

anti-discrimination board of nsw



annual report

07
08



26 October 2008

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

Dear Minister,

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 2007 to 30 June 2008.

Yours sincerely

Stepan Kerkyasharian AM
President



One of the winners in the Board's 30th anniversary photo competition, *Playing together in harmony* by Arthur Roy.

Anti-Discrimination Board of NSW annual report 2007-08

Contents

Statutory Board 2007-08	2
President's report	3
Review of operations	4
About the Anti-Discrimination Board	8
Ethnic Affairs Priority Statement Report	10
Anti-discrimination law in NSW	11
30 years of anti-discrimination law	13
Anti-Discrimination Act 30th anniversary	14
Enquiry service	16
Conciliation service	18
Education service	22
Consultations	27
Aboriginal and Torres Strait Islander service	28
Newcastle office	32
Wollongong office	33
Legal Officer	34
Liaison and support	36
Financial statement	37
Structure of the Board	38
Current publications 2007-08	39
Sticks and stones	40

statutory board 2007-08



Photos from left:
Stepan Kerkyasharian,
Phillipa McDermott
Suzanne Jamieson,
Cameron Murphy,
Peter Wertheim.

Stepan Kerkyasharian AM

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 June 2007 he was conferred with the degree of Doctor of Letters (honoris causa) by the University of Sydney.

Phillipa McDermott

Phillipa works for the Employment Solutions Branch with the Department of Employment and Workplace Relations. Her main interests are Indigenous media and arts and Indigenous and human rights, and she has represented Indigenous media interests at the United Nations. She is on the Board of the Gadigal Information Service, the Lloyd McDermott Rugby Development Team and the Tullagulla Aboriginal Cultural Centre.

Suzanne Jamieson

Suzanne is a Senior Lecturer in work and organisational studies at the University of Sydney. She has completed a doctorate in women and occupational health and safety, and has done extensive research in gender and discrimination issues in the workplace.

Cameron Murphy

Cameron is a Manager at International Underwriting Services, one of the largest providers of income protection in Australia, and President of the NSW Council for Civil Liberties. He has been extensively involved in working to eliminate discrimination, particularly in the areas of gender discrimination, HIV/AIDS and ethnicity.

Peter Wertheim AM

Peter is a solicitor. He is the Honorary Secretary of the Joint Jewish Communal Appeal; the President and Chair of the Joint Committee for Jewish Higher Education, a Member of the Board of Management of the Great Synagogue, Sydney, and has been the Honorary Solicitor for the Aboriginal Medical Service, Redfern, since 1984.



president's report

The Anti-Discrimination Board of NSW has continued its excellent work in 2007-08.

In the latter half of 2007 the Board held a number of successful events to celebrate the 30th anniversary of the Anti-Discrimination Act, which came into force on June 1 1977. These included a formal celebration at Parliament House, a forum on the history and future of discrimination law at Sydney University, and a lunchtime community theatre performance in Martin Place, as well as a photography competition, postcards and a website. My thanks must go to all those who participated in these events, and to the staff who organised them.

It was particularly interesting to consider the opinions of the distinguished commentators at the Sydney University forum. It is clear that while NSW has pioneered many aspects of anti-discrimination law, discrimination and harassment are still a concern in the state and there are still many issues to be addressed on a legislative level.

In this regard, I welcome the State Government's legislation to clarify that discrimination against women who are breastfeeding is unlawful, which was passed in October 2007. The recent announcement that the maximum amount of compensation available under the Act will be increased is also extremely welcome, as serious discrimination, harassment and bullying cannot be adequately addressed within the current limit of \$40,000.

Formal complaints received by the Board were of a similar number and

composition to recent years, apart from a slight increase in disability discrimination complaints and a slight decrease in complaints of race discrimination and vilification.

The Enquiries and Conciliation team continue to achieve excellent results, with an average time of 5.59 months to finalise complaints and 91% finalised within twelve months. The trend for more complaints to be referred to the Administrative Decisions Tribunal because they were not conciliable has continued.

Several years of development has culminated in the introduction of a new database for complaint handling which has an improved capacity to record, manage and monitor complaints. The database was introduced in early 2008 and we expect to have full functionality later in the year.

The Board's Education Service has continued its successful work in 2007-08, with the self-funding training team exceeding its overall target for earnings. Our team of trainers has a great deal of experience between them and are so well-respected that they are often asked by companies to train their staff in other states as well as NSW.

The community education service has also achieved excellent results, despite very limited staff resources. The writing competition run for school students as part of Law Week 2008 was very successful, and is a testament to the innovation and organisation of the staff involved.

I was particularly moved by the quality and emotion of the entries in the

competition, which asked students to write about their experiences of discrimination, harassment and bullying (one of the winning entries is reproduced on page 40). It was distressing to hear about the extent and effect of bullying, but also heartening to hear the children's often very positive solutions to it.

Our Aboriginal and Torres Strait Islander team also continued its excellent work in 2007-08. This year the team attended a record number of fairs and information days to distribute information and answer questions from the community about their rights under discrimination law.

The small team has been able to reach a very wide range of stakeholders by developing ongoing relationships and participating in joint projects with other agencies including the Office of Fair Trading, the Office of Industrial Relations and the Department of Education. These include ongoing seminars for real estate agents with the Office of Fair Trading, which address the crucial issue of discrimination in accommodation and form part of the agents' professional development.

My thanks to all the Board's staff for their professionalism and commitment, including our Legal Officer and Liaison and Support team. Thanks also to the Statutory Board for their ongoing commitment and advice during the year, and to the members of our advisory and consultation committees who give us valuable input on issues of community concern.

Stepan Kerkyasharian AM
President

review of operations

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 7,539 enquiries.
- Dealt with all enquiries immediately or within 24 hours.
- Dealt with 90.7% of enquiries in 14 minutes or less.
- Received 1,144 new complaints (4.2% increase from 2006-07).
- Finalised 1,073 complaints (3.59% decrease from 2006-07).
- Exceeded the time target for finalising complaints in three out of five target categories.

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.
- Provide information to increase awareness of the law and the Board's role.
- Develop networks with community and employer groups.

Outcomes

- Delivered 492 on-site training sessions for employers and service providers and ran 19 employer seminars throughout the year, reaching a total of 7,721 participants and earning \$696,247.
- Ran a writing competition for public primary and secondary schools.
- Networked with other services and government agencies and gave presentations to target groups including Assyrian seniors, the African community, Arabic women, people with disabilities, TAFE and university students and community workers.
- Participated in community festivals and expos such as Open Court day in Bankstown and Blacktown, St George Migrant Information Day, Ryde Harmony Festival and Parramatta Council's International Day for People with Disabilities.
- Continued to update publications, and published revised and

re-designed editions of three guidelines, two factsheets, the Guarantee of Service and the complaint form.

- Continued publication of promotional materials and 30th anniversary postcards.
- Continued publication of email newsletter *Equal Time* (three issues), production of seminar calendars (two issues) and annual report, sale of publications and updating of website.

Future directions

- Continue to provide in-house training sessions and seminar programs for employers and service providers.
- Develop new markets for Board products and services, and new and improved training packages.
- Identify community groups at particular risk of discrimination and develop appropriate education campaigns.
- Continue to run community training, participate in community events and develop community networks.
- Continue to update and review publications and website, produce material relating to breastfeeding amendment to Anti-Discrimination Act, and where possible produce new products and publications to address identified needs.
- Continue to develop contacts with employer and industry networks.

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

- 62 complaints lodged by Aboriginal and Torres Strait Islander people.
- Ran information stalls at 38 events in Sydney and rural NSW.
- Presented in-house information sessions to seven organisations.
- Participated in nine education forums for Aboriginal and Torres

Strait Islander community workers and other community members, run jointly with other government and non-government agencies.

- Participated in five education sessions for real estate agents and landlords, working in partnership with the NSW Office of Fair Trading.
- Liaised with government and community organisations through interagency meetings in the Sydney metropolitan area.

Future Directions

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

- Continue to develop contacts and networks in Sydney and rural NSW.
- Continue to monitor policy issues.

Newcastle office

Objectives

- Inform potential stakeholders in the region about their rights and responsibilities under anti-discrimination law.
- Attempt to resolve complaints of discrimination, vilification and harassment lodged at the Newcastle office, and continue to improve these services in the region.
- 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

- Received 206 new complaints (9.6% increase from 2006-07).

Performers from the Bankstown Talent Advancement Program with Board President Stepan Kerkyasharian (centre back) at the writing competition presentation ceremony at Parliament House in May 2008.





One of the winners in the Board's 30th anniversary photo competition, *The Liberty Swing* by Cassandra Stericker.

- Finalised 201 complaints (12% increase from 2006-07).
- Increased number of complaints settled (58 compared with 54 in 2006-07).
- Finalised 77% of complaints within 6 months and 96% within 12 months.
- Increased number of conciliation conferences held in regional areas.
- Provided 40 on-site training sessions to 22 organisations, reaching 447 participants.

Future directions

- Identify and adopt initiatives provided by new technology.
- Continue to develop networks with local agencies to ensure quality referral service.
- Maintain current level of complaints throughput.

- Continue to monitor and improve complaint handling processes.
- Continue staff development and team building to ensure objectives are met.
- Target new markets for education services.

Wollongong office

Objectives

- Inform potential complainants and respondents in the region about their rights and responsibilities under anti-discrimination law.
- Resolve complaints of discrimination, vilification and harassment lodged at the Wollongong office.
- Educate employers, employees and service providers about their rights and responsibilities under anti-discrimination law.

Outcomes

- Handled all enquiries immediately or within 24 hours.
- Received 178 new complaints (13.5% decrease from 2006-07).
- Finalised 180 complaints (3% increase from 2006-07).
- Finalised 74% of complaints within six months and 98% within twelve months.
- Provided 65 on-site training sessions for 19 employers, reaching 744 participants.
- Achieved training revenue of \$76,190, 12% over the target for 2007-08.
- Held 6 EEO Network meetings and community service agency consultations for over 100 participants in regional areas.

