

SOUTH AUSTRALIAN
EQUAL OPPORTUNITY COMMISSION
ANNUAL REPORT
2019-20



Commissioner
for Equal
Opportunity
In diversity we thrive



SOUTH
AUSTRALIA

To:

The Hon Vickie Chapman MP

Deputy Premier & Attorney-General

This annual report is presented to Parliament to meet the statutory reporting requirements of the *Public Sector Act 2009 (SA)* and the *Equal Opportunity Act 1984 (SA)* and meets the requirements of Premier and Cabinet Circular PC013 Annual Reporting.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.

A handwritten signature in black ink, appearing to read 'Niki Vincent', with a stylized, cursive script.

Dr Niki Vincent

Commissioner for Equal Opportunity

7 September 2020

TABLE OF CONTENTS

Section 1: Commissioner’s Overview of 2019-20	8
Section 2: The role of the Commissioner for Equal Opportunity.....	14
2.1. Functions of the Commissioner	14
2.2. Administration of Act and Ministerial direction	15
2.3. Legislation administered by the Commissioner for Equal Opportunity	15
Section 3 Structure and funding of the Office	16
3.1 Core funding for the Commission	16
3.2. Executive employment in the Commission.....	18
3.3. Risks associated with the decline in funding for the Commission.....	18
Section 4: Function 1 -Fostering and Encouraging Informed and Unprejudiced Attitudes in the Community	21
4.1 Activities funded by the Attorney-General’s Department.....	21
4.1.1 Enquiries and complaints made to the Commission.....	21
4.1.2. Other initiatives funded by the Attorney-General’s Department.....	38
4.2 Initiatives developed through partnerships with other organisations	54
4.2.1 Free Legal Advice Clinic – Adelaide University Law School.....	54
4.3 Initiatives funded through fee-for-service consulting or membership fees.....	55
4.3.1 Chiefs for Gender Equity	55
4.3.2 Workplace Equality and Respect (WER) Project	60
4.3.3 South Australia Police Monitoring Program.....	61
4.3.4 Strengthening Responses to Sexual Assault & Harassment.....	62

Section 5: Function 2 - Research, data collection and the dissemination of information relating to discrimination	64
5.1. Activities funded by the Attorney-General’s Department.....	64
5.1.1 Disability-related data capture – revision of Commission categories.....	64
5.2. Research activities developed in collaboration with other organisations.....	65
5.2.1. The University of Adelaide iPhD Program	65
5.2.2. University of Adelaide’s Law and Justice Internship Program	66
5.2.3 Flinders University ‘Law in a Digital Age’ software application development.....	68
5.2.4 Pamphlet on assistance animal laws (with Dog and Cat Management Board)	70
Section 6: Function 3 - Recommendations for reforms that will advance equal opportunity and prevent discrimination in South Australia	71
6.1 Submissions to the SA Attorney-General.....	71
6.1.1 Feedback on proposed Statute Amendments (Legalisation of Same Sex Marriage Consequential Amendments) Bill 2019	71
6.1.2 Improving protections against discrimination and vilification in SA.....	71
6.1.3 Investigation powers of Equal Opportunity Commissions in Australia	72
6.1.4 Future operating models of the Equal Opportunity Commission	73
6.1.5 Feedback on Married Persons (Separate Legal Status) Bill 2019	73
6.1.6 Update on Chiefs for Gender Equity gender pay gap work.....	73
6.1.7 Proposed amendments to sexual harassment provisions of the Act.....	74
6.1.8 Review of Victimisation provisions in PID and ICAC Acts	75
6.2 Other submissions.....	76
6.2.1 Ministerial correspondence.....	76
6.2.2 Letter to the Minister for Education about Continuity of Service (‘break in service’) arrangements for Department of Education Employees	76

6.2.3 Letter to Minister for Innovation and Skills regarding pathways to employment for mature age jobseekers	77
6.2.4 Letter to CEO Copper Coast Council regarding disability access.....	78
6.2.5 Response to a request from President of the Legislative Council to investigate the behaviour of an MP and make recommendations	78
6.2.6 Letter to Ombudsman: disability discrimination, out of jurisdiction	79
6.2.7 Letter to Soroptimist International Murray Bridge regarding offering a tertiary scholarship to women only	80
6.2.6 Letter to Commissioner for Public Sector Employment: Emergency egress.....	80
6.2.7 Letter to Commissioner for Public Sector Employment: Special leave with pay for State Government employees with disability	81
Section 7: Reporting of public complaints about the Commission’s service.....	82
7.1 Summary of complaints by subject	82
7.2 Complaint outcomes (update on 2018-19 matter).....	82
7.3 Freedom of Information.....	83
Section 8: Appendix (detailed enquiry, complaint and exemption data)	84
8.1 Enquiry Data	84
8.2 Complaint Data.....	86
8.3 Exemption Requests.....	95

Our 2019-20 actions against discrimination and sexual harassment



Commissioner
(1.0 FTE)
Core Team Staff
(4.6 FTE)

Public education and advocacy

 **20**
training
sessions

 **47**
public speaking
engagements

80 media
stories


19 
submissions and
recommendations
for reform

4 
representations
on stakeholder
projects

Discrimination enquiries and complaints

607
enquiries



181
complaints

70
conciliations



81%
successful

Partnerships and projects



2
PhD students
supervised



3
internship
projects

7 + 
projects

Section 1

Commissioner's Overview of 2019-20

This year has again been an incredibly busy and productive year for the South Australian Equal Opportunity Commission (the Commission), within a broader context that continues to evidence the vital importance of equal opportunity laws.

