment. However, both parties agreed it was not in anyone's interest for this issue to be pursued at the Administrative Decisions Tribunal.

The complainant explained that he had been traumatised by the incident and now felt uncomfortable being physically close other people, including his family. The complaint was settled when the company agreed to pay him \$30,000 compensation.

Current publications 2009-10

Workplace guidelines

Anti-discrimination and EEO guidelines for small business owners and managers

Grievance procedure guidelines

Guidelines for grievance investigators (new edition March 2010)

Guidelines for Contact Officers

Guidelines for Managers and Supervisors

Guidelines for non-supervisory staff

Sample policies and procedures

Special interest guidelines

Anti-discrimination guidelines for hoteliers (CD-Rom)

Community Workers Guidelines

Guidelines for advertisers

Guidelines for union representatives

Self-help guides

How to deal with discrimination, unfair treatment or harassment (self-help strategies)

Know your rights: a guide for Aboriginal and Torres Strait Islander people (new edition August 2009)

Unfair treatment – what to do (booklet for people with intellectual disability)

Other guidelines

Transgender discrimination – download from website only

Exemption guidelines - download from website only

Factsheets

Aboriginal and Torres Strait Islander Outreach Program

Age discrimination (new edition May 2010)

Alcohol-free zones

Anti-discrimination law and the small business owner

Arabic factsheets – Race discrimination; Vilification; and Discrimination and the Anti-Discrimination Board of NSW

Breastfeeding discrimination

Carers' responsibilities discrimination

Community language factsheets – basic information in 14 languages: Arabic, Chinese, Croatian, Dari, Greek, Italian, Khmer, Korean, Macedonian, Portuguese, Serbian, Spanish, Turkish, Vietnamese (new editions June 2010)

Complaining to the Anti-Discrimination Board

Disability discrimination (new edition May 2010)

Discrimination, EEO and affirmative action (new edition May 2010)

Discrimination and the Anti-Discrimination Board of NSW
Discrimination and unlawful dismissal

Harassment and sexual harassment

Homosexual discrimination

Infectious diseases discrimination

Marital status discrimination

Pregnancy discrimination

Race discrimination

Sex discrimination

Transgender discrimination (new edition May 2010)

Treated unfairly because you are an Aboriginal and Torres Strait Islander person? (new edition May 2010)

Vilification

What you can do if you are treated unfairly (low literacy)

What you can do if you are treated unfairly (for people from non-English speaking backgrounds)

Posters

Common workplace animals

Diversity makes the difference

Say no to discrimination and harassment (multilingual)

Stop harassment and bullying

Stop hassling me

That's not fair

Of course you can (about breast feeding - new)

Bullies have mean mouths (new)

Other publications

Aboriginal and Torres Strait Islander rights wallet card

Aboriginal and Torres Strait Islander training brochure

Annual report 2008-09

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

Complaint form (new edition May 2010)

Equal Time (email newsletter, 3 issues per year)

Fridge Magnets – Stop discrimination

Guarantee of service

In-house training brochure for employers and service providers

Multilingual 14-language fold up brochure/poster (new)

Pens

Postcards – Stop Discrimination in English plus five other languages: Arabic, Chinese, Korean, Spanish and Vietnamese (new)

Publications catalogue for employers

Rulers

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

Worksheets for teachers

Consultations

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

Gay, lesbian and bisexual consultation

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

- Same sex marriage – including the National Year for Equal Marriage Rights.
- Same sex adoption.

- World AIDS Day.
- Homophobic violence and IDAHO – International Day Against Homophobic Violence.
- Police initiatives dealing with hate crime.
- The inadequacy of current legislative provisions relating to homosexual vilification in NSW.
- The exemption from the NSW Anti-Discrimination Act for religious organisations and private education – no change is anticipated. Members felt that if these organisations receive public funds they should not be exempt from anti-discrimination laws.
- Members reported hearing anecdotal evidence about alleged police harassment at Sydney Park Aids Memorial.