Future directions

- Continue to provide an accurate and efficient information service.
- Maintain current levels of complaints throughput.
- Continue to monitor factors that may create barriers to lodging complaints.
- Prioritise responding to employer requests for on-site training.
- Continue to explore potential for regional seminar program.
- Seek new markets for education service.

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 Crown Solicitor's Office.
- Deal with other legal matters including applications for exemption from the Anti-Discrimination Act, Alcohol Free Zones, Freedom of Information applications 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 summaries of discrimination cases for Board staff.

- Answered queries and advised the Statutory Board on exemptions from the Anti-Discrimination Act.

Future directions

- Continue to provide legal advice and support.
- Continue to process exemptions.

Liaison and support

Objective

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

Outcomes

- Continued to provide support services including finance, human resources, information technology, asset management and administration.
- Continued to liaise with business centres in Attorney General's Department to coordinate support services.
- Maintained separate server for business-specific software that is not compatible with departmental computer platforms.
- Further enhanced workplace information management system for support services.

Future Directions

- Continue to review and improve internal procedures.
- Continue to liaise with Attorney General's Department regarding corporate services reform and implement appropriate changes.
- Continue to refine in-house database.

Successful conciliation Age discrimination

An 18-year-old woman applied for employment as a receptionist with a motel. She said that when she rang about the position the contact person said she sounded very young and then enquired about her age. She said that they then told her that she was too young for the position and they were seeking someone older.

The motel's management said that none of its employees could recall the conversation, but the contact person had advised all applicants that they must be 18 years of age as the position entailed receiving and delivering orders for alcohol. They said that the successful applicant was aged 18 and suggested that the complainant had misunderstood the conversation.

The complaint was resolved when the motel agreed to review and re-issue its anti-discrimination policy to all employees. The parties also agreed that the complainant would undertake a work placement with the motel as part of the her TAFE hospitality course.

about the anti-discrimination bo

The Anti-Discrimination Board 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 Attorney General's Department.

Functions of the Board

We try to prevent discrimination from occurring. We inform the people of NSW 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 and participating in community functions, the production and distribution of written information and our website.

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

We advise the Government on discrimination matters, and may also make recommendations to 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. Mr Kerkyasharian 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 2007-08 were Suzanne Jamieson, Phillipa McDermott, Cameron Murphy and Peter Wertheim. (See page 2 for more information.)

Branches

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 2007-08 was Elizabeth Wing.

- **Education Services Branch**

- oversees the Board's provision of training, community education, information, publication and website services. The Manager in 2007-08 was Sharmalee Elkerbout.

- **Liaison and Support Branch**

- provides support services to assist in achieving the primary goals of the Board, particularly financial control and information technology. The Managers in 2007-08 were Darryl Brown (until November 2007), Chris Thompson (acting from November 2007 to April 2008) and Mohinder Singh (acting from April 2008).

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 leaders in 2007-08 were Donald Jenner (acting to November 2007) and Felicity Huntington (acting from November 2007).

The Board has regional offices in Newcastle and Wollongong that handle complaints and provide education services for those areas. The Newcastle Manager in 2007-08



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.

Staff

The Board has 38.2 (full-time equivalent) salaried positions, of which 25 are full-time and 22 are part-time. Thirty-six are located in Sydney and 11 in the two regional offices.

At 30 June 2008 the Board was employing an additional 0.2 FTE trainer on a temporary basis to cover demand for the Board's training services. Four temporary staff were employed in positions that were funded internally from savings in other vacancies through the year (see page 38 for details).

Eleven staff are male (21%), and 36 are female (79%). Six have been with the Board for 15 or more years, nine for 10-14 years, eleven for 5-9 years, eight for 2-4 years, and thirteen for less than 2 years. Of the 47 employees at the Board on 30 June 2008, 34 (72%) were permanent employees and 13 (28%) were temporary.

Training and development

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

All staff engaged in some form of training or development during the year. Staff undertook training in areas including leadership, communication skills, workplace ethical standards, conciliation skills, handling difficult complainants, recruitment and selection, and accounting. Some of these courses were conducted by the Attorney-General's Department and others were with private training providers.

New members of the Occupational Health and Safety Committee are undertaking mandatory training in OHS from Workcover accredited trainers. Many staff also undertook training in the use of TTY equipment.

Some staff, including members of the management team and Conciliation Officers, attended a two-day Human Rights Conference in Melbourne.

Successful conciliation Sexual harassment and victimisation

A woman employed in a senior role complained that her team leader sexually harassed her by subjecting her to unwelcome touching and inappropriate language including a reference to women's genitals. She alleged that when she complained about the conduct her manager did not to address the conduct and victimised her by overlooking her for a promotion because he felt that she was too stressed.

The team leader admitted to some of the touching and swearing but said that a reasonable person would not have construed the incidents as being of a sexual nature and would not have been offended. The complaint was resolved when the complainant accepted a payment of \$6,000 without admission of liability from the respondents.



Photos from left:
Stepan Kerkyasharian,
Elizabeth Wing,
Sharmalee Elkerbout,
Mohinder Singh,
Felicity Huntington,
Paul Santone,
Gerardo de Liseo.

eaps report

The Board has addressed the requirements of the Ethnic Affairs Priority Statement report in the following ways:

Planning and evaluation

The Board is committed to inclusive processes such as:

- Providing an accessible, reliable and accurate enquiry service, including the use of interpreters.
- Providing quality service delivery, including the production of publications in plain English.

Program and service delivery

- Clients can submit complaints in their own language and we have them translated into English.
- 492 on-site training sessions and 19 employer seminars were conducted in 2007-08. These reached over 7,721 participants, including people from a wide range of cultural and linguistic backgrounds.
- The Board ran a number of community education stalls, seminars and talks which were attended by 850 participants, most of whom were from culturally and linguistically diverse (CALD) communities.
- The Education Branch organised a writing competition for school children on the theme of 'Say No to Discrimination' a part of Law Week 2008. Six hundred children from a variety of ethnic and cultural backgrounds participated and wrote about how they imagined a world without discrimination, bullying or harassment.

- The Community Education Officer consulted with and delivered workshops to a number of CALD groups such as the Arabic-speaking women's forum, the Assyrian Seniors Group, and an HIV/AIDS workshop for the African community.

Staffing

- 23% of staff at the Board identify English as their second language.
- 4% of staff identify as Aboriginal and Torres Strait Islanders.
- 30% of staff are from CALD backgrounds.
- Staff have attended cultural diversity forums and conferences to promote the Board's work and network with community groups.

Communication

- The Board provides an enquiries and conciliation service and frequently uses interpreters and translators to improve access for its clients.
- The Enquiries and Conciliation Branch uses standard letters using

plain English when writing to the parties to a complaint.

- The Board's complaint form was revised in 2007-08 and now has a new 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.
- The reverse of the Board's letterhead features a message in 21 languages about the Telephone Interpreter Service. The languages used were revised in 2006-07 in line with current census data on people who speak little or no English.
- The Board's website features discrimination factsheets in 24 languages. We also have specific factsheets on race discrimination and vilification, and an easy to read factsheet using pictures to communicate the message.
- The Board continues to publish a community poster *Say no to discrimination* featuring 12 languages.

Attorney General John Hatzistergos presents a certificate to Sankalpa Gurung, a finalist in the years 10-12 category of the Board's 2007-08 writing competition.



anti-discrimination law in nsw

Under the *Anti-Discrimination Act 1977 (NSW)* (ADA), certain types of discrimination and harassment are against the law.

Discrimination occurs when a person with a particular personal characteristic is treated less favourably than a person who does not have that characteristic. Discrimination may include harassment because of the relevant personal characteristic.

Behaviour that is against the law includes the following:

- sex discrimination, including pregnancy and breastfeeding;
- race discrimination;
- age discrimination, including compulsory retirement;
- marital status discrimination;
- homosexual discrimination;
- disability discrimination, including physical, intellectual and psychiatric disabilities, learning and emotional disorders and infectious diseases;
- transgender (transsexual) discrimination;
- carers' responsibilities discrimination (in employment only);
- harassment that targets a person because of any of these characteristics;
- discrimination or harassment because a person's relatives, friends or associates have any of these characteristics; and
- sexual harassment (sexually related behaviour that a person does not want, and a reasonable person would have expected them to be offended, humiliated or intimidated by it).

These types of discrimination and harassment are only against the law in certain areas. These are:

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

Direct and indirect discrimination

Discrimination can be direct or indirect. Direct discrimination means treating someone unfairly compared to someone else in the same or similar circumstances, because of their sex, race, marital status, disability, homosexuality, age, transgender status or carers' responsibilities – for example, refusing to hire a woman because she may become pregnant.

Indirect discrimination means a requirement that is the same for everyone, but has an effect or result that is unequal and unreasonable having regard to the circumstances – for example, an employer who says they need a person over a certain height might be discriminating against women and some ethnic groups.

Vilification

Vilification because of a person's racial background, homosexuality, HIV/AIDS status or transgender status is also against the law. The ADA defines

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

Vilification laws can cover behaviour that occurs outside the usual areas of employment, goods and services etc, for example in the media or in public places.

Victimisation

It is also against the law to victimise a person because they have complained within an organisation about discrimination, made an enquiry or complained to the Anti-Discrimination Board, or assisted another person with or acted as a witness in a discrimination case. A victimisation case may be proven even if the original discrimination case is not.

Making a complaint

If a person thinks they have been discriminated against, the first stage is to contact our enquiry service to see whether their situation is covered under NSW anti-discrimination law. If it is not covered, our Enquiry Officers will suggest other avenues where the person may find help.

If the problem appears to be covered by NSW anti-discrimination law, and the person is unable to resolve the problem by other means such as using an internal grievance process in the workplace, they may decide to lodge a formal complaint with the Anti-Discrimination Board.

This involves completing one of our complaint forms 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.

If the person can't write a letter because they have a disability or because they are a child, someone else can write it on their behalf, or an officer of the Board can help them. Complaint letters can be written in any language, and the Board will cover the cost of having them translated into English. Complaints can also be lodged in Braille.