The *Equal Opportunity Act 1984* (the Act) establishes the position of Commissioner as a statutory authority with responsibility for administering the Act to prevent discrimination, sexual harassment and victimisation, and to facilitate the participation of all citizens in the economic and social life of the community. In introducing the Equal Opportunity Bill in 1984, the Hon Greg Crafter MP, then Minister of Community Welfare, outlined that the intention of the legislation was to give 'each and every person a basis on which they can live their life in dignity and in equality and with the respect that is due to every single person in the community'.¹

The year 2019-20 has highlighted a critical need for the social cohesion promoted by equal opportunity laws, with increased reports of racism and disability-related discrimination during the COVID-19 pandemic. The year has also seen increasing attention on, and reports of, sexual harassment in the workplace. The Australian Human Rights Commission's important *Respect@Work* Report² is clear that sexual harassment in Australian workplaces remains widespread and pervasive. With 85% of Australian women having experienced sexual harassment, every workplace must take action to ensure safe and respectful workplace cultures.

It is a huge privilege to oversee the administration of the Act in our community. It is grounded in fundamental principles that guide our interactions and decisions in many facets of public life, that give us a sense of belonging, of safety, and a chance for us all to contribute on an

¹ South Australia, Parliamentary Debates, House of Assembly, 4 December 1984, 2079 (Greg Crafter, [former] Minister of Community Welfare).

² AHRC (2020) *Respect@Work: Sexual Harassment National Inquiry Report*, available at <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>

equal footing. It is only when every person in the community is treated with dignity and respect that they achieve their full potential for the benefit of the whole community.

This is also a responsibility with increasing challenges. In the parliamentary debates in passing the Act in 1984, the then opposition Member, the Hon Diana Laidlaw AM, articulated what was agreed on both sides of the floor, that ‘the major objective of anti-discrimination equal opportunity legislation is its educative function’. She followed this by asking ‘whether the Government has seen fit to provide adequate resources to the Commission to fulfil its functions and responsibilities to the community’.³ In my view, following funding reductions from successive governments, the ability of the Commission to fulfil this vital function is in jeopardy.

Over the last decade, funding to the Commission has reduced by over 50 percent. I have outlined the risks associated with inadequate funding for the Commission on pages 18-20 of this report. These are risks both to the realisation of the Act’s objectives within the South Australian community and to the wellbeing and life chances of already marginalised people who seek the Commission’s services.

I oversee a small team of dedicated and passionate staff, who are under great pressure to meet expectations beyond the current capacity of the Commission. Our reduced staffing has also meant my increasing involvement in operational management and oversight, resulting in reduced capacity to engage in the educative and consultancy activities of the Commission. Nevertheless, I have continued to maintain and build on strong partnerships, particularly with universities, to leverage and expand the reach of our work. Despite the challenges, the Commission team has again this year punched well above its weight in delivering on our functions as prescribed by the Act.

Complaints of discrimination, sexual harassment and victimisation

The Act prescribes reactive functions where discrimination is alleged to have occurred. The Commission provides an impartial, free and confidential means for people to address

³ South Australia, Parliamentary Debates, Legislative Council, 17 October 1984, 1181 (Diana Laidlaw).

unlawful discrimination, sexual harassment and victimisation, by assessing and resolving complaints made under the Act by individuals and groups (see section 4.1.1.2).

In 2019-20, disability discrimination was again the most common ground for complaints to the Commission, at 21% of accepted complaints. Only marginally less frequent, 20% of complaints alleged sexual harassment. The remaining most frequent grounds of complaint were victimisation (14%) and discrimination on the basis of sex (11%), race (10%) and age (7%). While complaints on the ground of disability discrimination in 2019-20 were down from recent years⁴, complaints on these other grounds were all substantially higher in 2019-20 than the average over the previous four years.

In 2019-20, the number of discrimination, sexual harassment and victimisation complaints assessed by the Commission increased by over a third from last year. Despite this increase, the Commission continued to see the rewards of process improvements. 2019-20 saw over 80% of conciliations successfully resolved and a 40% reduction in the time taken to finalise complaints, compared with last year. Our conciliation team has received consistent and abundant positive feedback from parties involved in conciliations (see page 38).

While complaint statistics are incredibly important for quantifying the reactive work of the Commission and providing guidance for the direction of our proactive work, I must emphasise that they are of very limited utility in providing a basis on which to allocate funding to the Commission. While the reactive function is critically important where issues of discrimination have occurred and require redress, the educative function of the Commission must also be adequately funded for the Commission to meet its responsibilities to eliminate discrimination, sexual harassment and associated victimisation in the community.