Members of this consultation include

Acceptance, AIDS Council of NSW, Australian Bisexual Network, Australian Federal Parliament, Avalon Media, Bi-NSW, Bi Pride Australia, City of Sydney, Coalition of Activist Lesbians, Country Network, Crime Prevention Division, Attorney General's Department, Crossroads Community Care Centre, Electorate Officer for Clover Moore MP, Family Planning Australia Health, Gay and Lesbian Counselling Service, Gay and Lesbian Rights Lobby, Gay And Married Men's Association, Inner City Legal Centre, ISO and Gay Lesbian Immigration Task Force, Lesbian & Gay Solidarity, Sydney Park AIDS Memorial, Lesbian And Gay Anti-Violence Project, Lesbians On The Loose, NSW Police Force, NSW Teachers Federation, Order of Perpetual Indulgence, PositiveLifeNSW, PSA of NSW, Rainbow Visions Hunter, Sex Workers Outreach Project, Swallow NSW, Sydney Beat Project, The Hon. Tanya Plibersek MP, Minister for Status of Women, The Uniting Network, Tropical Fruits, Twenty 10 Association, University of NSW, University of Wollongong, UTS Students Association.

Successful conciliation

Homosexual discrimination

A man lodged a complaint of homosexual discrimination against a large community organisation of which he was a member. He said that another member had made offensive comments about his sexuality and discouraged other members from participating in a group that the complainant was running. This member had also questioned his right to be a member of the organisation.

At conciliation, the organisation's representatives said that the questioning of his membership was for another reason unrelated to his homosexuality, and they had a right to question it on that basis. They agreed that they had not particularly supported the group he ran, but for reasons that were also unrelated to his homosexuality.

The complainant said that he had not known about these reasons and that what he wanted was clear grievance procedures within the organisation so that he could have had his problems addressed internally. The complaint was settled when the parties agreed that the complainant would submit proposals for improved grievance procedures, and the representatives would submit and support these to the organisation's management. They also agreed to provide the complainant with a statement of regret.

Successful conciliation

Disability discrimination

A woman working as a merchandiser made a complaint of disability discrimination after she had a mastectomy, and her manager became unsympathetic to her condition and discontinued arrangements to accommodate her inability to lift above the shoulder. She also alleged that the manager subjected her to bullying, intimidation and harassment.

The employer denied the allegations of bullying and harassment. They said she was only required to perform the inherent requirements of her job and was not forced to undertake work that she could not do. The woman said that she that this was not the case as she had been assigned to different stores where assistance was not available.

The complaint was settled at conciliation when the woman accepted a statement of service, a payment of \$8,000 and an undertaking by her employer to review its equity and grievance policies.

Consultations continued

Sex and gender diversity consultation

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

- Rights regarding name changes – in NSW people can change their name through the Registry of Births, Deaths and Marriages, and this becomes their legal name. It states at the bottom of the birth certificate that there has been a name change but does not mention the previous names. The new birth certificate can be used anywhere in Australia, but the old birth certificate has to be used in countries where gender reassignment is not recognised. People who were born overseas still face a problem.
- The inclusion of gender, previous names and aliases in ordinary police checks for employers and the RTA.
- The RTA identity card also states gender, which may cause embarrassment.
- Passport applications require a person to give full details and the data is then available to other government agencies.
- Proposed X-ray security searches at airports.
- Violence against transgender people.
- Transgender people in employment.
- Vilification laws under review by the Attorney General.
- Criminal record checks being a barrier to transgender people finding employment.

Members of this consultation include

AIDS Council of NSW (ACON), City of Sydney, Clayhills Solicitors, Crime Prevention Division, Department of Justice and Attorney General, Family Planning NSW, Frankel Lawyers, Gender Centre, Inner City Legal Centre, MOD Films, NSW Police Force, NSW Registry of Births Deaths and Marriages, Sex Workers Outreach Project, Sydney Beat Project, University Of Sydney, University of Western Sydney, Women and Girls Emergency Centre.

Aboriginal and Torres Strait Islander service

Discrimination is a significant issue for Aboriginal and Torres Strait Islander people and communities, and a major factor contributing to the socio-economic disadvantage facing Aboriginal and Torres Strait Islander people. Therefore it is important that they can access appropriate mechanisms for dealing with complaints about discrimination.

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

The team has three staff including the Team Leader/ Conciliation Officer, an Education Officer and an Enquiry/Community Liaison Officer. This means that where appropriate and possible, complaints from Aboriginal and Torres Strait Islanders are dealt with by an Indigenous complaint handler.