If a complaint is clearly not covered by anti-discrimination law or is outside the Board's 12-month time limit, it may be immediately declined by the President. If it is accepted, the next stage is to investigate the complaint more thoroughly to see if it may involve a breach of anti-discrimination law. All complaints are handled impartially, confidentially and free of charge, and there is no need for a lawyer.

Conciliation

If the complaint appears to involve a breach of anti-discrimination law, the Board then tries to conciliate the complaint. This means we try to help all the parties to the complaint to come to an agreement or settlement that will resolve it. The parties 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 to the complaint agree on a settlement. The Board has no power

power to impose a settlement if the parties do not agree.

Settlements may involve the following:

- the complainant accepting the respondent's explanation of why the events occurred;
- an apology from the respondent to the complainant;
- reinstatement of the complainant, if they have been moved to another position, suspended or dismissed;
- the complainant being provided with training, a transfer or altered working conditions;
- training for staff in the respondent organisation about discrimination and harassment, and/or developing or improving Equal Employment Opportunity policies;
- the complainant being provided with facilities, services or accommodation that they were denied;
- the respondent paying compensation to the complainant;
- the respondent giving the complainant 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.

The Administrative Decisions Tribunal

If a complaint cannot be conciliated, the President may decide to decline the complaint or refer the complaint to the Equal Opportunity Division of the Administrative Decisions Tribunal. The Tribunal provides a legal judgement that can be enforced or appealed.

breastfeeding amendment

In October 2007 the NSW Parliament passed the *Anti-Discrimination Amendment (Breastfeeding) Bill 2007*, which amended the Anti-Discrimination Act to specifically include discrimination on the ground of breastfeeding.

The bill renders discrimination on the ground of breastfeeding unlawful in the areas of employment, State education, goods and services, accommodation and registered clubs, including both direct and indirect discrimination.

Pregnancy is covered by sex discrimination, in that it is a characteristic that appertains to women. However, the government sought to further enhance the coverage of the Anti-Discrimination Act by removing any doubt that discrimination on the ground of breastfeeding is also unlawful.

The bill inserted a new provision into the Act to make it clear that breastfeeding is also a characteristic that appertains to women, including the act of expressing milk. The bill also makes it clear that providing rights relating to breastfeeding for women cannot be interpreted as sex discrimination against men.

The Board's education team is currently working on resources to increase public awareness about discrimination on the grounds of breastfeeding and staff will monitor complaint statistics to determine the effect of the amendment.

30 years of anti-discrimination law

1976

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

1977

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

1980

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

1981

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

1982

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

1989

- Racial vilification made unlawful.



1991

- Compulsory retirement made unlawful for some occupations.

1993

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

1994

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

Staff of the Anti-Discrimination Board in 1984, with then President Carmel Niland fifth from the left.

1996

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

1997

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

2000

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

2005

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

2007

- Discrimination on the ground of breastfeeding specifically made unlawful.

30th anniversary celebrations



2007 marked the 30th anniversary of the NSW Anti-Discrimination Act, which came into force in 1977. The Board celebrated this milestone with three events and a number of other activities in the second half of 2007.

Formal celebration at Parliament House

The formal celebration of the anniversary was an evening ceremony at NSW Parliament House on 25 October. Guests were addressed by Attorney General John Hatzistergos, Administrative Decisions Tribunal Magistrate Nancy Henessy and Board President Stepan Kerkyasharian.

There was also a performance by young singers from Bankstown Council's Talent Advancement Program, and an exhibition featuring case studies, excerpts from the Act and entries in the anniversary photo competition (see below).



Attendees at the event included NSW Chief Justice Jim Spiegelman, Attorney General's Department Director General Laurie Glanfield, Disability Discrimination Commissioner Graeme Innes, NSW Minister for Juvenile Justice Barbara Perry, Allen Madden from the Cadigal people, present and past Board members, members of the Board's Advisory Committees and other significant people in the Board's history.

Forum on history and future of discrimination law

The second event was a forum on the history and future of the Anti-Discrimination Act, which the Board co-hosted with the Koori Centre of Sydney University. The first part of the forum

Photos from top: A performer from the Social Justice Theatre Troupe at Martin Place ■ Speakers at the first part of the Sydney University forum (L-R): Suzanne Jamieson, Ken Davis, Chris Ronalds, Belinda Smith and Joanna Shulman.

featured experts in law and human rights including Chris Ronalds SC, who was the first lawyer at the ADB in 1977.

Speaking about the launch of the Act and the early days of the Board, Ms Ronalds reminded participants how revolutionary the Act was in 1977. She said it was the first piece of legislation in the world to contain the term sexual harassment, and they had underestimated how much media attention the Act would receive.

Other speakers included Ken Davis, President of the Pride History Group, Joanna Shulman, the Principal Solicitor at the NSW Disability Discrimination Legal Centre, Dr Suzanne Jamieson, Anti-Discrimination Board member and Senior Lecturer in industrial relations at Sydney University, and Dr Belinda Smith, Lecturer in anti-discrimination law at Sydney University.

The second part of forum focussed on past and present discrimination against Aboriginal and Torres Strait Islander people. Speakers included Linda Burney, a former Board member and then NSW Minister for Fair Trading, Youth and Volunteering, Warren Mundine, the CEO of the NSW Native Title Services and former ALP President, and Aboriginal barrister Tony McAvoy. Subjects covered included personal experiences of discrimination, the situation of Aboriginal women, and a comparison between South African apartheid and Australia's treatment of Aboriginal people.

Theatre in Martin Place

The third event was a lunchtime performance in Sydney's Martin Place

by the Social Justice Theatre Troupe, illustrating the need for human rights and anti-discrimination laws. Board President Stepan Kerkyasharian also addressed the audience, and passers by enjoyed a slice of anniversary mud cake and collected postcards and factsheets.

Other activities

Other activities for the 30th anniversary included:

- A photo competition in which entrants were asked to depict equal rights in the community. The equal winners were Arthur Roy of Toukley for his series on multiculturalism and harmony, and Cassandra Stericker of Ermington for her series showing her son enjoying the Liberty swing, which is designed for people in wheelchairs.
- The issue of 3 postcards through the Avant Card distribution network. One card is a graphic depicting the grounds of discrimination covered by the Anti-Discrimination Act, and the other two are winning paintings from the Board's 2007 Art Competition. The cards have since been reprinted and are now used as promotional material at stalls and training sessions.
- An anniversary edition of the Board's email newsletter *Equal Time*, containing reports of the anniversary events, the speech by Nancy Henessy at the formal celebration and the address by Joanna Shulman at the forum.
- Developing a dedicated website to publicised the anniversary events and give information about anti-discrimination law.



Photos from top: Allen Madden (L) and ADB Aboriginal and Torres Strait Islander Advisory Committee member John Walford ■ Supreme Court Judge John Basten (L) with NSW Chief Justice Jim Spiegelman at the Parliament House celebration ■ Linda Burney and Warren Mundine at the Sydney University forum.

enquiry service



Enquiry Officers assist callers to prevent and address discrimination and harassment by providing advice about anti-discrimination law and strategies for dealing with discrimination matters.

The Board's Enquiries and Conciliation Branch provides two specialised advisory services – one for general calls, and one to advise employers and service providers. We receive calls from a wide range of people including individual members of the public, employers, service providers, managers, employees, advocates, community workers, public servants and others.

Enquiry and Liaison Officers do the following:

- Determine if the unfair treatment the caller has experienced is covered by the *Anti-Discrimination Act 1977 (NSW)* (ADA);
- Give advice about how to handle and deal with actual or potentially discriminatory situations;
- Provide information about where further assistance can be obtained (including referrals to other agencies in situations where the caller's problem is not covered by the ADA);
- Provide assistance in developing policies, procedures and guidelines to prevent discrimination and harassment from occurring;
- Provide general information about what is covered by anti-discrimination law;
- Take and transfer requests for publications and other Board services as required.

Many complaints about discrimination are resolved at the initial enquiry stage, as the Enquiry and Liaison Officers inform callers about their legal rights and give them suggestions and strategies on how to resolve their situation. In many instances

this prevents the need for a formal complaint, which reduces the number of complaints the Board receives.

During 2007-2008, the enquiry service answered 7,539 enquiries, which is an average of approximately 30 calls per day. This is an increase of 4.8% over 2006-07, when we answered 7,194 enquiries.

As in the past, women continued to use our general enquiry service more than men – 3,700 calls from women (or 49.1%) and 2,656 from men (or 35.2%). Individuals contacting us on behalf of another person or organisation, employers, students and teachers made up the remainder of the calls.

The majority of enquiries (7,391 or 98%) were made by phone; the remainder were made by letter, telephone typewriter, email or visit to one of our offices. Most calls (4,598 or 61.1%) took between 5 and 14 minutes, but some enquiries were very complex and took 30-59 minutes to deal with (85 calls or 1.1%).

The majority of callers (5,751 or 76.3%) wanted to discuss a situation where discrimination was occurring. Only (1,509 or 15.4%) of people making enquiries were advised to lodge a formal complaint of discrimination.

Employers, personnel officers, human resources managers, service providers and legal advisers all used our Employers and Service Providers Advisory Service. This service provides specialised advice and assistance to employers and service providers on anti-discrimination issues. The number of people using the Employers and Service Providers Advisory Service in

2007-08 was 742 (9.8% of total enquiries).

For the three years up to 2007-08, the most common type of discrimination people enquired about was sex discrimination. There has been a change this year with disability discrimination now being the most frequent type of discrimination enquired about (1,324 enquiries or 16.1%). This may reflect increased awareness about disability issues in NSW and the continuing difficulty experienced in improving access and opportunities for people with disabilities.

The next most common types of discrimination people enquired about in 2007-08 were sex discrimination (1,308 enquiries or 15.9%) and race discrimination (1002 enquiries or 12.2%).

The majority of enquiries continued to be employment-related – 4,230 enquiries (55.3%). The second largest area of discrimination enquirers called about was the provision of goods and services – 1,777 callers (15.4%).