Promoting equality of opportunity within the South Australian community

The Act provides the Commission with a proactive function, namely to educate the community with a view to promoting inclusion and acting collectively to eliminate discrimination. To this end, I spoke at 47 events in 2019-20, maintaining the previous year's

⁴ 17% lower than the average number of complaints on the ground of disability discrimination for the previous four years.

level despite the cancellation of almost all public-speaking engagements with the advent of the pandemic. I was also involved in 80 radio, online or print media reports relating to equal opportunity in 2019-20, a 45% increase on the previous year.

This year, I continued in my role as Chair of the Australian Council of Human Rights Authorities, as appointed by my interstate and federal colleagues, overseeing increasing collaboration and information-sharing between commissions.

Despite funding constraints, the Commission expanded its focus on preventing disability-related discrimination in 2019-20, with a number of new projects aimed at educating the community on these issues. This has included: supervising a Law Intern's research and report regarding assistance animal law reform; collaboration on the production of a pamphlet outlining the rights and responsibilities of venues and facilities regarding assistance animals; writing to SA-based travel insurers on the issue of disability discrimination in the form of blanket mental health exemptions; developing an 'Access Alert' app (yet to be made public) with students from Flinders University to provide informal notification to venues when a person living with disability has encountered an access issue; collaboration with PwC and Julia Farr Purple Orange on disability employment initiatives; and revising the Commission's disability data categories to more usefully capture data to inform future projects regarding disability discrimination (see sections 4 and 5).

Fee-for-service consultancy work

In 2019-20, the Commission has continued to lead the three-year Workplace Equality and Respect (WER) project, which establishes the State Government as a national leader in workplace prevention of violence against women. Through the innovative WER Project, 24 State Government agencies are implementing Gender Equality and Respect Action Plans and preparing to seek reaccreditation as White Ribbon workplaces (see pages 60-61).

Relatedly, the SA Chiefs for Gender Equity, which I convene, has overseen the production of a suite of eight resources to support the advancement of gender equity in South Australian small and medium enterprises (pages 57-58)

In 2019-20, the Commission finalised the South Australia Police (SAPOL) Monitoring Project, producing a final report reviewing the changing perceptions, experiences and practices to

support gender equality and cultural change in SAPOL since the initial review and recommendations made by the Commission in 2016 (see pages 61-62).

Legislation and policy advice

My comment has been sought by the Attorney-General in relation to three pieces of proposed legislation relevant to the area of equal opportunity, and I have developed five submissions for the Attorney-General's consideration regarding areas for reform to further advance the objectives of the Act (see page 71). One of these submissions informed the Equal Opportunity (Parliament) Amendment Bill 2020, proposing to extend the protections and obligations regarding sexual harassment in the Act to Members of Parliament in their conduct towards other Members of Parliament.

As outlined in detail in this report, I have undertaken formal advocacy activities to fulfil my responsibilities as Commissioner, through correspondence to key stakeholders on a range of equal opportunity matters. These include; access and opportunities for people living with disability, gender-neutral parental leave provisions, opportunities for mature job seekers and non-discriminatory school uniform policies.

The team and I have supervised the production of another two Law Intern reports (details on pages 66-67) and I have continued to co-supervise two PhD students from the University of Adelaide who are undertaking research of relevance to the work of the Commission.

Acknowledgements

I take this opportunity to thank my incredibly resilient and resourceful team and acknowledge their hard work and dedication to delivering quality services to the South Australian community. It is my privilege to have a team comprised of some of the most highly-performing people I have ever worked with in my career across the private, university, not-for-profit and government sectors.

I am extremely appreciative of the wonderful support that we get for our work from our strategic partners, consulting clients, student interns and legal clinic volunteers, business and community leaders and the general community.

I also want to acknowledge the privilege inherent in my role in hearing personal stories from members of our community. Reiterating the words of the Hon Greg Crafter AO quoted above, these interactions are a daily reminder that each and every person in our community deserves to live with dignity, equality and respect. In the year ahead, the Commission will continue to work to realise the promise of these words.

Dr Niki Vincent
Commissioner for Equal Opportunity (SA)

Section 2

The role of the Commissioner for Equal Opportunity

The Commissioner for Equal Opportunity is a statutory officer appointed by the Governor, on the recommendation of Cabinet, to administer the *Equal Opportunity Act 1984* (SA) (the Act). The statutory appointment is to enable the Commissioner to act independently when dealing with complaints of discrimination, sexual harassment, victimisation and whistle-blowing.

The Commissioner is appointed for a term of five years and is, at the expiration of a term of appointment, eligible for reappointment. The Commissioner is not a Public Service employee. The terms and conditions of the Commissioner's appointment are fixed by the Governor on the recommendation of the Commissioner for Public Sector Employment.

The Act states that the Commissioner will have such staff as is necessary for the administration of the Act. The Commissioner's staff are Public Service employees.

2.1. Functions of the Commissioner

As specified in the Act, the functions of the Commissioner for Equal Opportunity are as follows:

- (1) The Commissioner must foster and encourage amongst members of the public informed and unprejudiced attitudes with a view to eliminating discrimination on the grounds to which this Act applies.
- (2) The Commissioner may institute, promote or assist in research, the collection of data and the dissemination of information relating to discrimination on the grounds to which this Act applies.
- (3) The Commissioner may make recommendations to the Minister as to reforms, whether of a legislative nature or otherwise, that the Commissioner believes will further the objects of this Act.