Another important feature of the Outreach Team's work is to network, develop and maintain relationships with other government and non-government agencies and community groups in NSW.

Complaint handling

In 2009-10 the Board received 80 complaints of discrimination from Aboriginal and Torres Strait Islander people, which is a 19% increase over 2008-09 (67 complaints).

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

The most common ground of complaint from Aboriginal and Torres Strait Islander people was race discrimination, with 51 complaints received. This represents 63.7% of all complaints

received from Aboriginal and Torres Strait Islander people in 2009-10.

The most frequent area of complaint in 2009-10 was employment, with 40 complaints (50%), followed by goods and services with 26 complaints (32.5%).

Complaints from Aboriginal and Torres Strait Islander people represented 6.8% of all complaints received by the Board in 2009-10, where as Aboriginal and Torres Strait Islander people constitute 2.1% of the total NSW population.

Statistics for the processing and outcomes of complaints from Aboriginal and Torres Strait Islander people are included in the general figures for the conciliation service on page 17.

Aboriginal and Torres Strait Islander complaints 2009-10

	Emp & Servs	Goods	Accom	Educ	Clubs	Racial vil	Other	Total	%
Race	21	21	4	0	3	0	2	51	63.7
Disability	2	1	0	1	0	0	0	4	5.0
Sex	7	0	0	0	0	0	0	7	6.0
Victimisation	3	1	0	0	0	0	0	4	5.0
Age	4	0	0	0	0	0	0	4	5.0
Racial vilification	0	0	0	0	0	2	0	2	2.5
Aiding unlawful act	2	0	0	0	0	0	0	2	2.5
Unspecified	0	2	0	0	0	0	0	2	2.5
Outside jurisdiction	1	1	0	0	0	0	2	4	5.0
Total	40	26	4	1	3	2	4	80	100

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

Aboriginal and Torres Strait Islander service continued



Education and training

In 2009-10 the Aboriginal and Torres Strait Islander team continued to provide an education program to raise the awareness of Aboriginal and Torres Strait Islander people and communities about their rights and responsibilities under NSW anti-discrimination law.

Activities were reduced in 2009-10 as the team's Education Officer position was vacant for most of the year. This vacancy was initially for budgetary reasons and then due to delays in the recruitment process. The position was filled in June 2010 and we look forward to greater levels of activity in 2010-11.

Good Service forums

The Good Service – servicing your community forums provide information

Participants from the CDEP (Community Development Education Program) training program at the Good Service Mob forum at Wellington in September 2009.

about consumer issues for Aboriginal and Torres Strait Islanders.

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

In 2009-2010 forums were held in Peak Hill, Wellington, Cranebrook, Nowra and Penrith.

Residential Tenancy seminars

In 2009-10 the outreach team worked in partnership with NSW Fair Trading to provide information on rights and responsibilities under anti-discrimination law for real estate agents and private landlords. The real estate agents gain points for their professional development program by attending the seminars.

This year seminars were held in Terrigal, Bankstown, Dundas and Tamworth. Other participants included the Consumer, Trader and Tenancy Tribunal and Centrelink.

Aboriginal and Torres Strait Islander Advisory Committee

The Board's Aboriginal and Torres Strait Islander Advisory Committee is an important link with the Aboriginal and Torres Strait Islander community.

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

Discrimination issues under continuing consideration include Aboriginal and Torres Strait Islander life expectancy and equitable access to superannuation, recognition of Aboriginal English as a Community Language, racial discrimination in employment, as well as ongoing discrimination issues relating to public and private sector policies and practices and access to accommodation.

Outreach

The team also undertakes outreach work to provide information about rights and responsibilities under anti-discrimination law. In 2009-10 team members and other staff attended information stalls at the following events:

- NAIDOC Week – Parramatta
- NAIDOC Week – Riverstone
- NAIDOC Week – Shalvey
- NAIDOC Week – Mt Druitt
- Lesbian Rights Day
- Yabun Festival
- My Fair Lemon Festival

- Senior Citizens Fair - Granville
- Whalan Festival

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

- Consumer Trader Tenancy Tribunal.
- NAISDA Dance College students at Kariong.