Problems that were not covered by NSW anti-discrimination law accounted for 2,628 enquiries (or 34.9%). 231 (or 2.8%) of these calls related specifically to the caller's employment. We generally refer these enquiries to trade unions or to the NSW Office of Industrial Relations, or we give advice about how to resolve the problem within the workplace.

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

Enquiries by ground 2007-08

Ground	No	%
Disability	1,324	16.1
Sex - includes pregnancy, breastfeeding and sexual harassment	1,308	15.9
Race	1,002	12.2
Age	413	5.0
Carers' responsibilities	350	4.3
Homosexuality	137	1.7
Marital status	124	1.5
Racial vilification	96	1.2
Victimisation	94	1.1
Transgender	64	0.8
Homosexual vilification	19	0.2
HIV/AIDS vilification	17	0.2
Compulsory retirement	13	0.2
Association	8	0.1
Transgender vilification	7	0.1
Advertisement	6	0.1
Aiding/abetting	5	0.1
HIV/AIDS discrimination	3	0.0
Obstruction	1	0.0
All grounds	602	7.3
Not covered by ADA - work not harassment	231	2.8
Not covered by ADA - other problems	2,397	29.2
Total	*8,221	100

** The total number of enquiries by ground is greater than the total enquiries received because some enquiries covered multiple grounds.*

Enquiries by area 2007-08

Area	No	%
Employment	4,230	55.3
Goods and services	1,177	15.4
Education	263	3.4
Accommodation	249	3.3
Registered clubs	110	1.4
Vilification	89	1.2
All areas	418	5.5
Advertisement	22	0.3
Other	1,090	14.3
Total	*7,648	100

** The total number of enquiries by area is greater than the total enquiries received because some enquiries covered multiple areas.*

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 of the complaint

(see pages 11-12 for more information about the complaint process).

In 2007-08 the branch continued to work on a new database for recording complaints. The database is designed to be both a file registration system and a case management tool. The case management functions will increase efficiency, for example by linking the database to standard documents and letters, giving workload management reports to staff and managers and allowing greater monitoring of trends.

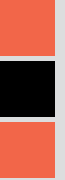
We have migrated the data from two old databases to the new one and have been using it since January 2008. However we are not yet using all of the features as these are still being fine-tuned. It is hoped that full implementation will occur in early 2008-09.

Complaints received

This year the Board received 1,144 formal complaints of discrimination, with a profile similar to previous years. As the table shows, the most common complaints are still on the grounds of sex, disability and race.

Complaints received by ground and area 2007-08

	Emp & Servs	Goods	Accom	Educ	Clubs	Qual bodies	Racial vil	Homo vil	HIV vil	Trans vil	Other	Total	%
Sex	203	23	0	6	3	0	0	0	0	0	7	242	21.2
Disability	103	102	11	9	4	0	0	0	0	0	10	239	20.9
Race	93	81	3	18	6	1	0	0	0	0	9	211	18.4
Victimisation	111	13	1	8	2	0	0	0	0	0	2	137	12.0
Age	46	16	6	0	2	0	0	0	0	0	1	71	6.2
Carers' responsibilities	46	0	0	0	0	0	0	0	0	0	0	46	4.0
Homosexuality	20	8	1	0	2	0	0	0	0	0	0	31	2.5
Marital status	10	5	3	0	0	0	0	0	0	0	0	18	1.6
Racial vilification	0	0	0	0	0	0	16	0	0	0	0	16	1.4
Transgender	0	11	0	0	0	0	0	0	0	0	2	13	1.1
Aiding unlawful act	8	2	0	0	0	0	0	0	0	0	0	10	0.9
Homosexual vilification	0	0	0	0	0	0	0	7	0	0	0	7	0.6
HIV/AIDS vilification	0	0	0	0	0	0	0	0	1	0	0	1	0.1
Transgender vilification	0	0	0	0	0	0	0	0	0	3	0	3	0.3
Other	25	21	2	1	4	0	0	0	0	0	11	64	5.6
Not specified	16	12	0	2	0	0	0	0	0	0	5	35	3.1
Total	681	294	27	44	23	1	16	7	1	3	47	1144	100
%	59.5	25.7	2.4	3.8	2.0	0.1	1.4	0.6	0.1	0.3	4.1	100	



The proportion of complaints under each ground is very consistent with previous years. Sex discrimination complaints (including sexual harassment) numbered 242 (21.2%) in 2007-08 compared with 240 (22%) in 2006-07. Disability discrimination complaints rose slightly to 239 (20.9%) compared with 213 (19.4%) in 2006-07.

Race discrimination complaints fell to 211 (18.4%) in 2007-08 compared with 225 (20.5%) in 2006-07, but were still higher than the 181 (16.6%) in 2005-06. Racial vilification complaints fell again this year, with 16 complaints (1.4%) compared with 25 (2.2%) in 2006-07. This represents a return to previous levels after higher numbers of race discrimination and racial vilification complaints between 2005 and 2007.

Also consistent with previous years, employment-related complaints continue to be the single largest area of complaint at 681 (59.5%) compared with 633 (57.7%) in 2006-07. Complaints relating to the work environment or harassment again increased from 408 (64.5%) in 2006-07 to 415 complaints in 2007-08, although the percentage is lower at 60.9%.

Complaints relating to the provision of goods and services (294 or 25.7%) also increased in number relative to 2006-07 with a marginal difference in percentage.

The proportion of complainants this year that did not identify their ethnicity or national origin remains stable: 946 (84.2%) compared to 925 (84.2%) in 2006-07. Of those that did, the largest



Types of employment complaints 2007-08

	No	%
Work environment and harassment	415	60.9
Dismissal	93	13.7
Classification/benefits	67	9.8
Recruitment/selection	62	9.1
Resignation	13	1.9
Transfer	9	1.3
Promotion	8	1.2
Retrenchment/ redundancy	8	1.2
Demotion	3	0.4
Retirement	2	0.3
Other	1	0.1
Total	681	100

Conciliation Officers assist many complainants and respondents to resolve complaints without the need for them to be referred to the Administrative Decisions Tribunal.

conciliation service continued

Type of employer 2007-08

	No	%
Private enterprise	371	54.5
Individual male	81	11.9
State govt department	54	7.9
State statutory body	37	5.4
Hospital	25	3.7
Education (public)	21	3.1
Local government	20	2.9
Registered clubs	12	1.8
Individual female	9	1.3
Non-profit association	5	0.7
Education (private)	3	0.4
Govt business enterprise	2	0.3
Cwlth statutory authority	1	0.1
Trade union	1	0.1
Commonwealth dept	1	0.1
Media organisation	0	0
Other	8	1.2
Not known	30	4.4
Total	681	100

group again identified as Aboriginal (62 or 5.4%). The second largest group identified India as their country of origin (16 or 1.4%) followed by Australia (15 or 1.3%).

Complaint processing

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

Conciliation staff have continued to achieve excellent results in meeting nearly all of the target timeframes for finalising complaints. This is despite the absence of several officers for extended periods during the 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 2007-08 was 5.59 months, which is similar to last year (5.5 months).

Following are the targets and their rate of achievement:

Complaint to be finalised within	Target	Actual
2 months	20%	32%
3 months	30%	34%
6 months	80%	62%
12 months	85%	91%
18 months	100%	98%

As always, the Board is committed to providing an accessible service to rural and remote areas. This year 10 officers made a total of 30 days travel to conduct conciliation conferences in regional or country NSW.

Outcomes

The Board finalised 1,073 written complaints of discrimination in 2007-08, a slight decrease compared to last year.

The number of complaints resolved at or after a conciliation conference (221 or 20.6%) was less than last year's figure of 284 (25.5%), but consistent with 221 (21%) in 2005-06. A further 114 complaints (10.6%) were settled by negotiation without the need to call a formal conciliation conference, similar to the 115 (10.3%) settled in 2006-07.

Referrals to the Administrative Decisions Tribunal for matters that were not conciliable increased to 159 (14.9%) compared to 143 (12.8%) in 2006-07, and 115 or 10.7% in 2005-06. This represents an increasing trend over the last 3 years.

The number of complaints declined under s92 of the ADA (for reasons such as lacking in substance, being misconceived or not being a contravention of the ADA) remains at similar levels – 58 (5.4%) in 2007-08 compared to 57 (5.1%) in 2006-07 and 51 (4.7%) in 2005-06.

There were an additional 54 (5%) declined complaints in which the complainants exercised their right to ask the President to refer the complaint to the Administrative Decisions Tribunal, an increase from 34 (3.1%) in 2006-07. Under the amendments to the ADA which came into force in May 2005, these complainants are now required to seek leave of the Tribunal before their matter can be heard.

Outcome of complaints finalised 2007-08

	No	%
Settled at or after conciliation	221	20.6
Settled before conciliation	114	10.6
Referred to ADT – conciliation unsuccessful or not suitable	159	14.8
Referred to Attorney General and ADT - serious vilification	3	0.3
Declined before investigation – not a contravention	153	14.3
Declined before investigation – out of time	12	1.1
Declined before investigation – not on behalf of complainant	1	0.1
Declined after investigation – s92	58	5.4
Declined after investigation and referred to ADT	54	5.0
Withdrawn s92B	96	8.9
Abandoned s92C	202	18.8
Total	1073	100

A proportion of complaints are withdrawn by the complainant. They may do this 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.

Section 92B of the ADA requires a complainant wishing to withdraw their complaint to do so in writing to the President. The number of complaints formally withdrawn this year (96 or 8.9%) was considerably less than in 2006-07 (130 or 11.7%).

While fewer complaints were withdrawn, more were abandoned. Complaints can be regarded as abandoned when the complainant fails to respond to requests for information, there is no indication of the complainant's intention to proceed with

the complaint, or we lose contact with a complainant.

The number of complaints abandoned in 2007-08 was 202 (18.2%), an increase over the 2006-07 figure of 168 (15.1%). The abandonment process allows the complainant 12 months in certain circumstances to request the file to be reopened.