2.2. Administration of Act and Ministerial direction

The Act specifies: The Commissioner is responsible to the Attorney-General for the general administration of this Act and, in carrying out that function, is subject to the general control and direction of the Minister.

However, the Minister—

- (a) Must not give a direction in relation to the manner in which action should be taken on a particular complaint; and
- (b) Must not seek information tending to identify a party to proceedings under this Act.

2.3. Legislation administered by the Commissioner for Equal Opportunity

Equal Opportunity Act 1984 (SA)

Section 3

Structure and funding of the Office of the Commissioner for Equal Opportunity

3.1. Core funding for the Commission

Table 1 provides an overview of the allocations provided by the Attorney-General's Department to fund the work of the Commission for the financial year 2009-10 and from 2016-17 to this financial year. Projections of future allocations up until 2022-23 are also outlined.

As Figure 1 shows, in the 10 years between 2009-10 and 2019-20, there has been a 54.5% decrease in funding to the Commission. In that same period, the remit of the Commission's work, as per the grounds and areas covered by the Act have increased. The expansion of areas covered by the Act are reflective of changing social attitudes on issues such as breastfeeding in public, the inclusion of mental illness and learning difficulties in the definition of disability, and concerns around discrimination on the basis of religious dress or caring responsibilities, among other grounds.⁵

In 2019-20, core funding provided for 5.6 full time equivalent (FTE) Commission staff, including the Commissioner (see Fig. 2 and Table 2). This is down from 6.9 FTE in 2018-19. In 2009-10, the Commission was funded for 20.2⁶ FTE staff.

⁵ The Equal Opportunity (Miscellaneous) Amendment Bill of 2009, which came into effect on 2 October 2009, expanded the Act's protections against disability discrimination by broadening the definition of 'disability' to include mental illness, non-symptomatic physical conditions and learning disabilities. The passing of the 2009 Bill also extended the coverage of the Act to carers, the identity of a spouse or domestic partner, past and presumed characteristics, and potential pregnancy, removed a number of exemptions to unlawful discrimination on the basis of sexuality, extended vicarious liability for sexual harassment to a larger pool of employers, and improved protections for breastfeeding women in education and the delivery of goods and services and on the basis of religious dress in education and employment.

⁶ Commission Organisational Structure 2010 financial data collection.

Table 1: Core budget allocation comparisons for the Equal Opportunity Commission

	2009-10	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Salaries	1,436	839	876	830	707	682	661	668
Supplies & Services	328	124	113	214	113	108	107	107
Depreciation	54	24	24	24	24	24	24	24
Grants	19	10	10	10	5	5	5	5
Internal (AGD) expenses	269	167	178	111	109	233	233	233
Total Allocation	2,106	1,164	1,201	1,189	958	1,052	1,030	1,037

Figure 1: Core budget allocation to the Equal Opportunity Commission 2009-10 to 2020-23