Other outreach activities included:

- attending Aboriginal Interagency Network Meetings at Tregear;
- being involved in trader walks with NSW Fair Trading at Chullora.

Successful conciliation

Race discrimination

An Aboriginal man who was employed as a leading hand complained that he was subjected to racist abuse by a co-worker, and when he complained about this to his employer he was victimised by not being given alternative duties when he later lost his driver's licence.

The employer said that it took appropriate action regarding the incident of racial abuse, and the decision to not make any work available to the complainant after he lost his driver's licence was not connected to his prior complaint. They said that holding a driver's licence was an inherent requirement of the man's job, and the complainant's circumstances were different to those of other employees who had been given alternative duties in this situation.

The complaint was resolved by conciliation when the employer agreed to provide the complainant with alternate duties for the period of his licence suspension and to re-credit his leave from his period of suspension.



The Outreach team's stall at YABUN 2010, an annual celebration of Aboriginal culture at Victoria Park.

Wollongong office



Complaints

In 2009-10, the Wollongong office received 211 new complaints, which is a decrease of 9% (21 complaints) compared with 2008-09. However there was a large increase in 2008-09 from the previous year and the 2009-10 figure is still 18% more than 2007-08.

As in 2008-09, disability was the most common ground of complaint (28%), followed by race discrimination (15%) and victimisation complaints (13%).

The most common areas of complaint continue to be employment (64%) and provision of goods and services (22%). The proportion of employment complaints decreased 4% compared to the previous year, and the proportion of goods and services complaints increased by 6%.

Complaints finalised

The Wollongong office finalised 214 complaints in 2009-10, which is a decrease of 2% (5 complaints) compared with 2008-09.

Of the complaints formally accepted for investigation, 43% were settled, with a very high proportion of these (87%) settled by formal conciliation. This excellent result reflects the effort and skill of the Conciliation Officers in the office.

The breakdown of finalised complaints is as follows:

- 70 (33%) were settled;
- 48 (22%) were declined because they were not covered by the Anti-Discrimination Act or were lodged late;
- 43 (20%) were declined after investigation, of which 12 were referred to the Administrative Decisions Tribunal;
- 9 (4%) were referred to the ADT because conciliation was not successful;
- 44 (21%) were terminated because they were abandoned or withdrawn – this is less than half the proportion terminated in 2008-09.

Education service

In 2009-10 on-site workplace training was delivered to 15 client organisations in the Illawarra and south-eastern NSW, of which nine were new clients and six were repeat clients. The number of client organisations increased by almost a third compared with 2008-09.

A total of 35 workplace training sessions were delivered, reaching 627 participants. The majority of these sessions (25) were in rural areas including the South Coast, the Murray/Riverina region, the Southern Highlands and Southern Tablelands.

Of the 15 client organisations, nine were in the public sector, three were in the private sector and three were in the community/not-for-profit sector. The organisations covered various sectors of the economy including state and local government authorities, industry, education, aged and disability care, finance and pastoral organisations.

The total income from workplace training in 2009-10 was \$46,800, which is similar to 2008-09, but considerably less than 2007-08. It appears that the global economic downturn is still affecting businesses in the area.

A number of marketing initiatives were used to try to develop training opportunities. These included an EEO Network meeting in the Illawarra and two public information sessions for the real estate/rental accommodation sector, as well as other surveys and mail-outs.

The training sessions which were delivered received a very high satisfaction rating, with 98% of participants rating the training as “good”, “very good” or “excellent”.

Newcastle office

Complaints

In 2009-10 the Newcastle Regional Office received 181 complaints, which is a decrease of 12% (28 complaints) compared with 2008-09.

As in 2008-09, the most common grounds of complaint lodged were disability discrimination (29%), sex discrimination (including pregnancy and sexual harassment) (24%) and race discrimination (12%).

These three grounds of complaint have consistently ranked highest in the Newcastle region. The number of disability discrimination complaints decreased by 3% compared to last year and race discrimination complaints decreased by 2%. As in previous years, the most common area of complaint was employment followed by goods and services.