Successful conciliation Carers' responsibilities discrimination

The complainant cared for her frail elderly mother and needed to take her to medical appointments. She tried to organise the appointments so that they were all on the same day, and asked if she could take a combination of leave in order to have every Friday off work. She made a complaint of carers' responsibilities discrimination when this request was refused.

The employer said that taking leave in this manner was unacceptable as an ongoing arrangement. They said they had provided the woman with a number of other options including working part-time on a permanent basis, which she had rejected. The complaint was resolved when it was agreed that the woman could continue to take a variety of leave to cover her absences for a fixed period of time.

education service



The Board's Senior Workplace Relations Consultants, seen here with Education Services Manager Sharmalee Elkerbout (right), deliver an integrated and innovative program which enables employers and service providers to understand their obligations under anti-discrimination law.

One of the Board's core functions is to provide people with information about their rights and responsibilities under anti-discrimination legislation.

The Education Services Branch's role is to help prevent discrimination by educating the people of NSW, employers, employees and service providers about their rights and responsibilities under anti-discrimination law.

The branch has a self-funding education program aimed mainly at employers and service providers. It also delivers talks to community groups and runs other community projects addressing specific groups. In addition, branch staff produce a range of publications and a comprehensive website.

Although the branch did not have a full complement of staff in 2007-08, it was able to achieve good results and complete a number of significant projects.

Workplace education

The workplace education program is based on providing high quality training at cost-effective prices for employers, employees and service providers. The Board's reputation for interactive, relevant and up-to-date training has resulted in significant income, which is allocated to the cost of the program.

Each year the branch provides a great deal of in-house training for staff and managers in 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 managers the skills to handle grievances 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 provide; and
- free review of the organisation's policies.

Some companies use our training service for their offices throughout

Australia and in some cases overseas, as they are pleased with the quality of our service and prefer to maintain the consistency of the information provided to their staff.

As well as in-house training, the branch runs seminar programs during the year. The seminar series conducted in 2007-08 has proved to be highly successful, raising over \$100,000.

Until the end of 2007 the seminars were run in blocks of 3 series per year, but in 2008 we have spread them throughout the year to minimise waiting time for participants if they had just missed a seminar.

The 2007-08 series included the following seminars:

- Implementing EEO;
- 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; and
- Recruitment and termination.

Two new seminars will be trialled in 2008-09, a lunchtime seminar entitled *EEO for CEOs* and a breakfast seminar for small business.

In 2007-08 we delivered 492 on-site training sessions for employers and service providers and ran 19 employer seminars, reaching a total of 7,721 participants. The total earnings from the self-funding program, including training fees, seminars and

publications, was \$696,247. This figure is higher than last year, reflecting the fact that previously vacant positions were filled in 2007-08 and we were able to deliver more full-day training sessions.

Community education

With only one part-time community education worker (supported by other branch staff for specific events and projects), the Education Branch had some very positive achievements in its community program in 2007-08.

Writing competition

For the past three years the Education Branch has held a competition for school students as part of Law Week in April. In 2008 we ran a writing competition under the heading of *Say No to Discrimination*, which aimed to raise awareness about the problem of bullying.

All state primary and secondary schools were sent a package of information about the competition, worksheets on bullying for teachers to use to stimulate discussion and entry forms. Students were asked to write about their experiences of discrimination, harassment and bullying, and/or to describe what their community would be like without these problems.

We received over 600 entries including poems, acrostic poems, narratives, dialogues, songs, rap lyrics, role plays and essays, as well as illustrations in some cases. Many were written from a very personal perspective and reveal the immense pain and the loss of self-esteem that can result from bullying, particularly bullying related to race and homosexuality. However, the children

“Engaging the NSW ADB allowed our organisation to reiterate employees’ rights and responsibilities in an interactive forum. The facilitator was well informed and able to apply consistent messages through real life workplace examples in order to engage staff. The program is highly recommended for any organisation.”

David Pegley, Chief Executive Officer, Cash Services Australia

“The Transport Workers’ Union of NSW has been using the services of the NSW Anti-Discrimination Board’s training division for a number of years now. We have found that all their trainers deliver the training in a timely, efficient and effective manner. We also found that the assistance given to the TWU in the development of our EEO policy and procedures was invaluable.

All our officials and staff undertake ADB EEO training when initially appointed and then a refresher course is undertaken annually. We cannot recommend the training services of the NSW Anti-Discrimination Board highly enough.”

Keith McGuckin, OH&S and Workers Compensation Advisor, TWU



Winners of the 2008 writing competition (from left): Dominic Moore (years 7-9), Bilal Wazirzada (years 10-12), Jessica Eddy (years K-2) and Ahmad El Ammar (years 3-6).

also showed awareness about how to deal with bullying, including standing up to bullies, seeking out support, and “being nice” to the bully and befriending them.

The winners received book vouchers for themselves and their school, and all winners and runners up also received certificates. These were presented by Attorney General John Hatzistergos at a ceremony at Parliament House on 2 May, which also featured a performance by students from TAP, the Talent Advancement Program of Bankstown City Council and the NSW Department of Education and Training.

The winners were:

Kindergarten – Year 2 category:

Jessica Eddy from Binda (aged 4), with a succinct entry entitled *Bullies have mean mouths*.

Years 3-6: Ahmad El Ammar from Peakhurst (aged 9), with a powerful and well-constructed poem entitled *Sticks and Stones* (reproduced on page 40).

Years 7-9: Dominic Moore from Deniliquin (aged 14), with a poem entitled *Ying and Yang* about racism directed at black people.

Years 10-12: Bilal Wazirzada from Lisarow (aged 16), with an entry expressing his dream for a bullying-free future entitled *I hope*.

The Board received some publicity about the competition including an interview on local radio and several newspaper stories. All the shortlisted entries were published on the Board’s website and are providing an ongoing resource for teachers wanting to understand children’s experiences of bullying.

Community education sessions and information stalls

During the year we continued to work with the community by conducting training sessions for particular groups as they request it. In 2007-08 these included:

- Assyrian seniors group (Prairiewood /Fairfield);
- HIV/AIDS workshop for the African community (Auburn);
- Community Relations Commission (Coffs Harbour);
- National Advocacy Conference for people with disabilities (Nambucca Heads);
- TAFE students (Meadowbank);
- Department of Immigration and Citizenship seminar for community workers;
- TAFE students (Ultimo);
- University of NSW students;
- Red Cross;
- Students of St Aloysius College
- Students of Rouse Hill Anglican College
- Sydney University Harmony Day – overseas students;
- Macarthur Diversity Services;
- Arabic speaking Women’s Forum (Campbelltown);
- Open Court day (Blacktown).

These sessions varied in length from one hour to one day with one-hour sessions being more common. They involved over 800 participants.

We also attended information days and community events to provide information and answer questions from

the general community. In 2007-08 these included:

- Open Court day for the Arabic Community (Bankstown);
- The Attorney General's Department Drug Court (Parramatta);
- St. George Migrant information day;
- Harmony Festival (Ryde);
- The Attorney General's Department Community Open Day;
- Parramatta Council's International Day for People with Disabilities
- Open Court day (Blacktown).

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 specific guidelines for employers, employees and providers of different types of services.

2007-08 saw the results of our program to revise and rationalise our existing publications for employers and service providers, some of which were first produced over 10 years ago. We produced a significantly updated and redesigned edition of our *Guidelines for non-supervisory staff*, which is part of the package for people in non-supervisory positions who attend our training sessions.

We produced a new publication entitled *Guidelines for Managers and supervisors*, which is a combination of



three previous publications, *Anti-Discrimination and EEO Guidelines for managers, team leaders and supervisors*, *How to implement EEO in any organisation* and *Harassment in the workplace*. The design matches the guidelines for non-supervisory staff so they form a set. This publication is part of the package given to managers and supervisors in training courses.

We also continued to revise and update our factsheets and other publications, including incorporating information in all publications about the amendment to the Anti-Discrimination Act relating to breastfeeding. Other publications revised and redesigned this year include:

- *Guidelines for Contact Officers*;
- information about the Board's Aboriginal and Torres Strait Islander Outreach Program;
- factsheets on discrimination against Aboriginal and Torres Islander people;

The Board's Community Education Officer (left) at the Attorney General's Department stall at the Parramatta Council International Day for People with Disabilities.



Publications Officers produce a wide range of material including posters (seen in the background), guidelines, brochures and CDs.

- guarantee of service; and
- complaint form (including a new attachment explaining in 23 languages that people can write their complaint in their own language).

We produced three editions of our email newsletter *Equal Time* during 2007-08. Issues covered included the Board's 30th anniversary, pioneering discrimination law, pregnancy, breastfeeding and carers' responsibilities discrimination, and the Board's writing competition. Other projects in 2007-08 included two editions of our seminar

calendar, the annual report and ongoing production of promotional material such as postcards, notepads, fridge magnets, pens, rulers and balloons.

Factsheets for people with intellectual disabilities and people from non-English speaking backgrounds are currently under review, and we are also working on a new factsheet about breastfeeding. These will be published in early 2008-09.

Other plans for 2008-09 include a new brochure explaining all the Board's services, continuing to revise existing publications including our guidelines for real estate agents, for obtaining an exemption to the Anti-Discrimination Act, for respondents to complaints and for conciliation conferences. We also hope to produce resources for school students. We will also produce a new publications order form.

Website

The Board's website is the first point of contact for many people with enquiries about discrimination, harassment or the role of the Board. It is part of the Lawlink site, which is hosted by the Attorney General's Department, and has recently been enhanced with an expanded bandwidth and simplified navigation and design.

The website covers information about anti-discrimination law, how to make a complaint, training services, the Board's publications, advice for employers and service providers, information in community languages, and the Board's electronic newsletter, *Equal Time*. It also contains news about recent activities and special projects such as the Board's 30th anniversary and the writing competition.

The number of people accessing the website in 2007-08 averaged around 24,000 per month. The most popular pages were about anti-discrimination law and workplace guidelines, and the most common searches related to sexual harassment, vilification, EEO, anti-discrimination law and homosexual discrimination.

