

Annual Report 2015/16



Equal Opportunity
Commission



Government of South Australia

Equal Opportunity Commission

Equal Opportunity Commission Annual Report 2015/16

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Important Notice:

This paper provides general information and statistics only. It does not purport to include all information available nor does it intend to be legal advice.

For further, complete and specific advice please contact the Equal Opportunity Commission office.

Acknowledgements:

The Equal Opportunity Commission acknowledges that we live and work on the traditional country of the Kurna people of the Adelaide Plains. We recognise and respect their cultural heritage, beliefs and relationship with the land.

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2015-16 at a Glance



891

Enquiries answered from the public



184

Complaints of discrimination received



129

Complaints of discrimination accepted (40% increase on last year)



115

Accepted complaints were resolved in average of 7.6 months



16%

Complaints finalised within 4 months & 41% within 6 months



50%

Complaints were conciliated (15% improvement on last year)



100%

Respondents and 75% complainants were satisfied with complaint handling process



55%

Complaints related to unlawful discrimination on the grounds of disability



57%

Complaints related to unlawful discrimination or unfair treatment in employment



Complaints relating to unlawful discrimination on the grounds of disability, age, marital status and sexuality reached a 4-year high



11

Public sector agencies achieved White Ribbon Workplace Accreditation



Partnered with private sector employers to form a Disability Employment Community of Practice



>40

More than 40 community organisations, local councils and businesses support 'Racism. It Stops With Me' campaign



55

Education and training sessions delivered



Commenced Independent Review into sex discrimination and sexual harassment within SAPOL



5

Policy submissions made



19%

Increase in EOC website visits



120%

Growth in Twitter and Facebook audiences



100,000

Or more people regularly reached through Facebook posts

Message from the Commissioner

It has been a year of change and transition for the Equal Opportunity Commission (EOC). The former Commissioner, Anne Gale was farewelled in December 2015, as she took up the position of Public Advocate in South Australia.

I would like to take this opportunity to thank Anne for her dedication and contribution to the EOC over the last three years and also extend my sincere thanks to Anne Burgess for acting as the Commissioner until my appointment on the 26 May 2016.

I am very excited to be taking up this new role and to be building on the work of my predecessors in tackling the ongoing challenges of inequality opportunity and discrimination that continue to undermine our community's social cohesion and people's sense of fulfilment and self-esteem, as well as wasting a lot of talent.

In my previous roles I have been working to develop wiser leadership for South Australia and it is evident to me that enlightened leadership in business, government and the community sector are essential to addressing obstacles and constraints of equality of opportunity, fostering informed and unprejudiced attitudes and preventing discrimination. I want to use my experience to help empower leaders at every level to bring about positive cultural change in their organisations and in the broader community.

This year has seen some significant achievements for the EOC that are outlined throughout this report. A particularly important new focus area is our Independent Review into the nature and extent of sex discrimination and sexual harassment, including predatory behaviour, within South Australian Police (SAPOL). The Police Commissioner and his leadership team have made a commitment to ensure the culture in SAPOL is positive and inclusive. They want to identify areas to improve their practices. As such, this is a significant opportunity for the EOC to be involved in a process that can inform important changes in workplace culture. The Review is the first of its kind in South Australia.

Our complaint-handling work remains central to our role in tackling discrimination within our communities. This year saw a 40% increase in the number of complaints accepted by the EOC. Whilst this had a direct impact on our ability to maintain accepted complaint resolution times, I have been working with our dedicated team of conciliators to explore new ways of streamlining the complaint-handling process to provide a more timely and efficient service. We are currently rolling this out.

I thank the EOC's very dedicated team members for the continued hard work that is reflected in this comprehensive report of our activities over the past twelve months. I look forward to continuing our important work in partnership with our government, business and community partners.



Dr Niki Vincent
Commissioner for Equal Opportunity



The Equal Opportunity Commission

About the EOC

The South Australian Equal Opportunity Commission (EOC) is an independent statutory body with responsibility under the *Equal Opportunity Act 1984 (SA)* (the Act) for promoting equality of opportunity and fostering informed and unprejudiced community attitudes, with a view to eliminating discrimination on the grounds to which the Act applies.

The Act enables the EOC to undertake a range of functions including:

- Educating and informing people about their rights and responsibilities under the Act through the provision of education, training and information;
- Undertaking voluntary reviews of programs and practices to help people and organisations comply with the law;
- Undertaking research and project work to find solutions to systemic causes of discrimination;
- Assisting people to resolve complaints of discrimination, sexual harassment or victimisation; and
- Advising government on legislative and policy reform on relevant matters.

The EOC reports to Parliament through the Attorney-General.

The work of the EOC can be categorised into five key areas:

- Strategic Projects, Policy and Engagement;
- Consultancy Services;
- Complaint Handling and Conciliation;
- Education and Training Services; and
- Office Management and Administrative Services.

Our Vision

Our vision is for a flourishing South Australia, enriched by diversity and united in a commitment to inclusiveness and equality of opportunity.

Our Mission

As a leader in the drive for equity and the elimination of discrimination in South Australia, we actively:

- **Engage** with the community to raise awareness and promote understanding through our training programmes, community forums, social media, public speaking and by listening;
- **Empower** people to explore and resolve discrimination complaints through our alternative dispute resolution process;
- **Advocate** for policy and law reform to eliminate all forms of discrimination; and
- **Collaborate** with organisations at both state and national level to prevent and address discrimination issues.

Our Values

At the EOC we are passionate about our work that enhances the lives of individuals and communities. Our values are the foundation of what we do and how we do it. The key values that guide our work are:

- **Integrity** – our team members are guided by sound ethical principles. We honour the trust that others have in us. We recognise the impact that our actions may have on others and take responsibility for our mistakes;
- **Impartiality** – we are advocates for equal opportunity but remain unbiased in our dealings with complainants and respondents (working from the principle that most people want to do the right thing by others). We interact with many stakeholders and treat everyone with respect;
- **Adaptability** – we seek out and are responsive to learning opportunities however they arise in order to improve the work that we do. We are innovative and forward thinking in our efforts to carry out our work. We seek new ways of delivering service by collaboration with other leading organisations. We welcome input from the community. We strive to be leaders in our field, in service of a better South Australia;
- **Workplace leadership** - the EOC is a role model for an inclusive, flexible and innovative workplace. As an organisation, we walk our talk. We enjoy rewarding relationships within our team. We demonstrate how embracing diversity, flexibility and continuous learning can enhance an organisation's performance and the wellbeing of its team members. We believe that this translates across all walks of life.

Team Member Training and Development

During 2015-16 the EOC supported staff to undertake the following professional development opportunities:

- LEADR Conciliation Master class at the Northern Territory Anti-Discrimination Commission from 10 -13 August 2015;
- Annual Human Rights Conference 2016 hosted by the Castan Centre for Human Rights Law in Melbourne; and
- Conciliation and Training Officer Robyn Dwight spent two months working for the Northern Territory Anti-Discrimination Commission reviewing and redeveloping their training programs and delivering training. Robyn gained valuable experience in interpreting the NT *Anti-Discrimination Act* and brought back a ideas and processes that may enhance the work of the South Australian EOC. Robyn found this a rewarding experience.



Above in: Christine Johnson (left), Education and Training Officer at the NT Anti-Discrimination Commission working with Robyn Dwight (right).



Driving Cultural Change

Through its project work and education and training services, the Equal Opportunity Commission seeks to promote diversity, eliminate discrimination, build good practice and deliver positive systemic change in the community.

Independent Review into Sex Discrimination, Sexual Harassment and Predatory Behaviour in SA Police

The EOC has been commissioned by South Australia Police (SAPOL) to undertake an Independent Review into the nature and extent of sex discrimination and sexual harassment, including predatory behaviour, within SAPOL (the Review). The Review was announced on 15 April 2016, at a SAPOL event to mark the conclusion of celebrations of 100 years of Women in Policing.

Awareness of the high rate of violence against women in Australia is increasing. There is a growing community appetite to take action. Sexual harassment is a form of violence. Tolerance of sexual harassment in the workplace is unacceptable.

There is growing evidence that diverse workplaces are more productive and perform better. Discrimination is also costly to both the individuals and organisations involved. After nearly 40 years of legislation, there are still many barriers to gender equality in the workplace. From a legal, economic and human rights perspective, many organisations are deciding it is time to act.

Sex discrimination, sexual harassment and predatory behaviour are broader social issues that affect all areas of society. SAPOL provides a vital service in keeping South Australians safe. To ensure the best possible service to the community, SAPOL must also ensure the safety and wellbeing of staff, of which 32% are women. The SAPOL Commissioner, Grant Stevens, and his leadership team have made a commitment to identify opportunities to improve their practices to ensure the culture in SAPOL is positive and inclusive.

As part of the engagement process for the Review, the EOC Review team visited 27 SAPOL sites and gave over 30 presentations, reaching around 1,000 SAPOL employees face to face. Current SAPOL staff, including sworn and non-sworn employees, volunteers and staff who left SAPOL in the last 12 months were invited to take part in an anonymous survey and confidential interviews. Over 30% of SAPOL's workforce took part in the survey. Dozens of people participated in confidential interviews, sharing their experiences and suggesting ways for SAPOL to improve its culture and practice. The Review team is extremely grateful for the willingness of so many people to participate in this process in a constructive way.

At time of writing, the complex process of completing quantitative and qualitative analysis of the collected data was well underway. A final review report will be made available to the public by the end of 2016, making recommendations about improving the safety and wellbeing of SAPOL staff. The EOC will independently monitor and report on SAPOL's progress against recommendations over a three-year period.

SA Public Sector White Ribbon Workplace Accreditation Project



On 15 July 2016, White Ribbon Australia announced that all eleven South Australian Government Departments who participated in the Workplace Program successfully achieved accreditation.

As part of the 2014 'Taking a Stand: Responding to Domestic Violence' initiative the Premier committed to the SA Public Sector undertaking the White Ribbon Workplace Accreditation Program (the Program).

Led by the Office of the Commissioner for Equal Opportunity, the Program began in March 2015 and aimed to assist departments in recognising the negative impacts violence has on the health and safety of women at work, their wellbeing and productivity.

Through participation in the Program departments have made significant gains in adapting organisational culture, practices and procedures so that they promote safe workplaces for women and respectful interactions between all workers. Each department:

- Selected male leaders to drive initiatives that support gender equality;
- Allocated resources to improving safety and identifying risks in the workplace;
- Developed strategies to promote the program and encourage staff participation;
- Trained employees in violence prevention and responding to disclosures of domestic violence; and
- Reviewed workplace policies and procedures that support victims of domestic violence.

Wherever possible a 'whole of government' approach was employed to address the White Ribbon Standards. This approach enabled resources to be consolidated, information to be shared across departments, and the fostering of good working relationships necessary for Program sustainability and reach.