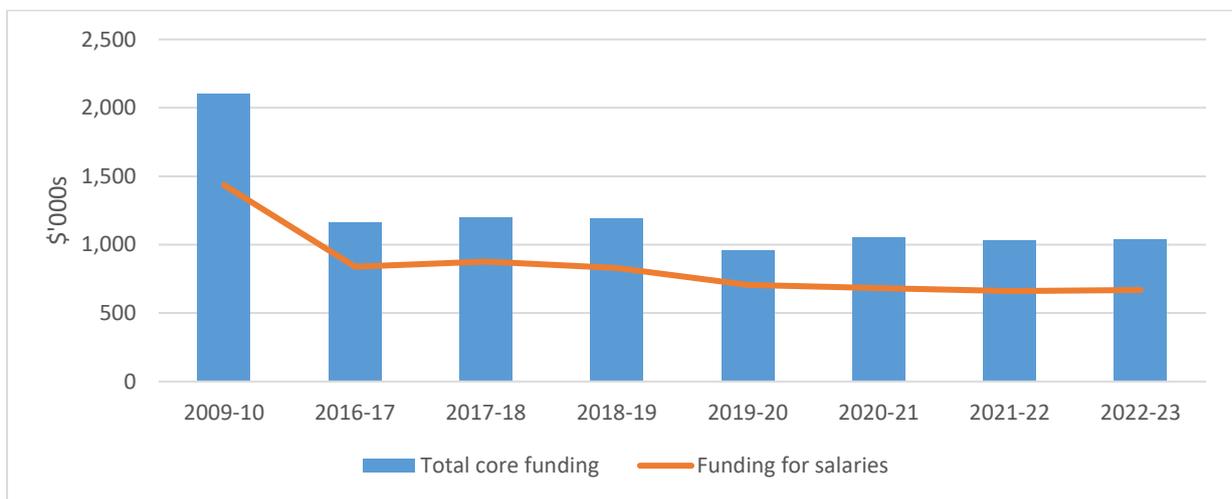


Figure 2: Structure of the core-funded Equal Opportunity Commission team

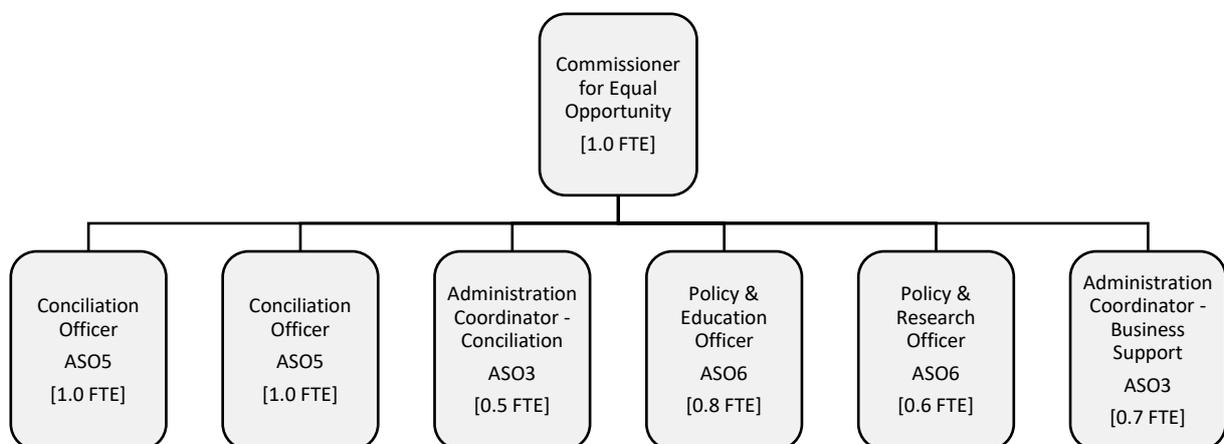


Table 2: Total Full Time Equivalent (FTE) of core-funded team

Position	FTE
Commissioner for Equal Opportunity	1.0
Conciliation Officer	1.0
Conciliation Officer	1.0
Administration Coordinator - Conciliation	0.5
Policy & Education Officer	0.8
Policy & Research Officer	0.6
Administration Coordinator - Business Support	0.7
TOTAL	<u>5.6</u> Full Time Equivalent staff

Note: The above represents the positions funded through the Commission’s core budget, allocated by the Attorney-General’s Department. Additional contract positions within the Commission are funded through fee-for-service consulting activity.

3.2. Executive employment in the Commission

None – the Commissioner is a statutory appointment.

3.3. Risks associated with the decline in funding for the Commission

It is the unwavering view of the Commissioner for Equal Opportunity that the current funding allocated to the Commission is insufficient to adequately administer the functions under the Act and meet the objectives of the legislation.

At present there is overreliance on an extremely industrious and high-performing small team, driven by a passionate sense of responsibility to uphold the ideals of the legislation. This situation is not sustainable or desirable from a risk-mitigation perspective.

In introducing the Equal Opportunity Bill in 1984, the Hon Greg Crafter MP, then Minister of Community Welfare, outlined that the intention of the legislation was to give ‘each and every

person a basis on which they can live their life in dignity and in equality and with the respect that is due to every single person in the community'.⁷

In debating the Equal Opportunity Bill in 1984, all sides of politics were in agreement about the intention of the Act to bring about change in attitudes and behaviour, and that the educative function of the Commission was therefore of paramount importance. The Bill, originally introduced as the Anti-Discrimination Bill, was renamed to emphasise the Commission's major objective in providing education and promoting equal opportunity. It was argued that change in behaviour would come only with change in attitudes,⁸ and hence the provision of adequate resources to the Commission was deemed necessary to ensure its capacity to fulfil its functions and responsibilities to the community.⁹

While community attitudes on the issue of discrimination have come some way since 1984, the anecdotal evidence and consistency of complaints and enquiries received by the Commission illustrate that the 'injustices stemming from prejudices'¹⁰ that drove Parliament to enact the Act in 1984 continue today.

The reduction of funding over the past decade has severely reduced the capacity and potential impact of the Commission in the South Australian community. There are a number of risks associated with this, including but not limited to the following.

1. Delivery of legislative objectives in the South Australian community:

- Possibility of further exclusion of minority groups in the community owing to the lack of capacity within the Commission to undertake proactive functions regarding all attributes protected under the Act.

⁷ South Australia, Parliamentary Debates, House of Assembly, 4 December 1984, 2079 (Greg Crafter, [former] Minister of Community Welfare).

⁸ South Australia, Parliamentary Debates, Legislative Council, 23 October 1984, 1316 (Barbara Wiese).

⁹ South Australia, Parliamentary Debates, Legislative Council, 17 October 1984, 1181 (Diana Laidlaw).

¹⁰ In her second reading speech in support of the Act, Diana Laidlaw AM stated, 'How satisfying it would be if we could say with conviction and pride that members of our society do not encounter injustices that stem from prejudices, and how satisfying it would be if we could demonstrate that we do not blindly squander the creativity, energy, experience, talents and training of any sector of our community by the placement of artificial barriers in the way of a person's development. However, to entertain such thoughts is wishful thinking. The fact is that we do not live in an ideal world and injustices do occur and artificial barriers are in place.' South Australia, Parliamentary Debates, Legislative Council, 17 October 1984, 1176.