Staff from the Education branch worked with the Information Technology Support Officer to coordinate the ongoing management and updating of the website in 2007-08. We are constantly reviewing and consolidating existing material to ensure that the website is accurate, up-to-date and reflects current law and procedures. In the future we hope to develop facilities that will enable users to order publications and register for seminars online.



consultations

The Board convenes consultations with specific groups to provide an opportunity to discuss issues facing the community in question, relevant trends and legislative change.

Gay, Lesbian and Bisexual Consultation

This consultation met three times during the year. Some issues discussed include:

- The President wrote to the following organisations on behalf of consultation members and the responses were discussed:
 - NSW PDHPE (Personal Development, Health and Physical Education) Teachers' Association regarding post-service education offered on same-sex relationships;
 - The Institute of Teachers regarding education being offered on same-sex relationships;
 - The Australian Council for Health, Physical Education and Recreation (ACHPER);
 - The Catholic Education Office re HIV/AIDS resources used in schools.
- The launch of the *Strategic Framework for 2007-2012: Working Together: Preventing violence against gay, lesbian, bisexual and transgender people*, a framework detailing the NSW Government's commitment to creating safer environments for gay, lesbian, bisexual and transgender people.
- The responsibility of non-government organisations in relation to the anti-discrimination legislation, for example for views expressed on their website.

- The launch of the Human Rights and Equal Opportunity Commission's report into discrimination against same-sex couples and families. The report showed that Australia was in breach of its international human rights obligations and found 58 pieces of federal legislation which are discriminatory.
- the number of church organisations that are operating in the community service industry and the employment implications for those who do not share "Christian values".
- the NSW Police's Gay and Lesbian Liaison Officer (GLO) program.

Members of this consultation include: Acceptance, ACON, Australian Bisexual Network, Australian Federal Parliament, Avalon Media, Bi-NSW Inc, Bi Pride Australia, NSW Teachers Federation, Central Sydney Sexual Health Unit, City of Sydney, Coalition of Activist Lesbians, Community Relations Commission, Crime Prevention Division of the Attorney General's Department, Crossroads Community Care Centre, Deaf Gay and Lesbian Association of NSW, Electorate Officer for Clover Moore MP, FPA Health, Gay And Married Men's Association, Gay and Lesbian Counselling Service, Gay and Lesbian Rights Lobby, Gay and Lesbian Immigration Task Force, Independent Education Union, Inner City Legal Centre Lesbian, Gay and Transgender Issues, Lesbian and Gay Anti-Violence Project, Lesbian and Gay Solidarity, Sydney Park AIDS Memorial, NSW Police Force, NSW Teachers Federation, PositiveLife NSW, Public Service Association of NSW, Sex Workers Outreach Program, Swallow, the Uniting Network, Tropical Fruits, Twenty 10 Association, UTS Students Association.

Sex and Gender Diversity Group Consultation

This consultation met three times during the year. Some issues discussed at the consultations include:

- Mission Australia and Wesley Mission were invited to the consultation to discuss the crisis accommodation needs of homeless or temporarily disadvantaged non-recognised transgender women.
- The continuing campaign to get Medicare to cover the cost of gender reassignment surgery.
- The launch of the *Strategic Framework 2007-2012: Working Together: Preventing violence against gay, lesbian, bisexual and transgender people*.
- The requirement for transgender people in NSW to have had gender reassignment surgery in order to get their birth certificate changed, whereas in England surgery is no longer essential to get a new certificate.

Members of this consultation include: The AIDS Council of NSW, the City of Sydney, the Crime Prevention Division of the Attorney General's Department, Frankel Lawyers, the Gender Centre, the Inner City Legal Centre, MOD Films, NSW Police Force, NSW Registry of Births Deaths and Marriages, Sex Workers Outreach Project, University of Sydney, and the Women and Girls Emergency Centre.

aboriginal and torres strait island

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 provide 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 throughout NSW.

Complaint handling

In 2007-08 the Board received 62 complaints of discrimination from Aboriginal and Torres Strait Islander people, which is similar to 2006-07.

Given the anecdotal evidence the outreach team hears about the level of discrimination experienced by Indigenous people, the number of complaints may indicate that the process of translating experience of discrimination into resolved complaints needs to be overseen more effectively. The Aboriginal and Torres Strait Islander Outreach Team will continue

to monitor this issue and discuss it with the team's Advisory Committee.

The most common ground of complaint was race discrimination, with 50 complaints received. This represents 23.7% of all race discrimination complaints received by the Board in 2007-08.

The most frequent area of complaints received from Aboriginal and Torres Strait Islander people in 2007-08 was employment (31 complaints or 50%), followed by goods and services (26 complaints or 41.9%).

Complaints from Aboriginal and Torres Strait Islander people represent 5.4% of all complaints received by the Board in 2007-08, while 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 pages 20-21.

Aboriginal and Torres Strait Islander complaints 2007-08

	Emp	Goods	Accom	Educ	Clubs	Racial	Other	Total	%
		& Servs				vil			
Race	22	25	0	0	2	0	1	50	80.6
Age	5	0	0	0	0	0	0	5	8.1
Disability	0	1	1	0	0	0	0	2	3.2
Victimisation	1	0	0	0	0	0	0	1	1.6
Homosexuality	1	0	0	0	0	0	0	1	1.6
Sex	1	0	0	0	0	0	0	1	1.6
Racial vilification	0	0	0	0	0	1	0	1	1.6
Aiding unlawful act	1	0	0	0	0	0	0	1	1.6
Total	31	26	1	0	2	1	1	62	100

In 2007-08 there were no complaints from Aboriginal or Torres Strait Islanders on the grounds of carers' responsibilities, marital status, or transgender discrimination, or HIV/AIDS, homosexual or transgender vilification.

Education and training

In 2007-08 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.

Combined forums Do It Right program

The Board has continued to participate in the Do it Right forums throughout NSW in 2007-08. This program provides free seminars informing Aboriginal and Torres Strait Islander

employers, workers, community leaders and other people who give advice in the community about rights and responsibilities under a range of legislation in NSW.

In 2007-08 the Board participated in forums at Castlereagh, Collarenebri, Emerton and Coonamble. Other organisations involved included the NSW Office of Fair Trading, the Office of Industrial Relations, WorkCover NSW, the Australian Taxation Office, the Legal Aid Commission, the Telecommunications Industry Ombudsman and the Financial Ombudsman Services Ltd.

New pilot program

This year the *Do it Right* project initiated a new pilot program with the Western Sydney Region of the Department of Education to educate high school students under the Aboriginal Leadership Program. The Aboriginal Leadership Program is designed to develop students that show leadership qualities by enhancing their knowledge and skills.

Held at Emerton, the pilot session provided consistent and comprehensive information to Aboriginal and Torres Strait Islander students about their rights and obligations as an employee and their employer's rights and obligations. This included issues such as harassment and discrimination, workplace safety, workers compensation, tax, superannuation, consumer rights, how to deal with banking and phone issues, fair trading, what to do when starting a business and where to go for legal advice.



The pilot session received a very favourable response from the students, who commented that it covered information they had not known previously and would be useful in the future. They also appreciated the presentation of information from different organisations at the one forum.

The *Do it Right* team is hoping to continue the program in 2008-09 to reach all students doing years 9-12 in the Western Sydney region, and possibly expanded to other regions in the future.

Good Service forums

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

These forums are a joint initiative between the Board and the NSW Energy and Water Ombudsman, the Office of Fair Trading, the NSW Ombudsman, the Commonwealth Ombudsman, Legal Aid NSW, the Financial Ombudsman Service Ltd,



Top: Presenters from five different government bodies with participants at the Good Service forum held at Wilcannia in May 2008 ■ Below: High school students at the Do it Right Aboriginal Leadership program pilot session at Emerton.



Outreach

The team also undertakes outreach work to provide information about rights and responsibilities under the Anti-Discrimination Act. In 2007-08 team members and other staff ran information stalls at the following events:

- NAIDOC Week – Parramatta
- NAIDOC Week – Blacktown
- NAIDOC Week – Richmond
- NAIDOC Week – Shalvey
- NAIDOC Week – Woolloomooloo
- NAIDOC Week – Port Macquarie
- NAIDOC Week – Kempsey
- NAIDOC Week – Forester
- NAIDOC Week – Villawood
- Tregear Festival
- Mt Druitt Festival
- Parramatta Pride Picnic
- NEON Tertiary Education Expo
Careers Day – Kingswood Campus
- "The Sky's the Limit" Festival for
children with delays and disabilities
– Mt Druitt
- Surry Hills Festival
- Sydney Medieval Fayre Festival
– Parramatta
- Careers Expo – Broadmeadow
- Pacific Unity Festival
- Glenbrook Festival
- Newtown Festival
- Indigenous Education Training Expo
– University of Newcastle
- White Ribbon Day – Parramatta
- Legal Aid Information Stall
– Alexandria

Members of the Board's Aboriginal and Torres Strait Islander Outreach Team at the NAIDOC Week celebrations at Kempsey.

and the Telecommunications Industry Ombudsman.

In 2007-08 forums were held in Redfern, Wilcannia and Broken Hill.

Residential Tenancy seminars

In 2007-08 staff from the Outreach Team worked in partnership with the Office of Fair Trading (OFT) who organise seminars for real estate agents and private landlords. Real estate agents gain points for their professional development program by attending the seminars.

The Board presented information on the rights and responsibilities of agents and landlords under the Anti-Discrimination Act. Other participants included the OFT, the Consumer, Trader and Tenancy Tribunal, Centrelink and the NSW Fire Brigade. In 2007-08 seminars were held in Belmore, Wyong, Toronto, St Marys and Lidcombe.