In partnership with internal and external providers the EOC:

- Hosted a White Ribbon event for senior managers and executives, focusing on leadership, gender equality and violence prevention which, 558 public sector employees attended. Feedback from this event (30% response rate) found that 96% felt that they had a better understanding of why violence against women is a workplace issue;
- Developed a staff e-learning induction package that focuses on understanding the causes of violence against women, the role of active bystanders in violence prevention and how this translates to preventing and responding to violence against women in the workplace;
- Co-ordinated training for 150 managers that focused on safety planning and risk assessment. 45% of managers provided feedback on the training; and
- Through procurement arrangements developed a clause related to zero tolerance for violence against women in external government contracts.



Each organisation will now progress gender equality initiatives commenced through the Program over the next three years. The White Ribbon accredited departments are:

- Attorney-General's
- Correctional Services
- Education and Child Development
- Environment, Water and Natural Resources
- Health and Ageing
- Planning, Transport and Infrastructure
- Premier and Cabinet
- Primary Industries and Regions
- SA Police
- State Development
- Treasury and Finance



A further nine government agencies are currently undertaking the accreditation process with a completion date set for February 2017.

National Anti-Racism Strategy in South Australia

In 2012, the Australian Human Rights Commission (AHRC) launched the National Anti-Racism Strategy to promote a clear understanding in the Australian community of what racism is and how it can be prevented and reduced. In 2015, the Strategy was extended for a further three years. Phase two of the Strategy will focus on two distinct but complementary themes:

- Combating racism and discrimination; and
- Supporting diversity and inclusion.

The primary awareness raising and engagement activity within the Strategy is the 'Racism. It Stops With Me' campaign.

The logo for the 'Racism. It Stops With Me' campaign. It features the text 'RACISM. IT STOPS WITH ME' in a bold, sans-serif font. 'RACISM.' is in red, and 'IT STOPS WITH ME' is in white. The text is set against a black rectangular background with a thin red border.

New Supporters to the Campaign

The EOC continues to lead the promotion and implementation of the Strategy and campaign in South Australia. The EOC's focus is to encourage new supporters to sign up to the campaign, whilst also continuing its engagement with government agencies.

More than 40 local community and sporting organisations, councils and businesses are now supporting the campaign and undertaking work to combat racial prejudice and discrimination.

The South Australian Government

On 5 August 2015, the South Australian Government signed a recommitment to the 'National Anti-Racism Campaign Supporter Agreement' reaffirming the Government's ongoing support to the campaign.

Implementation and governance of this commitment has been through the Safe Communities, Healthy Neighbourhoods Cabinet Taskforce. The Commissioner for Equal Opportunity has been coordinating an across government group to oversee the implementation of the Strategy within each agency. This Implementation Group has been meeting since 1 May 2014. The Implementation Group brings together executives from across government to discuss and report on each agency's implementation of the Strategy, and in particular the 'Racism. It Stops With Me' campaign. A summary report of the actions undertaken by each agency to implement the Strategy was provided to the Minister for Aboriginal Affairs and Reconciliation and the Minister for Multicultural Affairs in August 2015.

South Australia's Parliament Stands United Against Racism

South Australian Parliamentarians pledged their support for the national anti-racism campaign, 'Racism. It Stops With Me' at a special Harmony Day event on 25 March 2016.

Assistant Minister to the Premier, Katrine Hildyard, MP and the Hon. Jong Lee, MLC co-organised the event in partnership with the Australian Race Discrimination Commissioner, Dr Tim Soutphommasane and the South Australian EOC. Harmony Day is held annually to mark the United Nations, International Day for the Elimination of Racial Discrimination and is an opportunity to highlight the benefits that multiculturalism brings to Australia. Dr Soutphommasane noted that having the support of South Australia's Parliament sends a powerful message about the State's support for racial tolerance.



Above in: (left to right) Mr Frank Lampard OAM, Commissioner for Aboriginal Engagement; the Hon. Kelly Vincent, MLC; Trish Spargo, Equal Opportunity Commission; Mr John Gee, MP; the Hon. Jennifer Rankine, MP; Mr Corey Wingard, MP; Ms Katrine Hildyard MP, Assistant Minister to the Premier; Dr. Tim Soutphommasane, Race Discrimination Commissioner; The Hon Gerry Kandelaars, MLC; the Hon. Jing Lee, MLC; the Hon. Gail Gago, MLC; Mrs Annabel Digance, MP; Mr Mark Waters, Reconciliation SA; The Hon. Tung Ngo, MLC; Ms Dana Wortley, MP; The Hon. Russell Wortley, MLC and Dr. Duncan McFetridge, MP.

Equal Opportunity Commission Named Supporter of the Month

In recognition of the EOC's tireless work to promote the 'Racism. It Stops With Me' campaign in South Australia, the EOC was named Supporter of the Month by the Australian Human Rights Commission in March 2016.

Roundtables

The EOC has continued to host roundtables with peak bodies, and multicultural and Aboriginal and Torres Strait Islanders people to identify priority action areas to counter racism in South Australia. Fourteen roundtables have been held to date. The EOC has committed to hosting forums on the priority action areas identified by participants.

Cyber-Racism and Social Media Forum

In response to rising incidences of cyber-racism, the Commissioner for Equal Opportunity hosted a forum on 9 September 2015, to create an important and unique opportunity to share ideas on how to combat cyber-racism in the community.

Guest speakers for the event included Australian Race Discrimination Commissioner, Dr Tim Soutphommasane, Detective Senior Sergeant Barry Blundell, Officer in Charge of the Electronic Crime Section of the South Australia Police, and Ms Michelle Prak, an Adelaide based social media consultant.

The forum enabled participants to gain a better understanding of how social media works in the context of anti-racism strategies. Strategies were explored to effectively counteract negative messaging. Experiences and information were shared in a collaborative effort to combat cyber-racism.



Above in: (left to right) Michelle Prak; Dr Tim Soutphommasane, Australian Race Discrimination Commissioner and Detective Senior Sergeant Barry Blundell.

With the dramatic increase in the use of the internet and social networking sites, new arenas have been created in which discrimination, bullying and harassment can take place. The forum provided an important opportunity to harness the positive potential of the Internet and social media to educate the community about racism. 80% of participants said their knowledge of social media and cyber-racism improved and 87% found the topic very relevant.

“The laws relationship with social media was very insightful and useful, and Dr Tim Soutphommasane's comments on the ways in which social media makes racism more widespread and inescapable was very interesting.” (participant feedback).

Find out more about the ‘Racism. It Stops with Me’ campaign at:

<https://itstopswithme.humanrights.gov.au/>

Chiefs for Gender Equity

As business leaders in our State, the Chiefs for Gender Equity continue to work together to achieve the common aim of actively advancing gender equity. The members drive and initiate change within their industries, the South Australian communities and the organisations they lead.

For the 2015-16 year the Chiefs committed to an engagement series including listening forums with staff, and engaging with businesses and the Premier's Council for Women. This enabled them to gain direct insight into the key issues and barriers that need to be tackled within their organisations and the broader community to improve gender equity.

In August 2015, the Chiefs held a public forum as part of the 'Committee for Economic Development in Australia (CEDA), Women in Leadership lunch series' to engage with the broader South Australian community on gender diversity. This lunch was one of the most successful CEDA events of the year, attended by over 300 people including around 90 men. The forum used interactive tools and approaches to encourage engagement from the audience, including a real-time electronic survey to gain immediate feedback from attendees. Participants were asked to provide their thoughts on the barriers and solutions to improving gender equity and achieving equality.

It was consistently raised in all forums that organisational leadership is critical to achieving gender equity. Participants also emphasised the need for equal representation of men and women within decision making positions at all levels, providing positive role models to both men and women.

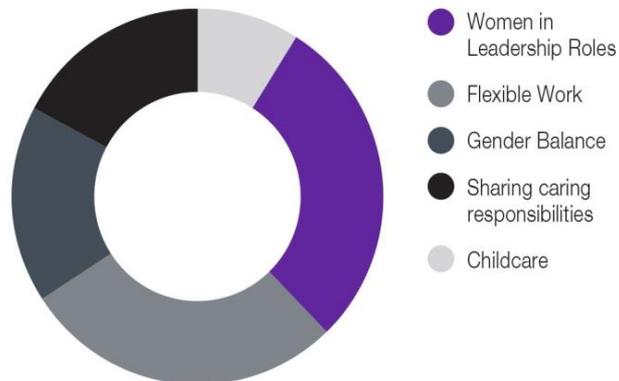
Access to flexible work and work-life balance emerged as consistent themes in all forums and flexible working was seen as an important solution to achieving greater equity for men and women, with employees calling on organisations to see caring as not just the responsibility of women. However, men stated that they are less likely to feel comfortable asking for flexible work arrangements or carer's leave and are concerned that these requests may not be granted.

Participants saw improved work-life balance in all roles, greater flexibility for carers and removing the stigma associated with flexible working as key to achieving gender equity in the workplace. In addition, they felt that the belief that 'you must be seen at work to be working' prohibits access to flexible work and consideration of other ways of working.

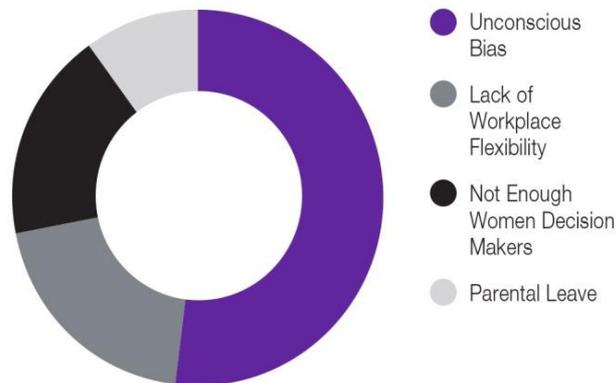
Forum participants further highlighted the gender stereotypes that encourage people to believe that parenting responsibilities remain a 'woman's issue'. Participants in all forums called on male leaders to role model work practices such as taking flexible leave and to call out positive and negative behaviours with regard to flexible work. They stressed that workplace initiatives need to be underpinned by a change in culture, and organisations need to challenge the stereotypes around men and women's traditional roles in the workplace and in society. With this in mind, participants suggested that organisations work to raise awareness of unconscious bias and the biases embedded within systems and processes.



If you could choose one solution to focus on to create greater gender equity in SA workplaces what would it be?