Complaints finalised

In 2008-9 the Newcastle Regional Office finalised 209 complaints, which is an increase of 13% (25 complaints) compared with 2008-09.

Of the complaints formally accepted for investigation, 74 (43%) were settled by agreement, due to the excellent efforts of the Conciliation staff working in the office.

The breakdown of finalised complaints is as follows:

- 74 (35%) were settled;
- 39 (19%) were declined because they were not covered by the Anti-Discrimination Act or were lodged late;
- 18 (9%) were declined after investigation, of which five were referred to the Administrative Decisions Tribunal;



- 31 (15%) were referred to the Administrative Decision Tribunal because conciliation was not successful;
- 47 (22%) were terminated because they were abandoned or withdrawn.

Education service

In 2009-2010, the Newcastle office delivered 79 training sessions to 16 organisations, reaching a total of around 950 participants in Newcastle and northern NSW. Most of these were full day programs, and the most popular session was EEO, Harassment Prevention and Grievance Handling for Managers and Supervisors.

As in previous years, the main clients for training were from heavy industry and from government or government-funded bodies. We have received particularly strong demand from local councils which is continuing into 2010-11.

In 2010 the Newcastle office ran a series of public seminars for the first time, as well as providing the usual in-house training for individual

customers. Four seminars were run in February-March 2010, and all were well attended by participants from Newcastle and surrounding areas. Due to this success we will run more seminars in 2010-11, including a series in September 2010.

The Hunter's EEO/HR networking meetings were re-established in early 2010 and membership has grown quickly. The additional of guest speakers to the format has met with very favourable comments from attendees, and we expect that numbers will continue to grow in 2010-2011.

A significant marketing effort to encourage employers to book in-house training, public seminars and join the EEO/HR network was begun in 2009-10 and has provided encouraging results. This will continued in 2010-11.

Demand for training in the Hunter area remains consistent, with a large number of bookings already taken for the first quarter of 2010-2011.

Successful conciliation

Sex discrimination (pregnancy)

A woman was undertaking training as a nurse as part of a hospital's graduate program. She made a complaint of sex discrimination (pregnancy) when the hospital did not appoint her to a permanent position after she became pregnant during the training.

The hospital said that it was not obliged to appoint trainees at the conclusion of the program and it was up to the woman to apply for vacant positions. They said that she had been advised that she would need to apply for positions and it was also made clear in its policies.

The woman agreed that she had been told this but said that a male trainee had previously been appointed after the program without a formal application. She said that she felt it would be pointless to apply as she had not been encouraged.

The hospital said that she had not been discouraged from applying, and the circumstances surrounding the appointment of the other trainee she had compared herself with were different. The complaint was settled when the woman accepted a payment equivalent to seven weeks salary.

Legal Officer

The Board's Legal Officer advises the President, Board members and staff on the interpretation and application of the *Anti Discrimination Act 1977 (NSW)* (ADA) and related case law.

The Legal Officer provides information to the public on the ADA, and in particular on exceptions to, and exemptions from, the ADA. See page 13 for more information about exceptions and exemptions.

The Legal Officer also coordinates the Board's response to exemption applications, which involves assessing the applications and advising the members of the Statutory Board, the President and the Attorney General as required.

The Legal Officer's other main responsibilities are as follows:

- providing legal advice to Enquiries and Conciliation staff on interpretation of the ADA in relation to enquiries and complaints received by the Board;
- providing advice to communications staff about the information provided in publications and on our website;
- preparing summaries for staff of relevant discrimination cases and issues in NSW and other jurisdictions;



- managing any litigation to which the President or the Board is a party;
- dealing with subpoenas and Freedom of Information requests;
- making submissions on law reform issues relating to discrimination;
- coordinating the Board's response on other legal matters including notifications of proposed Alcohol-Free Zones, ministerial requests for information and the national harmonisation of anti-discrimination laws project.

Exemptions granted 2009-10

There are two sections of the Anti-Discrimination Act under which exemptions are granted: sections 126 and 126A. S 126 exemptions generally relate to employment opportunities for members of groups that have been previously disadvantaged or discriminated against on one of the grounds covered by the ADA. S 126A is directed towards programs or activities for the special needs of some of the groups covered by the ADA.