- Risk of perceived ‘ranking’ of certain protected attributes above others, contrary to the intentions of the Legislature in passing the Act.
- Reduction in relevance and observance of equal opportunity laws in the community if administration of the Act is seen to be of low importance to the State Government.
- Missed opportunities for the Commission to make recommendations for legislative and policy reforms at both state and national levels to further the objectives of the Act.
- Ongoing lack of capacity within the Commission to develop and disseminate educational materials, including practice guidance, on matters relating to the Act.
- Ongoing missed opportunities to engage with requests from school students about Commission functions and objectives, to help inform the younger generation of South Australian community members.

2. Service delivery:

- A reversal of the substantial service delivery efficiencies delivered over the last three years and a return to long delays in responding to public enquiries and processing complaints.
- Reduced rate of successful conciliations due to time delays in complaint handling. This may mean a greater number of matters referred to the South Australian Civil and Administrative Tribunal (SACAT).
- Ongoing lack of capacity to respond to data and policy enquiries and requests from the community and government agencies.
- Lack of capacity to undertake a much-needed data project to enhance reporting capabilities by developing new methods and metrics.
- Complaints about the Commission’s services
- Inability to fulfil existing work requirements during periods of unplanned staff leave.

3. Staff wellbeing and advancement:

- Reduced morale and heightened risk of staff burnout or turnover where community expectations of service provision and support cannot be met, in spite of increased system efficiencies implemented in recent years.
- Lack of career and professional development opportunities for Commission staff.

Section 4

Function 1: Fostering and encouraging informed and unprejudiced attitudes in the community

4.1. Activities funded by the Attorney-General's Department

4.1.1. Enquiries and complaints made to the Commission

One of the core functions of the Commission is to assist community members with enquiries in relation to discrimination, sexual harassment and victimisation and to help them resolve complaints about unlawful discrimination, sexual harassment and victimisation under the Act. This work is central to the Commission's role in protecting and promoting equality of opportunity and preventing discrimination in South Australia. This function complements our education and consultancy services, which aim to drive social change to promote equality of opportunity across the community.

The number and type of enquiries and complaints we receive helps to highlight issues of systemic discrimination in particular areas under the Act and assists us in identifying priorities for our project, policy and educational work.

A summary of the main enquiry and complaint statistics are provided in this section. Detailed statistics can be found in Section 8 (Appendix).

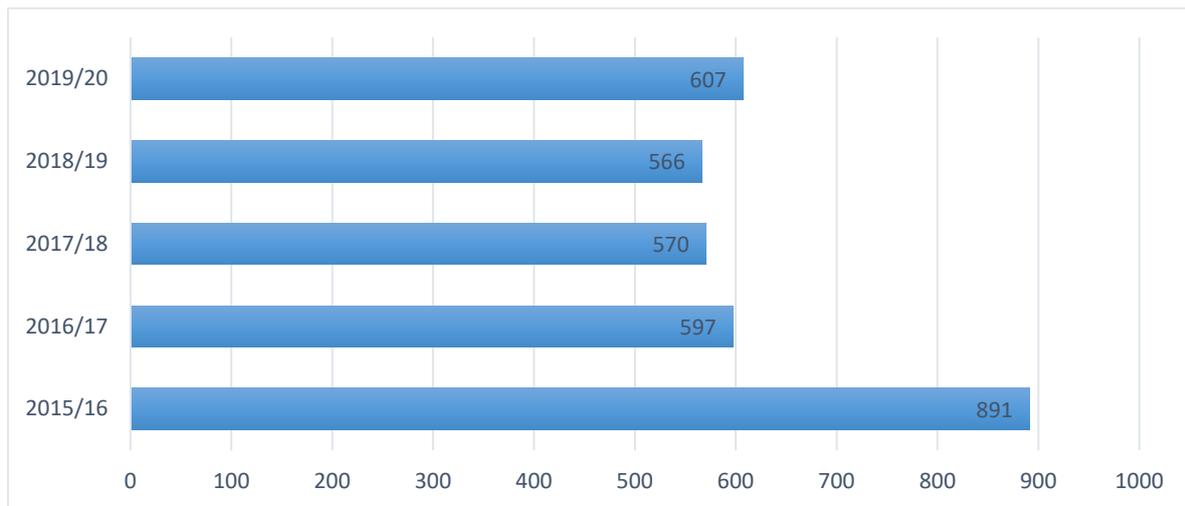
4.1.1.1. Enquiries

The Commission provides a free, impartial and confidential enquiry service to educate the community about their rights and responsibilities under equal opportunity law. Details of enquiries are recorded to understand the types of discrimination reported by members of the community and their informational needs, to better target the delivery of educational information, resources and training.

In 2019-20, the Commission received 607 enquiries. This is an increase of 7% from last financial year. As displayed in Figure 3, the past three years show a comparable number of

enquiries to the Commission, with a significant reduction from the number of enquires received in 2015-16. This reduction is in part attributable to an increase members of the community directly accessing information and resources available through the Commission’s website.

Figure 3: Enquiries made to the Commission



While enquiries to the Commission can be made via a range of methods, almost 90% of enquiries during 2019-20 were made by telephone (64%) or email (25%). Although this is a similar proportion to the previous four years for these methods combined, it is notable that there was a 59% increase in email enquiries and a 21% decrease in telephone enquiries this year, compared to the average for these methods of enquiry over the previous four years.