What do you see as the main barriers to gender equity in the workplace



The engagement activities undertaken during the year proved invaluable in helping to shape the focus and future initiatives of each Chief and the group. Learnings from the forums helped inform the development of the Chiefs' '2016-17 Work Plan' which will focus on:

- Our Leadership Shadow - walking the talk
- Flexible Work Practices - including encouraging men to take up flexible work
- Reducing Unconscious bias
- Measuring progress - reporting on outcomes and accountability
- Extending membership group to incorporate women to a 50:50 ratio

Flexible Workplaces

In 2014, the EOC undertook the Flexible Workplace Futures Project (the Project) focused on identifying and adopting ways that public sector workplaces can be flexible, while improving productivity and innovation.

The Project resulted in the completion of the Commissioner for Public Sector Employment Guideline and Determination: Flexible Workplaces and a resources toolkit, available on the EOC's website, to support a strategic approach to implementing and improving flexible workplace options in the public sector. The flexible working toolkit was downloaded over 10,000 times between 1 July 2014 and 30 June 2016.

In 2015-16 the EOC has continued to:

- Raise awareness of the benefits of flexible working arrangements in terms of business outcomes; and
- Encourage implementation of flexible work policies and practices more consistently across the public and private sectors.

The Equal Opportunity Commission is working collaboratively with the Chiefs for Gender Equity (see previous section), to improve flexible workplace options in their respective industries. The work of the Chiefs has a particular focus on engaging men in flexible working arrangements to facilitate gender equality at work. Access to flexible working arrangements is a critical platform in both the public and private sectors for enabling genuine choice for women and men in designing their work and caring arrangements and in providing greater opportunities for men to choose to be more actively involved in caring responsibilities.

The Equal Opportunity Commission's Independent Review for South Australian Police will examine access to flexible work.

Employment of People with Disability

The Equal Opportunity Commission led a '90-day Change Project in 2014' to increase public sector employment of people with disability. This project was undertaken in partnership with the Department for Communities and Social Inclusion, the Office for the Public Sector, the Department of Primary Industries and Regions SA, the Department of State Development, and Barkuma's Personnel Employment Service.

Aims of the project were to:

- Increase the number of people with developmental disability employed in the public sector;
- Identify a consistent and contemporary online disability awareness training tool for use across government; and

- Create a resources hub for employers and employees including good practice examples of employing people with disability.

The Project identified a number of resources, service providers, tools and information to assist with the recruitment and ongoing employment of individuals with disability, which are available on a resources hub through the EOC's website at: <http://www.eoc.sa.gov.au/eo-resources/disability-employment-resource-hub>.

There was a target of five new positions within the Public Sector for people with intellectual and learning disability and Autism Spectrum Disorder. In 2014-15, this target was exceeded as six people were successfully employed, including four people who are job sharing in two positions. Due to the Project's success, work has continued in 2015-16, with a further seven people successfully employed, including six people who are job sharing in three positions.

To date the Project team has not yet identified a consistent and contemporary online disability awareness training tool that aligns with the training needs of all government agencies across the public sector. Many programs that were assessed focussed solely on either disability awareness training for customer service or disability awareness training for communicating and working with co-workers with disability, but not both. The EOC, in partnership with the project team, will now focus on exploring options for developing a more customised training option that delivers training in both areas, for consideration by key agency partners.

Outside of the initial '90-day Change Project', the EOC has been continuing to work with the public sector to increase employment rates of people with disability. The EOC has encouraged government agencies to partner with the National Disability Recruitment Coordinator (NDRC) to gain access to a range of free advisory and support services to promote employment opportunities for candidates with disability. Eight government agencies attended the NDRC's 'Getting To Yes' Employer Seminar on 2 December 2015, to learn more about successful employment practices and ideas for progressing disability employment initiatives.

The Department of the Premier and Cabinet was the first agency to sign on with the NDRC in December 2015. The NDRC is looking to partner with other interested agencies at the start of the new financial year.

The EOC has also partnered with a network of private sector employers to form a 'Disability Employment Community of Practice'. This will offer employers the opportunity to engage in a dynamic learning conversation about employing people with disability and to share information, resources and connections to reference the learning conversation.

Training and Community Education

The EOC provides education and training services to promote equal opportunity principles and to give people the knowledge and skills needed to understand their rights and responsibilities under the Act. These services include:

- In-house training courses;
- Customised training for organisations and workplaces; and
- Education and information sessions for the community.

In 2015-16, the EOC delivered 55 education and training sessions to employers, employees and community groups. Training for Contact Officers and sessions on preventing and resolving workplace bullying, discrimination and harassment continue to be the most popular in-house training courses. In addition, the EOC delivered customised training for the Department of State Development, SafeWork SA, the Attorney-General's Department, the City of Charles Sturt, Community Bridging Services (CBS), the Department of Planning, Transport and Infrastructure, and Forensic Science SA. This training included reviewing workplace policies and procedures, developing an equal opportunity plan, completing an assessment of the workplace culture and supporting organisations to conduct their own training in the future.

The EOC also delivered education and information sessions for ReturnToWorkSA and TAFE SA (Certificate IV English Proficiency Job Seeking Students) and made regular guest appearances on Radio Adelaide and Coast FM.

The EOC continues to offer e-learning training programs to better suit the demands of the modern workforce.



Engaging Our Communities

Through forums, events and its online and media presence, the Equal Opportunity Commission challenges discriminatory practices and builds community awareness and understanding of human rights and equality issues.

The Commissioner and the Community

The breadth of the EOC's work is reflected in its engagement with the community and with different sectors.



Above in: former Commissioner for Equal Opportunity, Anne Gale, with Flinders University Australian Awards '2015 Fellowship' Students.

The Commissioner, as well as other EOC staff, regularly speak at a range of events. Some of the significant events over the last 12 months include:

- Presentation to Women's Branch SA Police on Flexible Workplace Futures;
- Presentation to Flinders University Australian Awards Fellowship students on the topic of Entrepreneurial Spirit: Women's Leadership in Business, Trade and Economic Development;
- Presentation on 'Workforce Planning for Government 2015' hosted by the International Quality and Productivity Centre, Sydney;
- Presentation on Wage Equity in partnership with Chiefs for Gender Equity;
- Host of 'Working Outside the Square: Flexibility, Innovation & Technology' in partnership with IPAA;
- Master of Ceremony (MC) and organiser of 'Elizabeth Broderick: Looking back and moving forward, 8 years as the Sex Discrimination Commissioner' Adelaide event;
- Presenter and co-host of 'CEDA Women and Leadership Series' - Male Chiefs for Gender Equity;
- Panellist for 'Institute of Public Administration Australia (IPAA) Driving Innovation and Growth: The Diversity Dividend';
- Presentation at Probus Club of Burnside;
- Presentation at the 'Barkuma Business Breakfast' on persons with disability and employment;
- Regular presentations to businesses at the Office of the Small Business Commissioner's BizLinks sessions;
- Participation in a Violence Against Women Roundtable at Government House with Her Royal Highness the Duchess of Cornwall on 10 November 2015;



Above in: Former Commissioner for Equal Opportunity, Anne Gale, with HRH the Duchess of Cornwall and roundtable participants.

- MC at the inaugural Disability Justice Plan Symposium on 19 November 2015.
- Attended the Commonwealth Women’s Network event and spoke about current work priorities, strategies for overcoming discrimination in the workplace, and personal experiences of leadership roles;
- Presentation at the ‘Strategic Workforce Symposium in Melbourne - The Business Case for Diversity: A Mature Age Workforce Case Study’;
- Presentation to the South Australian Executive Service delegates on workplace diversity and unconscious bias;
- Panellist at Adelaide City Council ‘International Day of People with Disability 2015’;
- Presentation regarding access to justice and the South Australian Disability Justice Plan at a Julia Farr Association Inc. (JFA) ‘Purple Orange’ event;
- Keynote address delivered at the Department for Communities and Social Inclusion’s launch of the ‘Human Rights and Person Centred Framework’ on the topics of choice, control and opportunity;
- Attended a community breakfast to celebrate the South Australian launch of an online training tool to promote inclusion in the public sector to marking the International Day Against Homophobia and Transphobia (IDAHOT); and
- Presentation at the City of Playford’s Positive Futures 2016 Employment, Education and Training Expo.



Above in: (left to right) Trish Spargo, Equal Opportunity Commission and Cassandra Hunter, Attorney-General’s Department attending the IDAHOT breakfast.

Events

The 2015 Mitchell Oration

On 24 October 2015, the Equal Opportunity Commission sponsored and hosted the 21st Mitchell Oration, a biennial event to honour the work and lifelong achievements of Dame Roma Mitchell.

This year we created a new format for the Mitchell Oration, partnering with the Adelaide Film Festival to host a panel discussion on the important issue of the abuse of children in institutions. This topic seemed fitting for the 2015 Oration because the protection of children from abuse, and their access to justice, lies at the very heart of any nations human rights agenda.

The prevention of abuse involves changing both individual and community attitudes, beliefs and circumstances. It is here that writers, artists and filmmakers can play an important role in helping us to make sense of and reflect on these issues, and in some cases they can be the catalyst for change.

Journalist and editor, Sophie Black, hosted a thought provoking conversation between renowned screen producer, Penny Chapman, (*Devil's Playground*, *The Leaving of Liverpool*, *Brides of Christ*) and Jane Needham, Senior Counsel representing the Council for Truth, Justice and Healing at the Royal Commission into Institutional Responses to Child Sexual Assault.



The panellists inspired the audience with stories of how they are each working to seek justice and engagement with this important issue.

Above in: (left to right) Penny Chapman; Jane Needham; Sophie Black; and the former Commissioner for Equal Opportunity, Anne Gale.

Elizabeth Broderick: A Reflection on Eight Years as Sex Discrimination Commissioner

On 11 August 2015, the Commissioner hosted the South Australian event to mark the end of Elizabeth Broderick's eight-year term as Sex Discrimination Commissioner. This event was part of a series being held in all states and territories across Australia during August, where Elizabeth reflected on the setbacks, progress and areas of opportunity for gender equality.



Following Elizabeth's address, a panel of special guests including Sandra Dann, gender expert and Director of the Working Women's Centre, and David Martin, Chief for Gender Equity and Managing Partner at Finlaysons, also spoke with the purpose of exploring the road to gender equality.

Read the summary from Elizabeth Broderick's address in South Australia at <http://www.ceda.com.au/2015/08/gender-equality-will-benefit-us-all/gender-equality-will-benefit-us-all>

Above in: (left to right): David Martin, Chief for Gender Equity and Managing Partner of Finlaysons; Elizabeth Broderick, former Australian Sex Discrimination Commissioner; Sandra Dann, Director Working Women's Centre and the former Commissioner for Equal Opportunity, Anne Gale.

Working Outside the Square: Flexibility, Innovation and Technology

At the request of the Public Sector Senior Management Council, the Commissioner hosted a forum for public sector managers and staff on 4 August 2015, to discuss the outcomes of the EOC's Flexible Workplace Futures Project. The purpose of this forum was to consider ways to create a more productive, dynamic and flexible public sector workforce able to adapt to the future needs of the State Government and the community.