In 2009-2010 the Board received 19 applications for exemption. Of these, ten have been granted by the President under s 126, three were granted by the Attorney General under s 126A, one was withdrawn, and four had not been determined by June 30 2010. The remaining application was refused by the President, and for the first time the applicant requested a review of the decision by the Administrative Decisions Tribunal. The Tribunal's decision, handed down in September 2010, affirmed the President's refusal.

Section 126 exemptions 2009-10

<i>Applicant</i>	<i>Program</i>	<i>Sections</i>	<i>Date</i>	<i>Expiry</i>
Barrick (Cawal) Ltd	To designate, advertise and recruit for Aboriginal or Torres Strait Islander trainees.	8, 51, 52, 53	20.5.2010 (9 years)	20.5.2019
Gilbert and Tobin Lawyers, Tranby Aboriginal College and the University of Technology Sydney	To Tranby Aboriginal College and the University of Technology, Sydney, from section 17 of the Anti-Discrimination Act 1977, in relation to Gilbert and Tobin's Indigenous Youth Program.	17	23.3.2010 (10 years)	22.3.2020
	To Gilbert & Tobin Lawyers, Tranby Aboriginal College and the University of Technology, Sydney, from section 19 of the Anti-Discrimination Act 1977, in relation to Gilbert and Tobin's Indigenous Youth Program.	19		
	To Gilbert & Tobin Lawyers, from section 8 of the Anti-Discrimination Act 1977, in relation to its Indigenous Employment Strategy cadetship program.	8		
Gunnedah Shire Council	To designate, advertise and recruit for a trainee to complete a Certificate II in Civil Construction, with consideration of a further traineeship to complete a Certificate III in Civil Construction.		2010 (2 years)	20.12.2011
Nambucca Shire Council	To designate, advertise and recruit for an Indigenous labourer.	8, 51, 52, 53	6.7.2009 (10 years)	6.7.2019
Port Macquarie Hastings Council	To designate, advertise and recruit for two Aboriginal or Torres Strait Islander persons to be employed as trainees, apprentices or cadets.	8, 51, 52, 53	16.7.2009 (5 years)	16.7.2014
Shellharbour City Council	To designate, advertise and recruit for an Aboriginal Community Liaison Officer-Administrative Assistant.	8, 51, 52, 53	24.6.2010 (2 years)	23.6.2012
Shellharbour City Council	To designate, advertise and recruit for an Aboriginal Child Care Trainee.	8,51, 52,53	24.3.2010 (5 years)	23.3.2015

continued next page

Exemptions 2009-10 continued

Section 126 exemptions 2009-10 continued

Uniting Care NSW-ACT	To designate, advertise and recruit for the following Residential Care Youth Workers: <ul style="list-style-type: none"> ● A permanent full-time female worker at Minnamurra Residential Care Program (West Ryde) ● A permanent full-time male worker at Byrnes Residential Care Program (Glen Alpine) ● A permanent full-time female worker at Gordon Residential Care Program (Pennant Hills) 	25, 51, 52, 53	6.8.2009 (5 years)	6.8.2014
Wollongong City Council	To designate, advertise and recruit for Aboriginal or Torres Strait Islander cadets, apprentices and trainees.	8, 25, 51, 52	31.3.2010 (5 years)	30.3.2015
Women's Housing Company Ltd	To allow positions on its Board to be held by women only, and to advertise and recruit for such positions.	25, 51, 53	31.5.2010 (3 years)	30.5.2013

Section 126A exemptions 2009-10

Organisation	Special needs program or activity	Exemption period
Richmond Fellowship of NSW	To run crisis accommodation and supported accommodation programs and associated services for women and their dependant children.	23.3.2010 to 21.3.2020 (10 years)
Stealth Health and Fitness	To run women-only fitness classes.	5.3.2010 to 4.3. 2013 (3 years)
United Care Institute of Family Practice	To provide up to 20 scholarships to people from Aboriginal and Torres Strait Islander background or culturally and linguistically diverse background for Vocational Graduate Diploma in Family Dispute Resolution. Commencing 2010 for a period of three years and a further 20 commencing in 2011 for a period of three years.	Expires December 2014

Liaison and support

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

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

Administrative services

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

The support services team handled around 5,000 calls through the main switchboard in 2009-20, with two thirds of these directed to the Enquiries and Conciliation Branch.