- Christmas for Kids Family Fun Day
– Leichhardt
- Yabun Festival – Broadway
- Ingleburn Festival
- Harmony Youth Festival – Darling Harbour
- Welcome African Refugees Multicultural Information Day (International Human Rights Day)
– Alexandria
- GROW Indigenous Job Market
– Mount Druitt
- Koori Family Day - Parramatta
- Aboriginal Women's Corroboree
– Wyong
- Community Art and Craft Festival
– Kingswood
- Reconciliation Week – Belmore Park
- Careers Expo – Coonamble
- NSW Aboriginal Early Childhood Education Conference – North Wollongong
- Young Women's Festival (International Women's Day)
– Blacktown
- Job Expo – Shoalhaven

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

- Aboriginal Women's Gathering
– Parramatta Lakes, Merrylands, Granville, Mana Walfeel Muratoola, Cranebrook, Merrylands
- RailCorp Information Session - Sydney
- HGT Australia (Employment Agency) Students – Broadmeadow
- Office of Fair Trading staff induction
– Parramatta

- Deerubbin Local Aboriginal Land Council – Mt Druitt
- Penrith Women's Refuge
- Mulawa Women's Prison

The Outreach Team also attended Aboriginal Interagency Network Meeting at Western Sydney and Bankstown.

Aboriginal and Torres Strait Islander Advisory Committee

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

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.

Successful conciliation Race discrimination

An Aboriginal woman made a complaint of race discrimination after she went to a golf club of which she was a member during her lunch break. She said that when she went to collect her winnings from the poker machines towards the end of her break, the bar manager asked her if she was a member, and then broke off in the middle of serving her and went to served a white man who had arrived at the bar after her. She said that she felt put down and worthless and had not returned to the club since the incident.

The Bar Manager said that he felt it was better to quickly serve the new bar customer before going out to the poker machines, and his decision to do this had nothing to do with race. The club management said that many Aboriginal people were members of the club and there had been no previous complaints of discrimination.

The complaint was resolved when the President of the club and the bar manager agreed to provide the complainant with statements of regret about the incident, and confirmed that she was welcome at the club.



Education service

In 2007-08 the Newcastle office provided 40 on-site training sessions to 22 organisations, reaching 447 participants. This was 33% fewer sessions than the previous year.

The reduced number of training engagements was because the Senior Workplace Relations Consultant position based in Newcastle was vacant for around five months following the resignation of the incumbent. A new trainer was appointed to the position in May 2008. She has 15 years experience as a workplace trainer and has specialist skills in the management of human resources, equity and diversity and corporate training.

The most popular training sessions include Harassment and Bullying Prevention for Supervisors, Skills Training for Contact Officers and Grievance Handling. The main clients were from heavy industry and from government or government-funded bodies.

The Anti-Discrimination Board's Hunter EEO Network meetings will continue to be coordinated through the Newcastle Office offering valuable information sharing and networking opportunities.

Complaints

In 2007-08 the Newcastle Regional Office received 206 complaints, 18 more than in 2006-07.

The most common grounds of complaint lodged were sex discrimination (including pregnancy and sexual harassment) (27.7%), disability (20%) and race discrimination (14.6%).

These three grounds of complaint have consistently ranked highest in the Newcastle region. However, it is interesting to note complaints of disability discrimination increased by 5% compared with last year and race discrimination complaints fell by 6%. As in previous years, the most common area of complaint was employment followed by goods and services.

Complaints finalised

In 2007-08 the Newcastle Regional Office finalised 201 complaints, 22 more than last year.

Of these complaints:

- 58 (29%) were settled after investigation;
- 48 (23.9%) were terminated because they were withdrawn or abandoned;
- 32 (16%) were referred to the Administrative Decisions Tribunal for determination;
- 51 (25.4%) were terminated because they were not within jurisdiction; and
- 18 (9%) were formally declined (six of these complaints were then referred to the Administrative Decisions Tribunal at the complainant's request).

Complaints

In 2007-08, the Wollongong office received 178 new complaints. This is a decrease of 13.5% (28 complaints) compared with 2006-07.

As in 2006-07, disability was the most common ground of complaint (28% of complaints), followed by sex discrimination complaints (including pregnancy and sexual harassment) (23.6%).

The most common area of complaint continues to be employment (60%), followed by goods and services, which increased to comprise almost 25% of all complaints.

Complaints finalised

The Wollongong office finalised 180 complaints in 2007-08, which is 5 more than in 2006-07.

Of the total number of complaints accepted for investigation, 84 (or 53.5%) were settled, including 58 (37%) settled at or after formal conciliation proceedings.

A further 20 complaints (11%) were declined because the alleged conduct was not covered by the Anti-Discrimination Act, 22 (12%) were declined after investigation, 21 were referred to the Administrative Decisions Tribunal, 15 of which (8.5% of total complaints) were referred because conciliation was not successful. 34 (20%) were terminated by being withdrawn or abandoned – a significant reduction of 7% compared with 2006-07.



Education service

The part-time Senior Workplace Relations Consultant working from the Wollongong office provides education services to the south-eastern portion of NSW. In 2007-08 we delivered on-site workplace training to 19 client organisations, of which ten were new clients and nine were repeat clients.

A total of 65 workplace-training sessions were delivered, reaching almost 750 participants. Almost half of these sessions (32) were in rural areas including the Far South Coast, the Riverina and the Southern Tablelands.

Of the 19 client organisations, nine were in the private sector, eight were in the public sector and two were in the community/not for profit sector. The sectors covered included state and local government authorities, unions, industrial/manufacturing, education, aged care, finance and registered clubs.

The total income from workplace training in 2007-08 was over \$76,000, which is more than double last year's revenue and exceeds the 2007-08 target of \$67,200. The increase was partially the result of the service operating at full capacity for the whole year, whereas in 2006-07 there was an extended period of unplanned leave.

legal officer

Successful conciliation Disability discrimination

The complainant had worked as a storeman for a major chain store for many years. He had badly injured his shoulder while on holidays, and asked for light duties upon his return. He said that the company told him he could only come back when he was fully fit, so he had now used up all his leave and was in a difficult situation.

The company said that they had talked to the man about what he could do and the only work they thought suitable was as a cashier, but he had rejected this. The man later explained that he was unsure about handling money and did not think he would be able to do this job.

By the time of the conciliation conference the man was back at work on other light duties. At conciliation, the company accepted that there had been some problems with their handling of the man's medical certificates.

The complaint was resolved when the company agreed to pay the man compensation of \$2,000, provide a letter of regret, and return him to his previous job as soon as he was fit.

The Board's Legal Officer is the first port of call for 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 manages any litigation to which the President or the Board is a party, and is responsible for subpoenas and Freedom of Information requests. The Legal Officer is also responsible for making submissions on law reform issues relating to discrimination.

A large part of the Legal Officer's work is to coordinate the Board's response to applications for exemption from the ADA – receiving and assessing applications and advising the members of the Statutory Board when necessary. The Board then makes recommendations to the Attorney General, who ultimately decides whether exemptions will be granted.

The Legal Officer also deals with written and telephone enquiries about exemptions which do not proceed and also provides advice about whether an exception under the ADA could apply. Exceptions specifically authorise certain conduct under the ADA without the need for an exemption, for example there may be a genuine occupational requirement for a person of a particular race or sex to perform a job. In these cases there is no need to apply for an exemption.

This year the Board received 23 applications for exemption. Of these, two applications for exemption under section 126 have been granted and five exemptions under section 126A.

Six applications did not proceed, usually because an exception applied and an exemption was not necessary. In two cases the Board recommended to the Attorney General that an exemption should not be granted. The remaining eight have not yet been determined.

Section 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. Section 126A is directed towards programs or activities for the special needs of some of the groups covered by the ADA.

The Legal Officer also works very closely with staff in the Enquiries and Conciliation Branch. The Legal Officer provides legal advice to staff in relation to enquiries and complaints received by the Board.

This advice usually relates to the interpretation of the ADA and how it will apply to the particular circumstances of a complaint or an enquiry. The Legal Officer also prepares summaries for staff of relevant discrimination cases and issues in NSW and other jurisdictions.

Section 126 exemptions 2007-08

Applicant	Program	Sections	Date	Expiry
Boeing Australia Holdings Pty Ltd and its related bodies corporate	To ask present and future employees to advise their exact citizenship (including any dual citizenship) and/or residency status under Australian law, identify employees accordingly, and make decisions about deploying employees on that basis. Conditions attached – for details, contact the Anti-Discrimination Board	7, 8, 9, 10, 51, 52	8.2.2008 (1 year)	7.2.2009
Veolia Transport Pty Ltd	To designate and recruit for women only for positions as bus drivers	25, 51	2.5.2008 (5 years)	1.5.2013

Section 126A exemptions 2007-08

Organisation	Special needs program or activity	Exemption period
Beach House Group Pty Ltd	To provide in fitness centres catering for men and women a separate section for women only; employ women only to staff the female-only areas of the fitness centre; to advertise the services mentioned and to advertise for and employ women for the positions.	12.9.2007 to 11.9.2012 (5 years)
Equal Fights	To run self defence courses for women only participants.	18.2.08 to 17.2.10 (2 years)
Hawkesbury Nepean Community Legal Centre Inc	To run workshops for women only for victims of domestic violence who are preparing to attend Family Relationship Centres for family dispute resolution between April-June 2008.	April-July 2008
Molonglo Women and Children's Services Ltd	Crisis accommodation and supported programs and associated services as a special needs program.	13.8.2007 to 12.8.2017 (10 years)
RPA Sexual Health Service (Sydney South West Area Health Service)	To run an Aboriginal men's clinic and an Aboriginal women's clinic.	granted 21 May 2008 indefinitely

liaison and support



The Board's IT Support Officer works with IT staff from the Attorney General's Department to make sure that the Board's computer systems are in optimum working order.

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

This is done with a mix of in-house support systems and procedures that complement corporate services provided by the Attorney-General's Department.

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.

Human resources

The branch continued to provide administrative support for recruiting staff and updated position descriptions as required. Twelve recruitments and thirteen expressions of interest were completed in 2007-08. We also monitored staff training and development activity to complement the Department's Performance Planning and Development system.