Speakers included the Department of the Premier and Cabinet's Chief Executive, Kym Winter-Dewhurst, who shared his views on establishing a modern public sector in the context of flexible work, and Dr. Eva Balan-Vnuk of Microsoft, who discussed the concept of technology as an enabler of activity-based working. Commissioner for Public Sector Employment, Erma Ranieri, provided a personal overview of flexible work, and Valuer General, Delfina Lanzilli discussed the implementation of flexible work at the State Valuation Office.

The forum considered strategies for increasing productivity, achieving workplace diversity and modernising the public sector, and provided opportunities for audience members to engage with speakers through a panel session.

Rainbow Rights in SA: 40 Years on from Decriminalisation of Homosexuality

On Human Rights Day, 10 December 2015, the EOC held an event to mark 40 years since the decriminalisation of male homosexuality in South Australia.

The drowning death of Dr George Duncan in Adelaide's River Torrens in May 1972 helped change the criminal code and forge Australia's first gay law reform.

To mark the 40 year anniversary, the Commissioner for Equal Opportunity hosted an 'on the couch' session as she examined the question 'Discrimination on the grounds of gender identity and sexuality - how far have we come and where to next?'



Above in: (left to right) Lachlan Cibich; the former Commissioner for Equal Opportunity, Anne Gale; Ian Purcell; Jenny Scott and Professor John Williams.

Sharing their insights into the struggles and triumphs, past and present, of South Australia's Lesbian, Gay, Bi-sexual, Transgender, Intersex, Queer/Questioning (LGBTIQ) community were panellists:

- Ian Purcell AM, dedicated activist and Senior Australian of the Year 2011 State Finalist;
- Professor John Williams, South Australian Law Reform Institute;
- Jenny Scott, Librarian at the State Library of SA and activist; and
- Lachlan Cibich, Senior Policy Officer and activist.

The panellists talked about past and pending changes to legislation, which seek to remove discrimination on the grounds of sexual orientation, gender, gender identity and intersex status. They also shared their own personal experiences, which highlighted the discrimination still faced by members of the LGBTIQ community. The panel agreed that there is still much to do to reflect the current views of society in terms of promoting and protecting LGBTIQ rights, but noted that South Australia currently has an excellent opportunity to address inequities with a number of legislative changes being proposed. They also noted the important role of ongoing community education in advancing LGBTIQ rights.

Online and Social Media Presence

Websites

In 2015-16, the Equal Opportunity Commission websites were visited over 320,000 times, or more than 870 times a day, far exceeding the projected target of 270,000 website visits. Visits increased by 19% over previous years as more people use online information and resources.

The EOC's main website (www.eoc.sa.gov.au) delivers information and resources to the general public including individuals, employers and advocates. The 'EO 4 Schools' website (www.eo4schools.net.au/) is targeted to school-aged students and teachers.

Resources available on the websites continue to grow and include publications such as the 'Flexible Workplace Futures Package' and the 'Greatest Asset' employer and employee tools, to help reduce and prevent age discrimination in employment and support workforce planning and transition. Information factsheets, case studies, policies and procedures, training videos, and online courses/quizzes are also available.

The top ten downloads from our websites (accounting for over 40,000 downloads) included the 'Equal Opportunity and You' and 'Equal Opportunity at Work' booklets, sample policies and procedures, and fact sheets. Our 'Flexible Workplace Futures Package' was downloaded over 10,000 times between 1 July 2004 and 30 June 2016.

Increased customer use of website self-service information and resources has helped to boost workplace efficiency and reduce in-bound telephone enquiries to the EOC. This has enabled limited staff resources to be redirected to help manage a 40% increase in the number of accepted complaints handled during the 2015-16 financial year.

In 2016-17 the EOC will upgrade its websites. Key objectives are to ensure the sites are operating on a supported content management system, are responsive and render appropriately on different mobile devices, and provide increased accessibility for people with disability.

Social Media

The Equal Opportunity Commission's growing social media presence on both Facebook and Twitter has helped to amplify the reach and impact of the EOC's work. Social media is a great platform to provide our analysis directly into political and social commentary on human rights issues. It also provides another channel to engage with the community.

Our Facebook and Twitter audiences grew by 120% over the past year. Our Facebook posts routinely reached an audience of 100,000 or more. We now have over 600 people liking our Facebook page.

Follow the Equal Opportunity Commission on Twitter (twitter.com/eocsa) or like our Facebook page (<http://www.facebook.com/pages/Equal-Opportunity-Commission-of-South-Australia/325106495557>)



Addressing Unlawful Discrimination

The Equal Opportunity Commission helps people resolve complaints of unlawful discrimination, sexual harassment and victimisation under the Equal Opportunity Act 1984 (SA).

Responding to Enquiries

The Equal Opportunity Commission receives a diverse range of enquiries from members of the public, public sector agencies, non-government, and private organisations seeking information about:

- The Act;
- Unlawful discrimination as defined under the Act;
- The complaint handling process;
- Rights and responsibilities of complainants and respondents;
- In-house and customised training and education options; and
- Information on other services provided by the EOC.

The EOC's enquiry service is free, impartial and confidential and enquiries can be made by telephone, in person, or in writing by email or via the EOC's website. Enquiries can also be made anonymously.

During 2015-16 the EOC received 891 enquiries, a reduction of 26% from 2014-15. This is likely to be in part attributable to an 18.52% increase in customer usage of self-service information and resources made available through the EOC's websites. Enquiry numbers have continued to decline steadily over the past decade as more people utilise the EOC's online portals that provide easy and convenient 24-hour access to equal opportunity and anti-discrimination information and resources that would otherwise only be accessible during business hours.

Nature of Enquiries

Enquiries related to allegations of unlawful discrimination or unfair treatment, are classified by the grounds on which they are made and the public area in which they occur. The greatest number of enquiries received by the EOC in 2015-16 related to disability discrimination. Race, sex and age discrimination, and sexual harassment continued to be the next highest areas of inquiry respectively. More than half of the enquiries related to alleged discrimination or unfair treatment in employment. Enquiries in the area of goods and services were the next largest group and accounted for 19% of enquiries.

The grounds and areas of discrimination identified by enquirers in 2015-16 reflected closely the pattern of previous years.

17.6% of enquiries received in 2015-16 related to issues that the EOC could not assist with, as they did not necessarily constitute unlawful discrimination as defined by the *Equal Opportunity Act 1984 (SA)*.

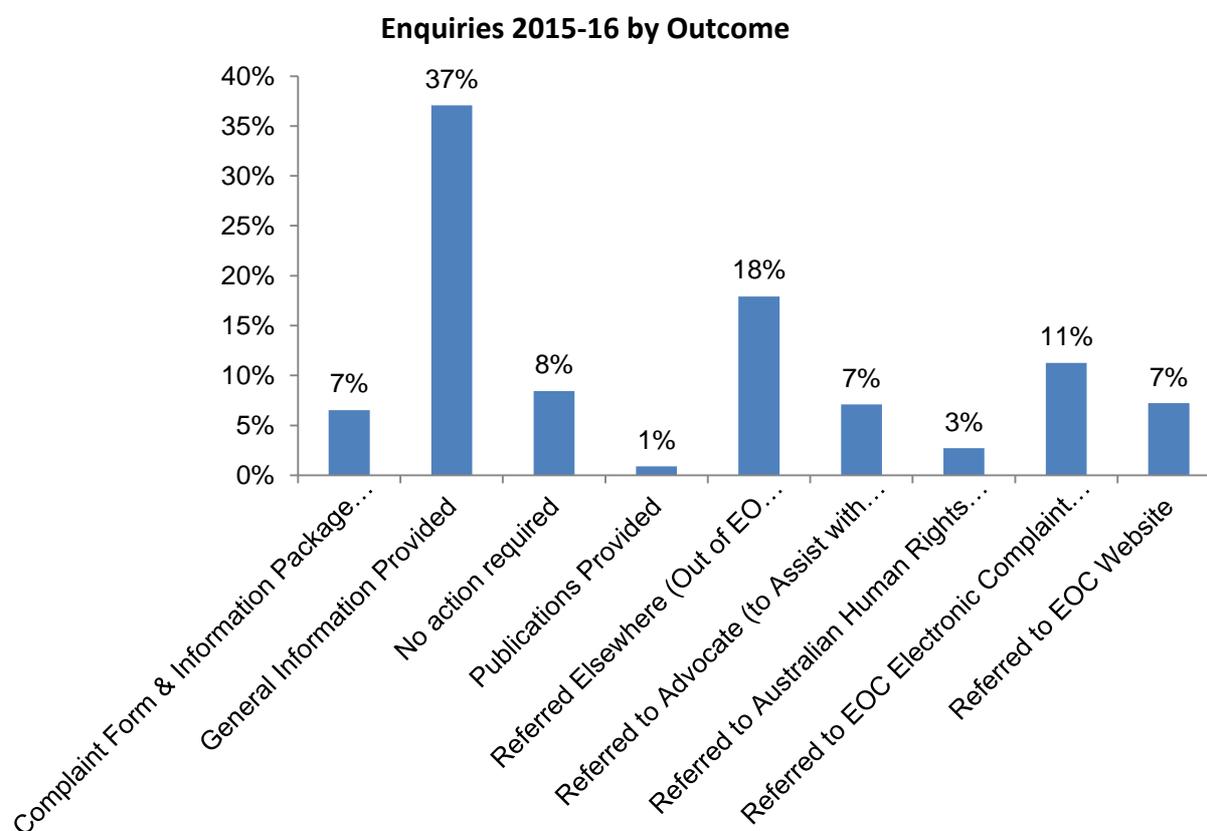
Of the 891 enquiries received, the gender of the enquirer was recorded on 305 occasions. Women made 53.4% of those enquiries, and men made 45.9% of enquiries. One enquiry was recorded from a transgender person.

Enquiry Outcomes

Where enquirers raised issues that potentially constituted unlawful discrimination, sexual harassment or victimisation under the Act, they were given information about the complaint handling process and sent a complaint form and information package, or referred to the EOC's website to lodge an electronic complaint form.

Where enquirers raised issues that did not necessarily constitute unlawful discrimination as defined by the *Equal Opportunity Act 1984 (SA)*, they were referred to alternative agencies for assistance, such as other complaint organisations, advocates, or legal services for advice and assistance.

The chart below illustrates enquiries by outcome for 2015-16.