Human resources

The branch continued to provide administrative support for recruiting staff and updated position descriptions as required. Thirty-nine recruitment actions were undertaken in 2009-10, including 16 formal recruitment processes and 13 internal expressions of interest procedures. We also monitored staff training and development activity to complement the Department's Achievement Planning system.

Occupational health and safety

The OH&S Committee meets at least three times per year and when necessary to address risks to safety and welfare, with five meetings held in 2009-2010. There were no significant OH&S incidents during the year, and workplace assessments were carried out for staff as required.

All the committee members are in the process of attending mandatory training for the role, and the Board also has three First Aid Officers.

Information technology

The main activities in 2009-10 were:

- Upgrading some of the Board's printers and faxes with multi-function devices, as part of the cyclical asset replacement program of the Department of Justice and Attorney General.
- Implementing the new complaint-handling database, with full implementation and documentation scheduled for completion by the end of 2010.

Service complaints

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

In 2009-10 we received 17 complaints. Of these, four were unhappy with a decision, and almost all others related to level of service or procedures. We regard this as a good result in view of our delivery of services to over 15,000 individuals during the year.

Finance

The net cost of services provided by the Board in 2009-10 was \$3,563,266, against a budget of \$3,582,225, which was underspent by \$18,959. This result reflected the Board's commitment to DJAG to work within a very tight budget, and was achieved primarily by holding staff positions vacant to offset a limited capacity to achieve the prescribed revenue budget. This has resulted in further limitation of the Board's activities.

The workplace education service is costed separately within the overall ADB budget, and a methodology has been developed to establish the cost of its operations. This program's charging policy and costing methodology are currently under review.

The service's capacity to meet its budgeted income was limited by lower demand due to the aftereffects of the global financial crisis, although some staff positions were held vacant to counterbalance this.

See page 19 for more information about the workplace education program.

Financial statement

Total operations 2009-10

	Actual	Budget	Variance
Revenue			
User charges	(560,571)	(726,825)	(166,254)
Other revenue*	4,572	0	(4,572)
TOTAL REVENUE	(555,999)	(726,825)	(170,826)
Expenses			
Employee-related payments	3,087,193	3,282,054	194,861
Other operating	899,546	873,491	(26,055)
Maintenance	6,282	29,397	23,115
Depreciation	126,244	124,108	(2,136)
Grants and subsidies	-	-	-
Other services	-	-	-
TOTAL EXPENDITURE	4,119,265	4,309,050	189,785
NET COST OF SERVICES	3,563,266	3,582,225	18,959

* Comprising rebates earned (\$728) and net book value of disposed assets (\$5,300)