Occupational Health and Safety

The Board formed a new OHS Committee in 2007-08, as the previous one had lapsed due to staff departures. The committee is committed to preventing and removing any potential health and safety hazards in the workplace. All the members are in the process of attending mandatory training for the role. The Board also has three First Aid Officers.

There were no significant OHS incidents during the year. Workplace assessments were carried out for staff as required.

Information technology

The main activities in 2007-08 were:

- Upgrading all hardware and software to the latest standard of the Attorney General's Department.

- Implementing the new complaint-handling database, which is now at around 90% of full functionality; and
- Further development of a high-level functional specification for the acquisition of a customer management system for the Board's training activities, and comparison with other relevant applications.

Service complaints

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

In 2007-08 we received twelve complaints. They related to service delivery, staff conduct and the Board's decision about a discrimination complaint. We regard this as a good result in view of our contact with over 8,000 individuals during the year.

Finance

The net cost of services provided by the Board was \$3,454,299, against a budget of \$3,546,784, which was underspent by \$92,485. Part of this underspending was due to unfilled positions and savings in rent of premises.

Education self-funding program

The broader costing methodology developed in 2006-07 enabled a range of expenses previously met by core funding to be allocated to the education self-funding program. We will continue to fine-tune the methodology to ensure that it continues to reflect a true view of the cost of delivering the Board's training services to employers and service providers.

financial statement

Total operations 2007-08

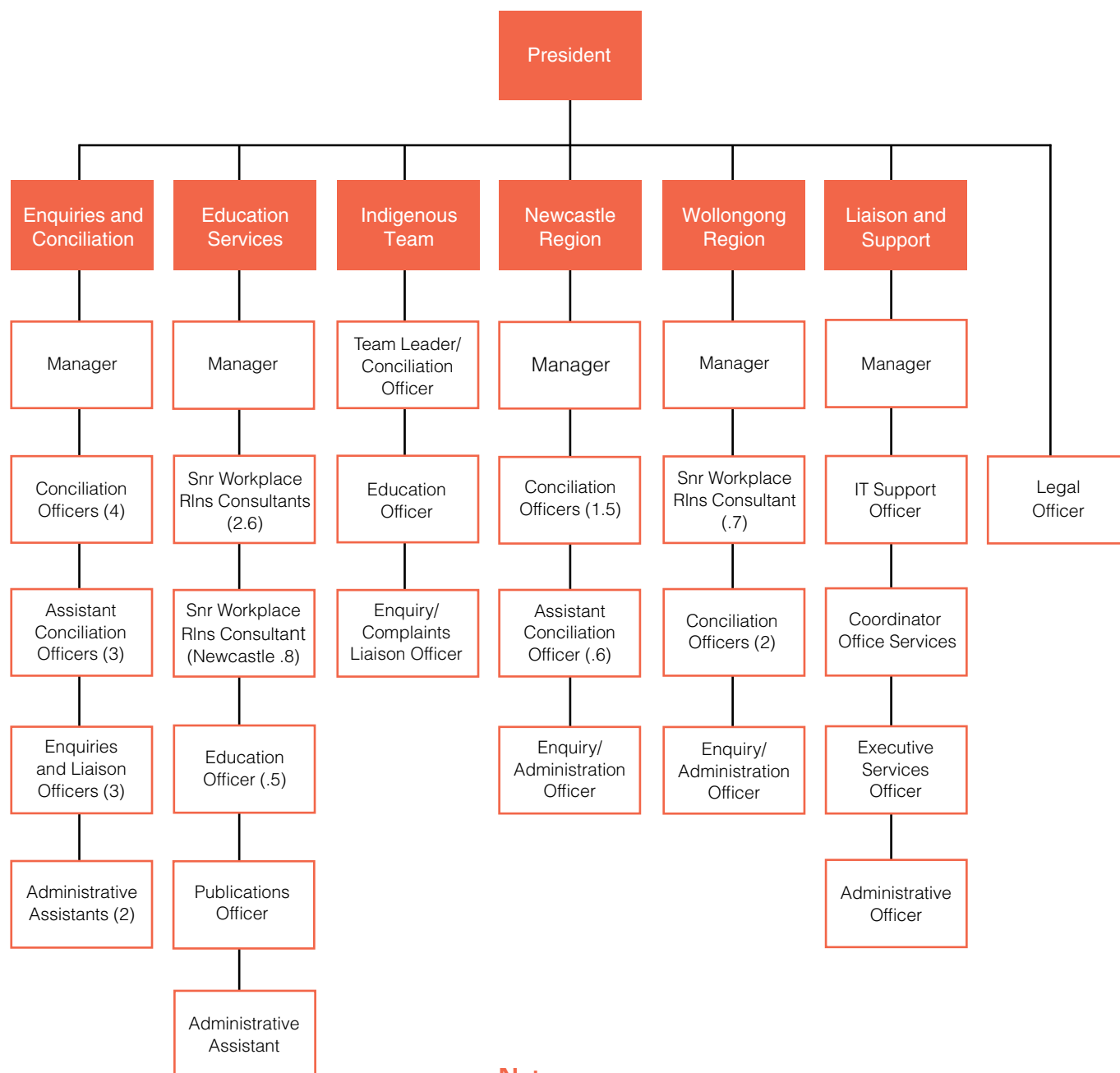
	Actual	Budget	Variance
Revenue			
User charges	(696,247)	(694,512)	(1,735)
Other revenue	0	0	0
TOTAL REVENUE	(696,247)	(694,512)	(1,735)
Expenses			
Employee-related payments	3,020,026	3,097,008	76,982
Other operating	960,558	994,071	33,513
Maintenance	13,166	28,090	14,924
Depreciation	156,795	122,127	(34,668)
Grants and subsidies	-	-	-
Other services	-	-	-
TOTAL EXPENDITURE	4,150,546	4,241,296	90,750
NET COST OF SERVICES	3,454,299	3,546,784	92,485

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 2007-08

	Actual	Budget	Variance
Revenue			
User charges	(696,247)	(694,512)	1,735
TOTAL REVENUE	(696,247)	(694,512)	1,735
Expenses			
Employee-related payments	438,532	403,125	(35,407)
Other operating	120,875	213,650	92,775
Maintenance	0	411	411
Depreciation and amortisation	103	10,608	10,505
Grants and subsidies	-	-	-
Other services	-	-	-
TOTAL EXPENDITURE	559,510	627,794	68,284
NET COST OF SERVICES	(136,737)	(66,718)	70,019

structure of the board



Notes

1. The Board employs casual trainers as required to cover demand for the Board's training services.
2. Other temporary staff were employed during the year as follows: a Team Leader User Acceptance Testing (for the new enquiry and complaints handling system); a Project Officer Community Information (for the Board's 30th anniversary, until December 2007); and two .2 FTE Senior Workplace Relations Consultants (to cover demand for training while another position was vacant, to December 2007).

current publications 2007-08

Factsheets

Aboriginal & Torres Strait Islander Outreach Program

Age discrimination

Alcohol-free zones

Anti-Discrimination Act amendments

Anti-discrimination law and the small business owner

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

Carers' responsibilities discrimination

Complaining to the Anti-Discrimination Board

Disability discrimination

Discrimination, EEO and affirmative action

Discrimination and the Anti-Discrimination Board of NSW (general factsheet on discrimination)

Discrimination and unlawful dismissal

Harassment and sexual harassment

Homosexual discrimination

How to deal with discrimination, unfair treatment or harassment (strategies and contacts)

Infectious diseases discrimination

Introductory factsheet in 25 community languages

Marital status discrimination

Pregnancy discrimination

Race discrimination

Sex discrimination

Transgender discrimination

Treated unfairly because you are an Aboriginal and Torres Strait Islander person?

Vilification

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

What you need to know about anti-discrimination law (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

Workplace guidelines

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

Grievance procedures

Grievance Investigator Guidelines

Guidelines for Contact Officers (new edition)

Guidelines for Managers and Supervisors (new edition)

Guidelines for non-supervisory staff (new edition)

Guidelines for union representatives

Identifying and eliminating discrimination from industrial awards and agreements

Sample policies and procedures

Other guidelines

Anti-discrimination guidelines for hoteliers (CD-Rom)

Community Workers Guidelines

Exemption guidelines (electronic only)

Guidelines for advertisers

Know your rights: a guide for Aboriginal and Torres Strait Islander people

Other publications

Aboriginal and Torres Strait Islander rights wallet card

Aboriginal and Torres Strait Islander training brochure

30th anniversary postcards (3)

Annual Report 2006-07

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

Complaint form

Equal Time (email newsletter, 3 issues/year)

Fridge Magnets

Guarantee of service

How to lodge a complaint with the Anti-Discrimination Board – in 24 different languages

In-house training brochure for employers and service providers

Publications catalogue for employers

Seminar Calendar for employer and service provider training (3 issues/year)

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



sticks and stones

Sticks and stones may break my bones
But names will never hurt me
This isn't so true, because most bones heal
But harsh words won't desert me.

Each bully has a different way
of taking out their rage.
They target me for my appearance, my race
and sometimes even my age.

I'm quite a good person, at least I think I am
So why do they bully me?
I try to be considerate, accepting and kind
Isn't that how we all should be?

I try to treat others like I'd want to be treated
Why don't these bullies do the same
It seems they're angry at something or someone
But I'm getting all the blame.

I'm not the kind to complain or talk
or get things off my chest,
But in this case I'm beginning to think
That it would be for the best.

I want to tell of my pain and sadness
of dreading every tomorrow
I want to tell of my constant fears
And of my deepest sorrows.

No kind of bullying is excusable,
No bully is ever right
To put someone down, to make them feel small
To try and pick a fight.

The only way to stop it all
Is to tell a parent, teacher or a friend.
I'm sure they'll know what to do
I'm sure they'll take a stand.

No more will any bully's
Sticks or stones break my bones
And their names will never hurt me
Because hopefully I won't be alone.

*Ahmad El Ammar, age 9, Peakhurst West Public School
Winner Years 3-6, ADB Law Week 2008 Writing Competition*



anti-discrimination board of nsw
annual report 07-08



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