The most commonly-reported grounds of discrimination by enquirers in 2019-20 were disability (27%), race (9%), sexual harassment (8%) and sex discrimination (5%). This is largely consistent with the previous four years. Similarly, the areas of employment (55%) and goods and services (22%) remained the most commonly identified areas of discrimination by enquirers this year.

It should be noted that a substantial proportion (around 40%) of enquiries to the Commission are not related to any ground or area under the Act.

Commission staff assisted enquirers in a range of ways; most frequently through referral to the Commission website for additional information (37%), by the provision of general information (27%), or by referral elsewhere if the enquiry falls outside the Commission’s functions (16%).

4.1.1.2. Complaints

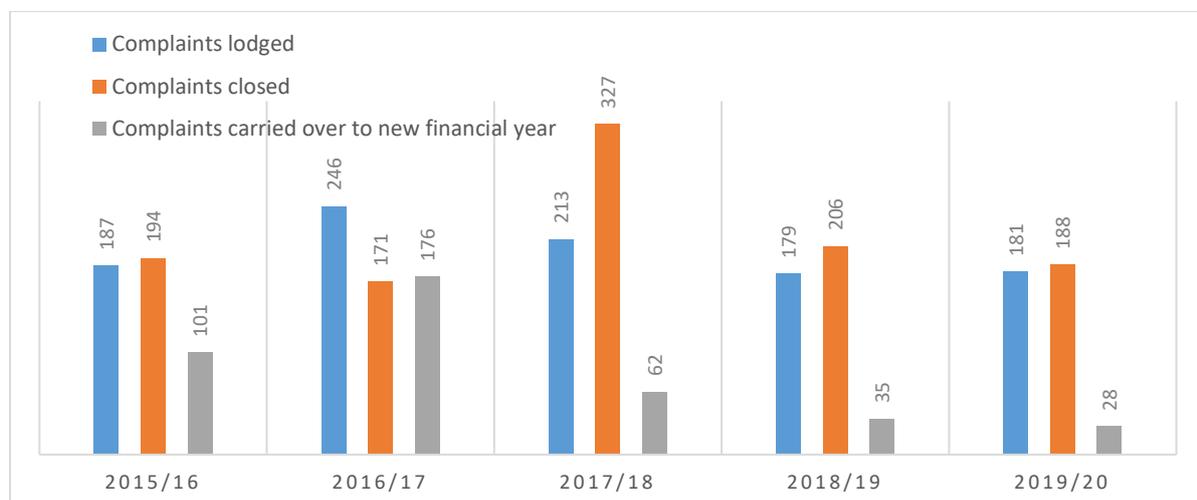
In the 2019-20 financial year, 181 complaints were lodged with the Commission. Figure 4 shows how this number compares with the previous four years.

The Commission has implemented substantial business performance improvements in complaint management over the past four years, in order to streamline the complaint-handling process, reduce administrative duplication and workload, and improve timeliness and efficiency.

These efficiencies have enabled the Commission to clear its backlog of complaints, with the number of open complaints carried over into the subsequent financial year declining by 70% over this period. This is despite a reduction of only 12% in the average number of complaints lodged over the last 5 years.

Figure 4 shows the number of complaints lodged, closed and carried over into the next financial year, for the last 5 years.

Figure 4: Complaints lodged, closed and carried over (last 5 years)



In 2019-20, most complaints (77%) were made directly via the online complaint form on the Commission's website. Of the remaining complaints, 16% were lodged via email (often via a legal representative), 5% through submission of a hard copy complaint form and 2% via a letter posted to the Commission.

When a complaint is lodged with the Commission as a possible breach of the Act, it is assessed against the Act by the Commissioner. Complaints may be either accepted and dealt with under the Act, not initiated as a complaint where it is outside the scope of the Act, or declined for a reason prescribed by the Act.¹¹

Should the Commissioner decide to decline the complaint under section 95A of the Act then the complainant has the right to have the matter referred to the SACAT¹² for determination.

Figure 5 shows the number of complaints assessed, accepted, declined at lodgement and not initiated at lodgement in 2019-20 compared with the previous four years.

In 2019-20, there was a 36% increase in the number of discrimination, sexual harassment and victimisation complaints assessed compared to the previous year. This increase is substantial, particularly given the decrease in Commission staff. As a result of the diminishing budget and related risk to the Commission's ability to maintain a high-performing complaint management service for the SA community, the Commissioner felt she had little choice but to undertake training to become a nationally accredited mediator. In 2019-20, the Commissioner has dedicated approximately 10 hours of her time each week to hands-on complaint management and conciliation work and direct supervision of conciliation staff. This has reduced the time that the Commissioner was able to dedicate to other Commission functions of community

¹¹ 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 a ground and area must be present for a complaint to be accepted under the Act. Where a 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 for assessment purposes.