Resolving Complaints of Discrimination

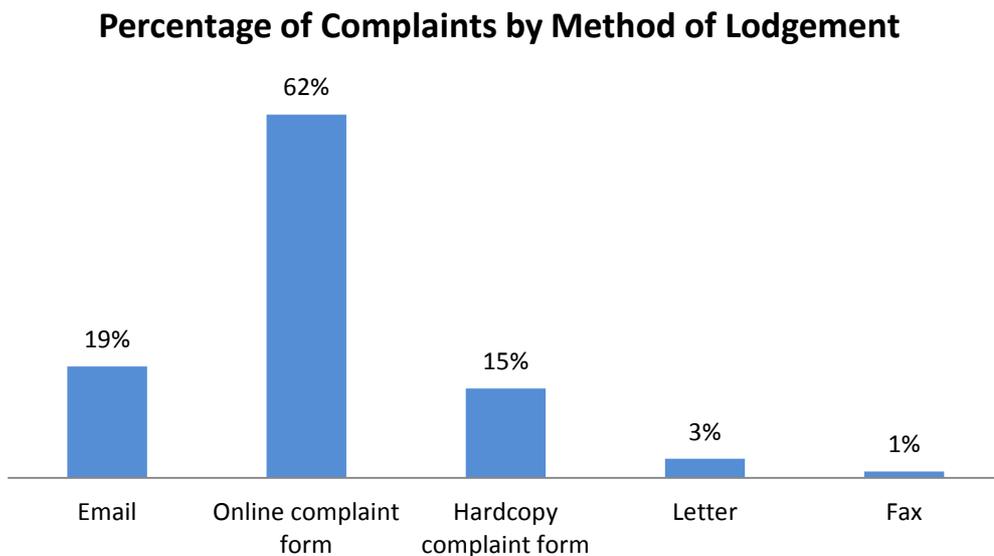
One of the core functions of the EOC is to help people resolve complaints about unlawful discrimination, sexual harassment and victimisation under the Equal Opportunity Act 1984 (SA). This work is central to the EOC's role in protecting and promoting equality of opportunity and preventing discrimination and complements our education and consultancy services.

The number and type of complaints we receive often highlight issues of systemic discrimination and help to identify priorities for project, policy and educational work at the EOC.

Lodgement of Complaints

Complaints must be made to the EOC in writing and can be lodged by post, email, fax, in person, or via the EOC's website.

The following chart illustrates the percentage of complaints by method of lodgement.



Lodgement of complaints by email or through the website continues to increase with 81% submitted online this year. This electronic communication has assisted in achieving timely contact with complainants and respondents.

Complaint Assessment

When a complaint is brought to the EOC as a possible breach of the Act, it is assessed against the legislation by the Commissioner for Equal Opportunity who determines whether it can be 'accepted' and dealt with under the Act, or 'rejected' because it falls outside the scope of the Act. If a person alleges that they have been discriminated

against on one or more grounds set out in the Act, and in one of the areas under the Act, then those allegations may be accepted by the Commissioner as a complaint. Some grounds do not apply to some areas and both have to be present in order for a complaint to be accepted under the Act.

Where a potential complainant has not clearly identified a ground and/or area of complaint, they are supplied with information about what constitutes unlawful discrimination under the Act and asked to further clarify their complaint.

Should the Commissioner decide to decline the complaint under section 95A of the Act as lacking in substance, or because it is misconceived, vexatious or frivolous, then the complainant has the right to have the matter referred to the Equal Opportunity Tribunal for determination.

Complaint Handling

Where the complaint is accepted by the Commissioner alternative dispute resolution is offered to parties and provided through a statutory conciliation model.

Conciliation is a process that enables parties to discuss and attempt to resolve a complaint in a free, confidential and impartial manner, with the assistance of a conciliator, who acts as a mediator and seeks to resolve the differences between parties.

In many cases conciliation involves the conciliator facilitating a face-to-face meeting of the parties. Through the process, parties identify the disputed issues of the complaint, develop options, consider alternatives and endeavour to reach an agreement, without any admission of liability.

The conciliator takes a guiding role on the content of the complaint, the application of the law, and may determine the process of conciliation for the particular complaint. The conciliator may also give expert advice on likely settlement terms, actively encourage the parties to reach agreement, and help to write an agreement, but they do not have a determinative role and have no powers to impose a settlement.

The EOC's dispute resolution service is flexible and responsive to the issues raised by parties and provides a crucial alternative to legal action for complainants. The service offers an opportunity to resolve complaints quickly, at an informal level and without the need for lawyers, with both parties having some control over the complaint outcome.

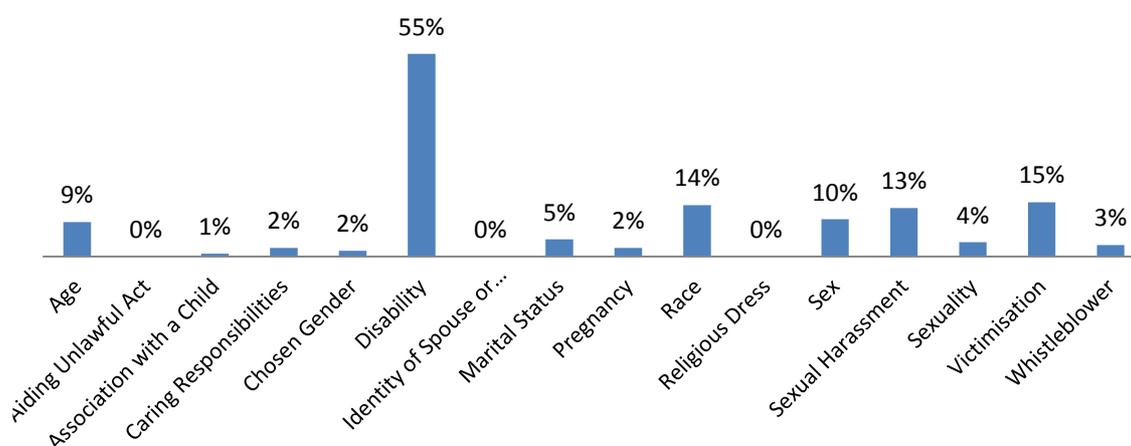
Nature of Complaints

During 2015-16 the EOC received a total of 184 complaints, down 15% from 2014-15. The complexity of a complaint is reflected in the number of issues identified by complainants when they make a complaint. A complaint may allege more than one respondent has breached the law and claim one or more grounds as the basis for discrimination. Also, one or more areas of public life may apply to a single complaint.

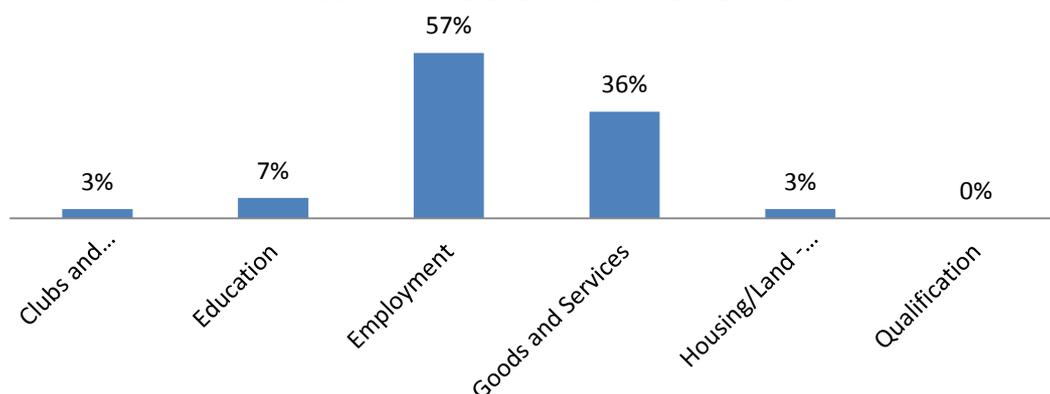
Of the 184 complaints received in 2015-16, 129 were accepted by the Commissioner. This reflects a 40% increase in the number of accepted complaints this financial year (from 91 accepted complaints in 2014-15).

The following charts illustrate the number of complaints accepted by the Commissioner in 2015-16 by ground and area of complaint as a percentage of the total number of accepted complaints. Note that some complaints may have more than one ground or area of discrimination.

Accepted Complaints by Grounds of Discrimination for 2015-16



Accepted Complaints by Area of Discrimination for 2015-16



Over half the complaints accepted by the Commissioner in 2015-16 were on the grounds of unlawful disability discrimination. Victimisation was the second most common form of discrimination reported, with 15% of complainants being treated unfairly for complaining, or helping others to complain about discrimination or harassment. The third most common ground for discrimination was race, comprising 14% of the total number of complaints. Sexual harassment (13%) and unlawful sex and age discrimination (10% and 9% respectively) were the next highest areas of complaint.

More than half of the complaints accepted (57%) related to alleged unlawful discrimination or unfair treatment in employment, whilst 36% related to discrimination in the provision of goods and services.

The following tables show the number of complaints accepted by the Commissioner over the last four years by ground and area of complaint. Accepted complaints may have been made on more than one ground or area.

Accepted Complaints by Grounds of Discrimination for 2012/13, 2013/14, 2014-15 and 2015-16				
	2012/13	2013/14	2014/15	2015/16
Age	9	10	4	12
Aiding Unlawful Act	2	1	3	0
Association with a Child	3	3	1	1
Caring Responsibilities	14	3	5	3
Chosen Gender	1	3	2	2
Disability	63	43	40	71
Identity of Spouse or Partner	3	3	1	0
Marital Status	1	1	2	6
Pregnancy	1	5	5	3
Race	29	17	11	18
Religious Dress	1	0	0	0
Sex	10	16	3	13
Sexual Harassment	20	17	4	17
Sexuality	2	3	2	5
Victimisation	17	16	16	19
Whistleblower	1	20	7	4

Accepted Complaints by Area of Discrimination for 2012/13, 2013/14, 2014-15 and 2015-16				
	2012/13	2013/14	2014/15	2015/16
Clubs and Associations	3	2	6	4
Education	5	9	11	9
Employment	72	78	49	73
Goods and Services	45	32	23	47
Housing/Land - Accommodation	5	5	3	4
Qualification	4	0	2	0

Over the last four years, unlawful disability discrimination has remained the most common ground of complaint, reaching a four-year high in 2015-16.

The number of complaints related to unlawful discrimination on the grounds of age, marital status and sexuality have also reached a four-year high in 2015-16.

The number of complaints related to unlawful discrimination on the grounds of identity of spouse or partner is at a four-year low, as are complaints about people assisting others in a discriminatory or unlawful act.

Over the last four years, unlawful discrimination in employment and in the provision of goods and services has remained consistently high, as the most common areas of public life in which discrimination occurs.

Gender Identity of Complainants

The EOC accepts complaints from anyone living, working, or visiting South Australia who alleges unlawful discrimination has occurred in the state of SA according to the grounds and areas of the Act.