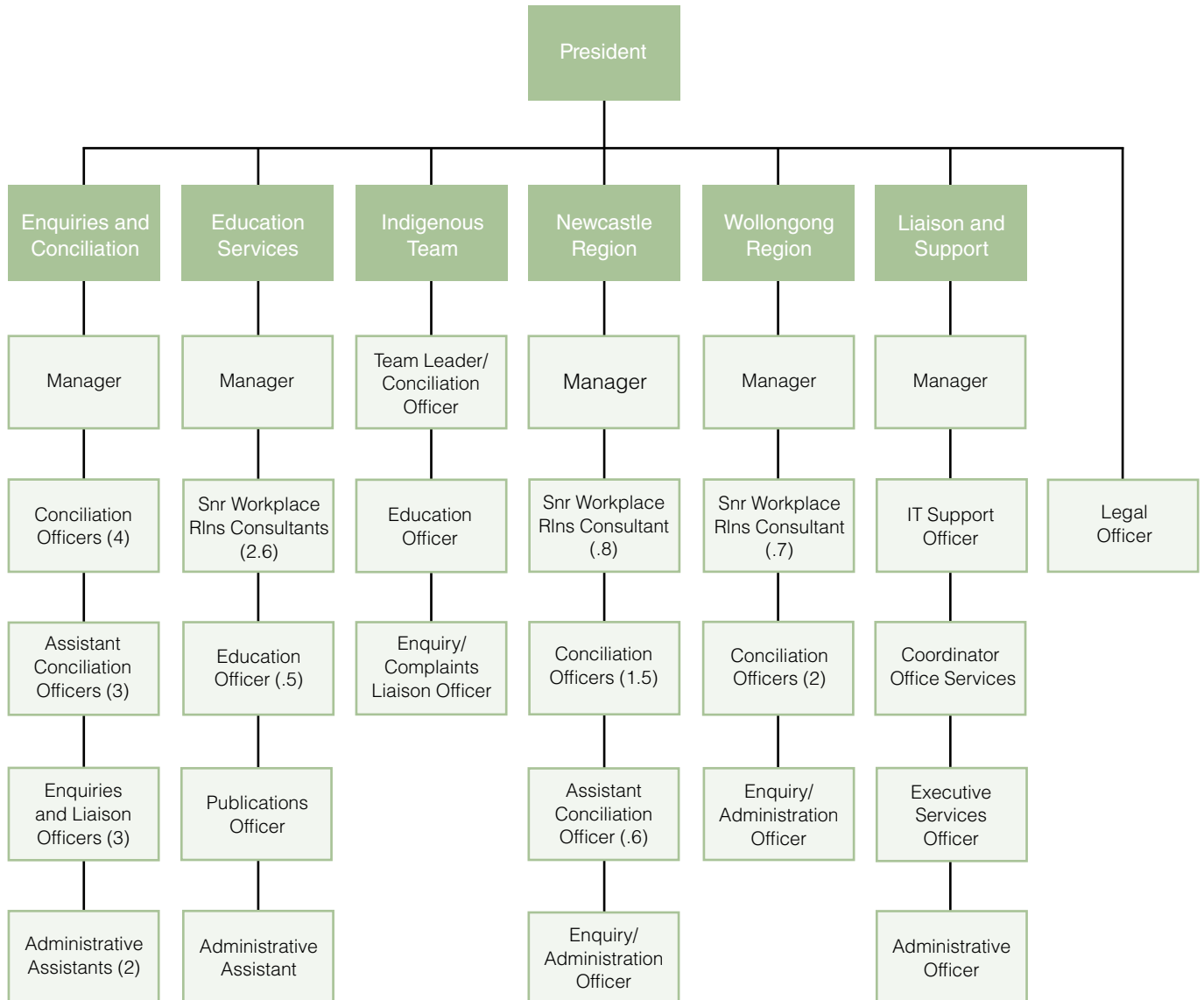
The Board's full financial figures are included in the consolidated accounts of the Attorney General's Department and are published in that annual report.

Education self-funding program 2009-10

	Actual	Budget	Variance
Revenue			
User charges	(560,571)	(726,825)	(166,254)
TOTAL REVENUE	(560,571)	(726,825)	(166,254)
Expenses			
Employee-related payments	490,763	414,298	(76,465)
Other operating	138,971	160,830	21,859
Maintenance	628	430	(198)
Depreciation and amortisation	13,385		(13,385)
Grants and subsidies	-	-	-
Other services	-	-	-
TOTAL EXPENDITURE	643,747	575,558	(68,189)
NET COST OF SERVICES	83,176	(151,267)	(234,443)

The expenditure figures above include a share of management and support services salary costs, office rental, telephone and other operating costs. The value of community education activities assisted by the workplace trainers is not reflected in this result.

Structure of the Board



Note

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

Anti-Discrimination Board of NSW

Sydney

Level 4, 175 Castlereagh St, Sydney NSW 2000

PO Box A2122, Sydney South NSW 1235

Phone (02) 9268 5555

Fax (02) 9268 5500

TTY (02) 9268 5522

Wollongong

84 Crown St, Wollongong NSW 2500

PO Box 67, Wollongong NSW 2520

Phone (02) 4224 9960

Fax (02) 4224 9961

TTY (02) 4224 9967

Newcastle

Level 3, 97 Scott Street, Newcastle NSW 2300

PO Box 1077, Newcastle NSW 2300

Phone (02) 4926 4300

Fax (02) 4926 1376

TTY (02) 4929 1489

Enquiries/Advisory Service

(02) 9268 5544

Toll free number

1800 670 812

Website

www.lawlink.nsw.gov.au/adb