In 2015-16, whilst more women than men made enquiries related to unlawful discrimination, more men than women lodged complaints. 88 complainants identified as male, 83 identified as female, and 2 identified as transgender. The gender identity of 5 complainants was unknown and unrecorded for 3 complainants.

Whistleblowers

It is unlawful to treat a whistleblower less favourably because they have made a public interest disclosure that is protected by the *Whistleblowers Protection Act 1993 (SA)*. Any act of victimisation under the *Whistleblowers Protection Act 1993 (SA)* may be dealt with as if it were an act of victimisation under the *Equal Opportunity Act 1984 (SA)*.

The EOC can, therefore, accept complaints from people who believe that they have been victimised for making an appropriate disclosure of significant maladministration and waste in the public sector, or corrupt or illegal conduct generally. This includes disclosures of illegal activity, any irregular and unauthorised use of public money, substantial mismanagement of public resources, or conduct that causes a substantial risk to public health, safety, or the environment. Alternatively, public interest information can include maladministration by a public officer in performing official functions. A disclosure is only protected if it is made to an appropriate authority.

Over the past year, the EOC received nine enquiries from people who believed that they were victimised for making a public interest disclosure. Seven complaints alleging victimisation were received, and four were accepted by the Commissioner.

Five complaints alleging victimisation were finalised in 2015-16. Of these, one complaint was conciliated and one complaint was withdrawn. Three complaints were referred to

the Equal Opportunity Tribunal either because conciliation was unsuccessful or it was determined that the matter could not be resolved through conciliation.

Complaint Outcomes

As specified under the Act, a complaint can be finalised in one of a number of ways.

It may be:

- Conciliated when both the complainant and respondent achieve mutually agreed outcomes;
- Withdrawn by the complainant at any time. This may occur if the complainant is satisfied with the initial response of the respondent, or has achieved a satisfactory resolution of the complaint with the assistance of the conciliation officer;
- Referred to the Equal Opportunity Tribunal if it cannot be conciliated and the Commissioner believes there is an arguable case;
- declined by the Commissioner under section 95A of the Act; and
- Referred to the Equal Opportunity Tribunal at the request of the complainant after being declined.

Conciliation rates fluctuate from year to year and can be impacted by the complexity of matters and the willingness of parties to come to an agreement. In 2015-16, 50% of accepted complaints were conciliated. This result reflects a 15% improvement in complaint conciliation rates from the previous financial year.

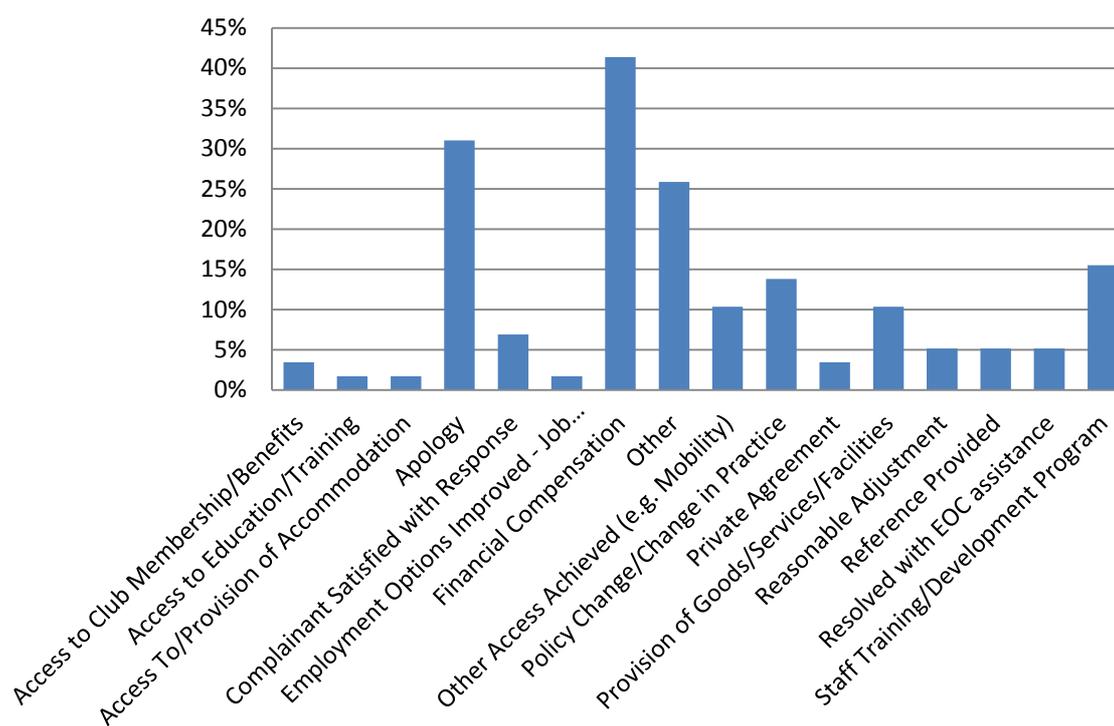
Twenty two per cent of complaints were withdrawn prior to being conciliated and 16% were referred to the Equal Opportunity Tribunal because they could not be resolved through conciliation. Twelve per cent of complaints were declined.

No complaints were referred to the Equal Opportunity Tribunal at the request of the complainant after being declined.

Types of Outcomes Conciliated

In 2015-16, complaints that were conciliated were resolved with varying outcomes as indicated by the following graph:

Complaint Outcomes 2015-16



* Percentages total more than 100% as many complaints had more than one outcome.

Forty one per cent of complainants received some form of financial compensation, making this the most commonly recorded outcome for a conciliated complaint. The amount of compensation paid to each complainant varied between \$200 and \$9000. An apology was received by 31% of complainants.

Other conciliated outcomes included:

- Staff training and development (16%)
- Change to organisational policy and practice (14%).

Case Studies of Matters Resolved Through Conciliation

Case Study 1 - Disability discrimination in the provision of goods and services

Carol* has an adult child, Sam*, who has both an intellectual and physical disability. Sam lives in supported accommodation. Carol purchased a car for Sam to assist him with his transport requirements. Sam is unable to drive but the car is used to enable Sam's carers to transport him to medical appointments and other outings. Carol encountered difficulties in purchasing a suitable insurance policy for the vehicle. She was advised that the insurance cover is attached to the person rather than the vehicle, thus on occasions when Sam was not present in the car, there would be no cover. The insurer advised

Carol that she had three options: to purchase traditional insurance cover that would only provide cover when Sam was in the vehicle. This was not a suitable option as, on occasions, the carer would need to travel alone in the car when collecting Sam from an appointment; 2) to purchase a commercial policy at a much higher premium. This was not an affordable option for Carol; or 3) to purchase cover for Sam's carer. This was not feasible as Sam has multiple carers.

As a result of the complaint, Carol's concerns were escalated to the insurance company's management team who were able to provide a suitable policy to cover Sam's particular needs. The complaint resolved as a result of direct communication between Carol and the insurance company.

Case Study 2 - Discrimination in employment due to caring responsibilities

Cynthia* had been acting in a management role for the past 2 years and working in this role on a part time basis due to her caring responsibilities. Recently after an internal review of the position, changes were made to some of the responsibilities and it was advertised as a full time role. Cynthia applied for the reviewed role and was interviewed by Randolph. Cynthia alleges during the interview she was asked what she would do with her small children if she got the job. Cynthia thought at the time this was an inappropriate question. Cynthia didn't get the job and felt she had been discriminated against on the basis of her caring responsibilities. Cynthia returned to work with Randolph in her substantive position after having time off due to the distress she felt as a result of this decision. Cynthia continues to work for Randolph.

A Conciliation Conference was held and while Randolph did not agree that the decision not to appoint Cynthia to the position was based on her caring responsibilities, agreement was reached between the parties.

Randolph agreed to the following outcomes:

- The Employer would send a staff member from their Human Resources team to Equal Opportunity Training.
- Pay for six appointments for Cynthia to see a counsellor.
- Pay \$1000.00 towards a nominated training/development program as part of an agreed professional development program for Cynthia.
- Pay Cynthia for two weeks of unpaid leave taken shortly after the incident.

* Names and identifying details have been changed to protect the privacy of individuals.

Time Taken to Resolve Complaints

Of the 115 accepted complaints resolved in 2015-16, 16% were finalised within 4 months and 41% were finalised within 6 months. The average time taken for a complaint to be finalised was 7.6 months. By comparison, in 2014-15 the average accepted complaint resolution time was 5.1 months.

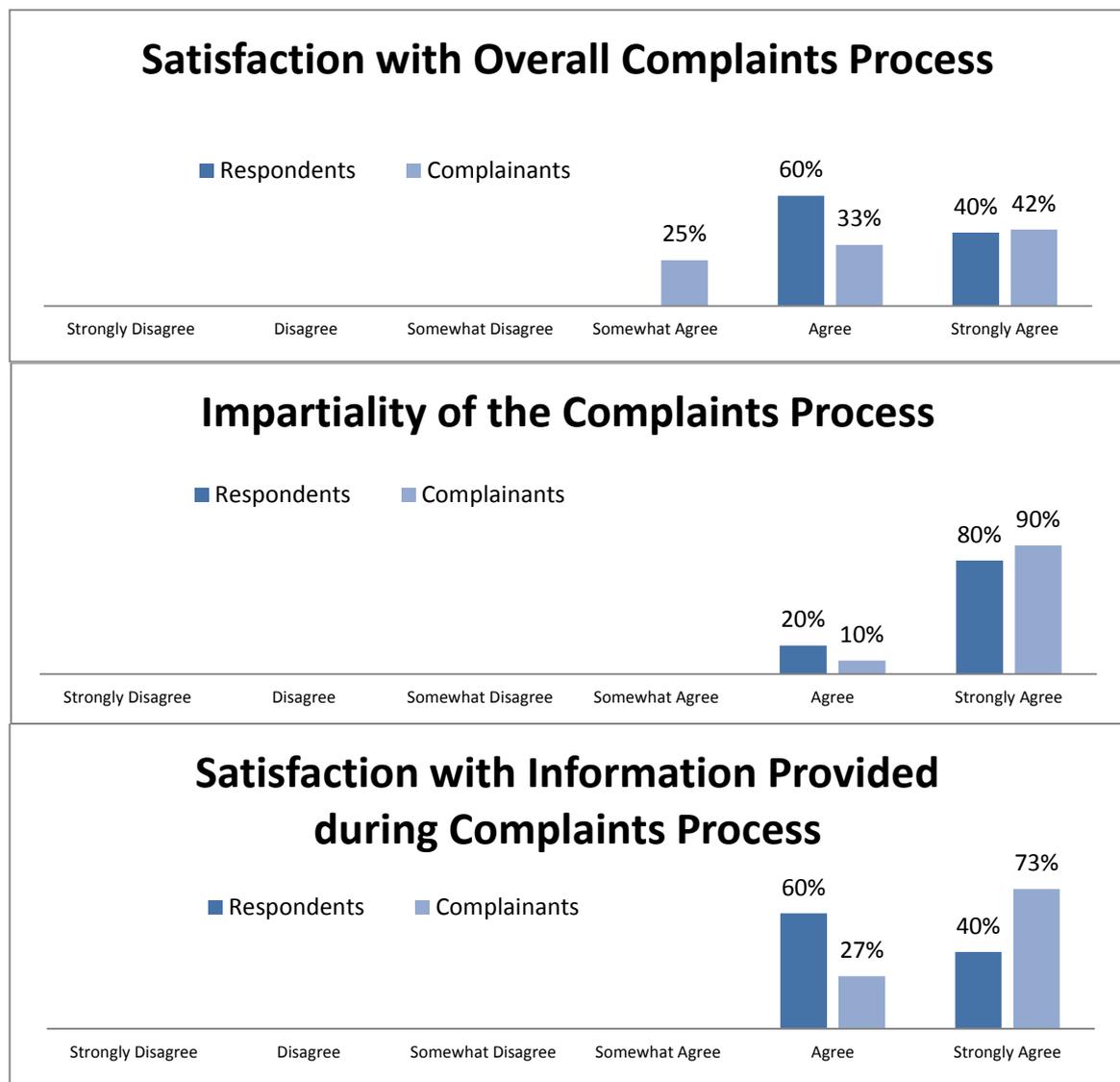
Staffing and financial constraints have had a direct impact on the EOC’s ability to maintain accepted complaint resolution times, particularly as the number of accepted complaints has increased by 40% from 91 in 2014-15 to 129 in 2015-16.

The EOC has set a priority action in its 2016-17 Business Plan to improve the timeliness and efficiency of complaint resolution processes, by reducing average accepted complaint resolution times to 5 months.

Feedback on Complaint Handling

The EOC seeks feedback from both complainants and respondents about their experience of our complaint handling process through a customer satisfaction survey. This examines performance indicators including the impartiality of the process, quality of information provided by the conciliator and overall satisfaction with the complaints process.

Of those who completed service evaluations, 75% of complainants and 100% of respondents were satisfied with the overall complaint handling process. All complainants and respondents felt that the complaints process was fair and impartial and that they were kept well informed.



Equal Opportunity Tribunal

The Equal Opportunity Tribunal has three core functions under the *Equal Opportunity Act 1984 (SA)*. The Tribunal is able to hear complaints referred by the Equal Opportunity Commissioner under section 95B of the Act and make determinations regarding applications for exemptions under section 92 of the Act.

Where the Commissioner has refused an application for an extension of time within which to lodge a complaint, the applicant may apply to the Tribunal for a review of the decision. In this circumstance, the Tribunal may confirm the decision of the Commissioner or substitute its own decision.

Not all matters that are referred to the Tribunal will come through the EOC. Applications for exemptions to the Act made under section 92 may be made to the Tribunal by the Commissioner or the applicant.

Exemptions Granted by the Equal Opportunity Tribunal 2015-16

The Tribunal can order an exemption of up to three years, and an organisation can lawfully discriminate according to the conditions of the exemption.

In 2015-16 the Equal Opportunity Tribunal granted an extension to an existing exemption:

Pembroke School Incorporated DCCIV-15-1062 (2 September 2015)

Pembroke School applied for an extension of exemption from section 37 of the Act to permit it to favour girls or boys in respect of applications for enrolment at all year levels from Early Learning to Year 7 for the purpose of obtaining gender balance. The exemption was granted for a further 3 years from 13 April 2015.

Complaints referred to the Equal Opportunity Tribunal 2015-16

Where a complaint has not been resolved through the EOC's conciliation process, the Commissioner can either decline the complaint, or refer it to the Tribunal for hearing and determination.

Where the Commissioner refers a complaint to the Tribunal, the complainant or respondent may request legal assistance in proceedings. The Commissioner will then make a determination as to whether or not she will fund legal assistance for parties, taking into account a number of factors including the capacity of the complainant or respondent to represent themselves or provide their own representation, and the nature and circumstances of the complaint.

In 2015-16 the following two cases were referred to the Tribunal with full or partial assistance:

CASE	NUMBER	GROUNDS OF DISCRIMINATION	OUTCOME
<i>Jackson v Department for Planning, Transport & Infrastructure</i>	DCCIV-15-1768	Disability	Awaiting Tribunal hearing
<i>De Silva v Titan Fan Products Australia Pty Ltd, Jeffries, Washington, Mafrici, Valdeze, and Ramsay</i>	DCCIV-16-1453	Race, victimisation	Awaiting Tribunal hearing

Should the Commissioner decline a complaint, the complainant has the right under the Act to take their complaint to the Tribunal for hearing and determination.

In these cases, parties do not receive financial assistance from the Commissioner and can either represent themselves at the Tribunal or engage a lawyer.

In 2015-16, ten complaints were referred to the Tribunal and registered without legal assistance funded by the Commissioner. Note that a number of complaints made by one complainant may be registered as one Tribunal matter if they are related. The ‘unfunded’ complaints referred to the Tribunal were as follows:

CASE	NUMBER	GROUNDS OF DISCRIMINATION	OUTCOME
<i>McClure v Adelaide United Members Club Inc.</i>	DCCIV-15-1136	Disability	Discontinued by complainant 18 September 2015
<i>Ragless v Stokes</i>	DCCIV-15-1200	Victimisation	Proceedings dismissed - 20 April 2016
<i>Char v Department for Education and Child Development, Mason, Burville, and McLaren</i>	DCCIV-15-1512	Race discrimination, victimisation	Discontinued by complainant 1 July 2016
<i>MacDonald v BGC Contracting</i>	DCCIV-15-1732	Age	Discontinued by complainant 1 February 2016

CASE	NUMBER	GROUNDS OF DISCRIMINATION	OUTCOME
<i>Teo v Peter Stevens Motorcycles Pty Ltd</i>	DCCIV-15-1767	Sex, age, disability, sexuality	Discontinued by complainant 3 August 2016
<i>Hinder v Clayton</i>	DCCIV-16-41	Marital or domestic partnership status, association with a child	Awaiting Tribunal hearing
<i>Mushi v Cara Incorporated</i>	DCCIV-16-40	Sex, Race	Discontinued by complainant 2 May 2016
<i>Smith v Department for Education and Child Development, Ruciack, and Howieson</i>	DCCIV-16-551	Disability, sexual harassment, victimisation	Awaiting Tribunal hearing
<i>Hunt v Department for Planning, Transport & Infrastructure, Anzellotti</i>	DCCIV-16-706	Disability, sex, victimisation, victimisation for being a whistle blower	Awaiting Tribunal hearing
<i>Taylor v Central Adelaide Local Health Network</i>	DCCIV-16-817	Disability	Awaiting Tribunal hearing

Tribunal Decisions 2015-16

During 2015-16, the Tribunal handed down the following seven decisions:

VINEY v DEPARTMENT FOR EDUCATION & CHILD DEVELOPMENT (6 August 2015)

Mr Viney alleged that he is being refused the opportunity to volunteer at his son's school assisting with reading. The school has advised that this is contrary to Court Orders which are in place. Mr Viney disagrees and believes that the school's reliance on the court order is a form of discrimination on the basis of marital status and identity of spouse. Mr Viney failed to appear at the Tribunal hearing and the Tribunal found that a parent presenting to his or her child's classroom for the purpose of hearing children practise reading is not an unpaid worker. The Tribunal also found that the conduct of the Principal was not discriminatory within the meaning of the Act. The complaint was dismissed.

Read the full judgement at: <http://www.austlii.edu.au/au/cases/sa/SAEOT/2015/5.html>

SELLEN v TNT AUSTRALIA P/L [2015] SAEOT 6 (30 September 2015)

Mr Sellen alleged that TNT Australia discriminated against him on the grounds of his disability in declining to offer him permanent employment as a pickup and delivery (PUD) driver.

Mr Sellen had been working for TNT Australia as a PUD driver from March 2014 through a job recruitment service, but had made a separate application for permanent employment directly to TNT Australia. Whilst attending a pre-employment medical assessment in April 2014 for the permanent position, Mr Sellen disclosed that he had recently been diagnosed with Asperger's syndrome. In addition, whilst working for TNT Australia in March 2014, Mr Sellen had suffered a minor injury. Mr Sellen alleged that TNT Australia's knowledge of his diagnosis of Asperger's syndrome and his minor injury motivated the decision to not offer permanent employment and he made a complaint of disability discrimination under the Equal Opportunity Act. The Tribunal found that the complainant failed to demonstrate, on the balance of probabilities, that the respondent's knowledge of his diagnosis with Asperger's syndrome, or his minor injury whilst working at TNT, motivated the decision not to offer him employment. The complaint was dismissed.

Read the full judgement at: <http://www.austlii.edu.au/au/cases/sa/SAEOT/2015/6.html>

RAGLESS v SAPOL [2015] SAEOT 7 (11 December 2015)

Mr Ragless alleged that SAPOL had discriminated against him by refusing to investigate his complaint that an official from his shooting club had knowingly provided false information to Police about his mental health, leading to his gun licence being suspended. The Police filed a List of Documents relevant to the issues to be determined in the hearing, and the complainant brought an Interlocutory Application seeking further documents. However, no reasonable basis was demonstrated to suggest the Police were in possession of any relevant documents other than those in the List of Documents. The application for further discovery was refused.

Read the full judgement at: <http://www.austlii.edu.au/au/cases/sa/SAEOT/2015/7.html>

RAGLESS v SOUTH AUSTRALIAN FIELD & GAME ASSOCIATION [2016] SAEOT 1 (8 April 2016)

Mr Ragless alleged that the South Australian Field and Game Association (SAFGA) had discriminated against him by its officials taking action to have his firearms licence and membership of SAFGA removed on the grounds of a previous mental illness. The complainant alleged that SAFGA discriminated against him by taking steps to have his firearms licence and membership of SAFGA removed due to a previous mental illness, by reporting him to the Registrar of Firearms. The Tribunal accepted that the reports to the Registrar of Firearms were made based on a genuine and reasonable concern with respect to the fitness of the complainant to hold a firearm.

The Tribunal found that SAFGA did not unlawfully discriminate against the complainant in taking action to report him to the Firearms Registrar or to suspend his membership. The complaint was dismissed.

Read the full judgement at: <http://www.austlii.edu.au/au/cases/sa/SAEOT/2016/1.html>

RAGLESS v STOKES [2016] SAEOT 2 (20 April 2016)

Mrs Ragless alleged that she had been victimised by Mr Stokes, contrary to the provisions of the *Equal Opportunity Act 1984* (SA). Mr Stokes applied to have the matter dismissed or struck out on the basis that it had no likelihood of success, and that no evidence which could be adduced at trial could change that.

The complaint was dismissed.

Read the full judgement at: <http://www.austlii.edu.au/au/cases/sa/SAEOT/2016/2.html>

BLIGHT v WOMEN'S & CHILDREN'S HEALTH NETWORK [2016] SAEOT 3 (3 May 2016)

Dr Blight alleged that the Women's and Children's Health Network (WCHN) had discriminated against her on the grounds of disability and sex.

Dr Blight was employed by the Chief Executive, Department of Health in various training capacities with the WCHN from 25 January 2006 to 29 January 2013. This included basic training in paediatrics which commenced in January 2006, and advanced training in general paediatrics from February 2009 until January 2013. In July 2011 Dr Blight suffered an episode of unconscious collapse which was subsequently diagnosed as Temporal Lobe Epilepsy (TLE). Dr Blight alleges that she was discriminated against during her progression through training and in her employment at WCHN. This included a deliberate failure by WCHN to take action in relation to her TLE in the form of support or rehabilitation, action taken to alter the results of her research project and delay progression to Fellowship, and inappropriate comments about her weight and health. The Tribunal found that the complainant had failed to demonstrate that WCHN had unlawfully discriminated against her.

The complaint was dismissed.

Read the full judgement at: <http://www.austlii.edu.au/au/cases/sa/SAEOT/2016/3.html>

RAGLESS v SAPOL (No 2) [2016] SAEOT 4 (3 May 2016)

Mr Ragless alleged that, pursuant to the provisions of the *Whistleblowers Act 1993*, members of SAPOL's Firearms Branch colluded with members of the South Australian Field and Game Association to victimise him by having his firearms licence removed. The Tribunal found that the complainant had failed to demonstrate that the respondent had committed an act of victimisation against him substantially on the ground of his disclosure of public interest information.

The complaint was dismissed.

Read the full judgement at: <http://www.austlii.edu.au/au/cases/sa/SAEOT/2016/4.html>

Other Tribunal Matters Finalised in 2015-16

The following cases were discontinued by the complainant and finalised in 2015/16:

Case	Number	Grounds of Discrimination	Outcome
<i>Scotland v The City of Unley</i>	DCCIV-15-112	Disability	Discontinued by complainant 21 October 2015
<i>Gibbons v Department for Education and Child Development</i>	DCCIV-14-1744	Sex	Discontinued by complainant 19 January 2016
<i>Gupta v Department for Education and Child Development</i>	DCCIV-15-836	Age	Discontinued by complainant 22 February 2016
<i>De Ieso v Department for Health and Ageing</i>	DCCIV-14-1912	Victimisation	Discontinued by complainant 6 May 2016



Advocating for Legislative and Policy Reform

The Equal Opportunity Commission advocates for human rights and equality of opportunity by influencing legislative and policy reform.

Policy Submissions

In 2015-16 the EOC made the following submissions:

- Submission to the National Disability Employment Framework Phase One Consultation (July 2015);
- Submission to the South Australian Law Reform Institute's Inquiry into Discrimination on the Grounds of Sexual Orientation, Gender, Gender Identity and Intersex Status in South Australian Legislation (July 2015);
- Submission to the Expert Advisory Group (EAG) to the Royal Australasian College of Surgeons Issues Paper on Discrimination, Bullying and Sexual Harassment (July 2015);
- Submission to the Employment Services Industry Code Consultation (August 2015); and
- Contributed to the Australian Council of Human Rights Agencies (ACHRA) submission to the Review of the National Disability Advocacy Program.

LGBTIQ Legislative Reform

South Australia is undertaking extensive reform to legislation that discriminates against individuals and families on the grounds of sexual orientation, gender, gender identity or intersex status. This is a comprehensive review that includes over 140 pieces of legislation, including the Act.

The Government has charged the South Australian Law Reform Institute (SALRI) with conducting this review in addition to providing recommendations to the Government for reform. The EOC has participated extensively in this review process.

The vast majority of the legislation reviewed by SALRI discriminates by reinforcing the binary notion of sex ('male' and 'female') or gender ('man' or 'woman') or excludes members of the LGBTIQ communities by a specific or rigid definition of gender.

Rigid, binary concepts of gender are also currently reinforced by the use of the term 'opposite' sex, which can easily be replaced with the more inclusive term 'different' sex without altering the meaning or purpose of the provision. Other laws require clarification to ensure that people who identify as a particular gender are treated with respect under the law.

Through targeted consultations and the review process, SALRI was able to identify specific legislation that was of particular concern for Lesbian, Gay, Bisexual, Transgender, Intersex and Queer/Questioning (LGBTIQ) communities.

- The *Adoption Act 1988 (SA)* excludes same sex couples' eligibility as prospective adoptive parents.

- The current terminology in Part 3 of the *Equal Opportunity Act 1984* (SA) includes the terms 'sexuality' and 'chosen gender', which have been described by many as inappropriate or out-dated. This can be contrasted with the more inclusive protections in the *Sex Discrimination Act 1984* (Cth) based on the attributes of 'sexual orientation', 'gender identity' and 'intersex' status as defined in the *Sex Discrimination Act 1984* (Cth).
- The necessity and appropriateness of existing exemptions to otherwise unlawful discrimination on the grounds of sexual orientation, gender identity and intersex status under the Act has also been questioned as to whether they are in keeping with the needs of the community.
- Despite important reforms in 2009 and 2011, the *Family Relationships Act 1975* (SA) continues to contain provisions that discriminate on the basis of marital status or sexual orientation. The interaction of the *Assisted Reproductive Treatment Act 1988* (SA), the Assisted Reproductive Treatment Regulations 2010 (SA) and Part 2A of the *Family Relationships Act 1975* (SA), for example, can exclude same sex couples from accessing artificial reproductive technologies. Under the current legislative framework South Australia is one of the few Australian jurisdictions that restricts access to such technologies in this way. The current legal framework relating to recognising surrogacy arrangements has also been highlighted as being inconsistent with other interstate regimes.
- Reforms are also needed to the regime governing the registration of sex at birth and the change of sex on the Births, Deaths and Marriages Register. A process needs to be established for registering the birth of a baby with a non-binary sex and for altering the Register to record a change of sex that does not require evidence of irreversible medical treatment.
- And finally, the continued existence of the common law partial defence of provocation that permits a homosexual advance to constitute circumstance of provocation was an area of concern for LGBTIQ communities. Members of the community have questioned whether its retention is consistent with a non-discriminatory criminal law.

SALRI Audit Report

Given the breadth of legislation under consideration, SALRI first conducted an audit report into South Australian legislation. As part of the audit, the Equal Opportunity Commission recommended changes to the Act to update terminology in Part 3 of the Act to better align with the more inclusive protections in the *Sex Discrimination Act 1984* (Cth) based on the attributes of 'sexual orientation', 'gender identity' and 'intersex' status. The EOC also asked that existing exemptions under the *EO Act* be examined in light of changing societal expectations, and that consideration be given to inclusion of vilification provisions.

In its September 2015 Audit Report, *Discrimination on the Grounds of Sexual orientation, Gender, Gender Identity and Intersex Status in South Australian Legislation* (see https://law.adelaide.edu.au/research/law-reform-institute/documents/audit_report_lgbtiq_sept_2015.pdf), SALRI made 11 recommendations for immediate action. These included amending the *Adoption Act 1988* (SA) to clarify that same sex couples are eligible to be prospective adoptive parents

and amending the *Assistive Reproductive Treatment Act 1988* (SA) to end discrimination against individuals on the basis of their sexual orientation or marital status. SALRI also recommended that the *Equal Opportunity Act 1984* (SA) be amended to replace the terms 'sexuality' and 'chosen gender' with language that provides protection on the basis of attributes of 'sexual orientation', 'gender identity' and 'intersex' status.

Other recommendations made by SALRI required further review and report. These included the registration of sex at birth and the change of sex; the current laws governing legal parentage and surrogacy; relationship recognition for same sex couples; the exemption regime under the Act; and the partial defence of provocation.

Laws Regulating Sexual Reassignment and Registration of Sex and Gender

In February 2016, SALRI released its report on the Legal Registration of Sex and Gender. In April 2016, the Legislative Review Committee tabled a report on the Sexual Reassignment Repeal Bill 2014. Both reports recommended repealing the *Sexual Reassignment Act 1988* and simplifying the process for changing sex or gender on the Births, Deaths and Marriages Register.

SALRI Relationships Recognition Report

In June 2016, SALRI published its Relationships Recognition Report that recommended the creation of a Relationships Register. Registered relationships are intended to attract the same legal rights as a domestic partnership. The Relationships Recognition Report also recommended the recognition of overseas same sex marriages and to broaden access to assisted reproductive treatment, surrogacy and adoption for same sex couples and sole persons.

SALRI Equal Opportunity Act Report

In June 2016, SALRI published its report on the *Equal Opportunity Act 1984* (SA). The report discusses the particular exceptions in the *EO Act* that have given rise to the most concern within LGBTIQ communities. These include exceptions for religious organisations (especially in the area of employment); exceptions relating to participation in competitive sports; exceptions in the provision of health care relating to blood donation and assistive reproductive treatment; health care by religious institutions; the terminology in the exceptions for clubs and associations and the measures in the *EO Act* intended to achieve greater equality.

The report made 11 recommendations, focussing on the exemptions provided for in the Act. There was extensive stakeholder engagement in this review including through roundtable meetings and over 350 written submissions.

SALRI Provocation Report

SALRI is in the process of preparing its report on Provocation, including the 'Gay Panic' Defence.

South Australian Government Response to SALRI Recommendations

The Department of the Premier and Cabinet is reviewing SALRI's recommendations, including further changes to the Act. The Equal Opportunity Commission will continue to be actively involved in this legislative reform process.

By the end of 2016 the Premier will have introduced to Parliament a full suite of amendments to address the current inequality in South Australia's legislation.

To date, nine of SALRI's recommendations for immediate action from its Audit Report have since been implemented by the *Statutes Amendment (Gender Identity and Equity) Act 2016* which commenced on 8 September 2016. The Act removes binary and discriminatory language across South Australia's statutes book and legislates to update terminology in Part 3 of the *EO Act* to better align with the more inclusive protections in the *Sex Discrimination Act 1984 (Cth)* based on the attributes of 'sexual orientation', 'gender identity' and 'intersex' status.

For further information about South Australia's legislative reform visit <https://law.adelaide.edu.au/research/law-reform-institute/or> <https://www.dcsi.sa.gov.au/services/community-services/lgbtiq/rainbow-advisory-council>.