¹² The relevant tribunal for the determination of the majority of complaints made to the Commission changed from the SA Employment Tribunal (SAET) to the SACAT from 2nd September 2019. The Commissioner retained the power to refer matters to the SAET where a complainant has a live workers compensation matter before the SAET, to provide for the efficient and holistic consideration and resolution of matters involving injured workers.

education and consultancy. As far as can be ascertained, it is the first time in the history of the Commission that the Commissioner has had direct involvement in complaint conciliation work.

Figure 5: Complaint assessment (last 5 years)

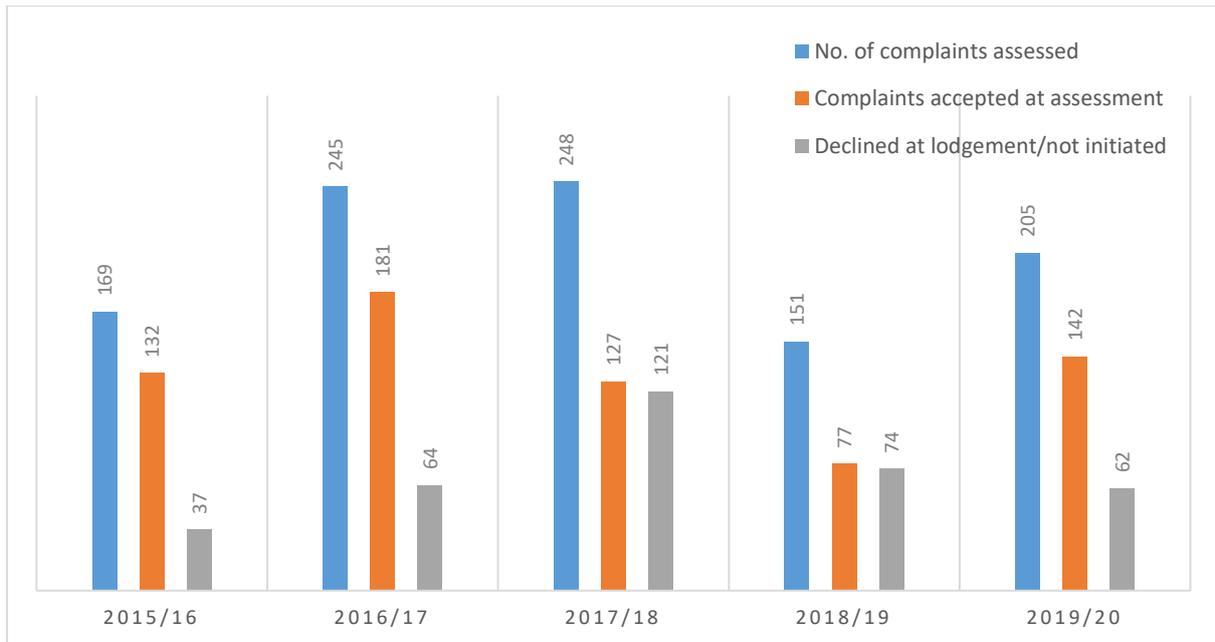


Figure 6 shows the average complaint assessment time and the average time taken to finalise complaints in 2019-20 compared to previous years.

In 2019-20, the average complaint assessment time was 4.5 weeks. This reflects a reduction of almost a third from 2018-19 (6.6 weeks). Additionally, there was a 41% reduction in the time taken to finalise complaints, compared with last year.

Complaint assessment time has been reduced by 62% and the time taken to finalise complaints reduced by 56%, in comparison to 2016-17 (the year that the Commission introduced business performance improvement processes).

Figure 6: Complaint assessment and finalisation times

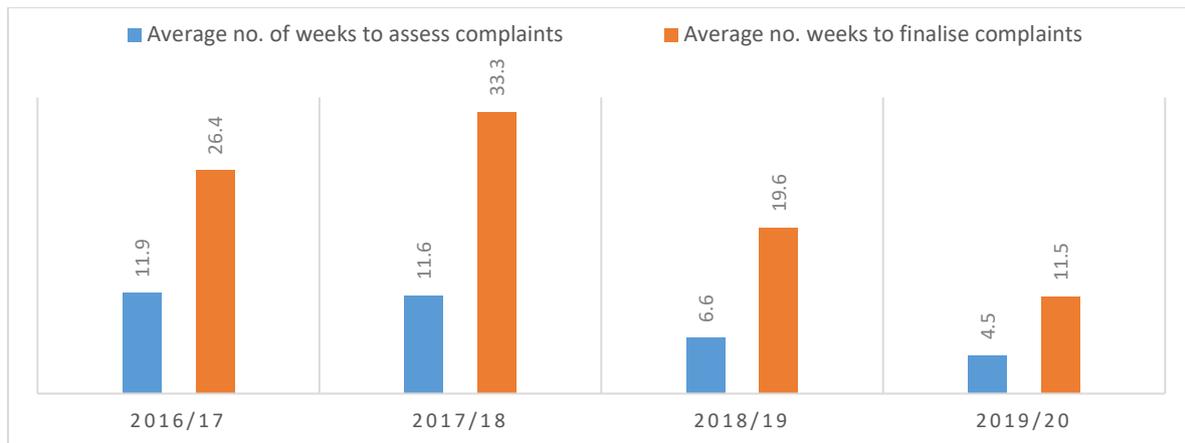
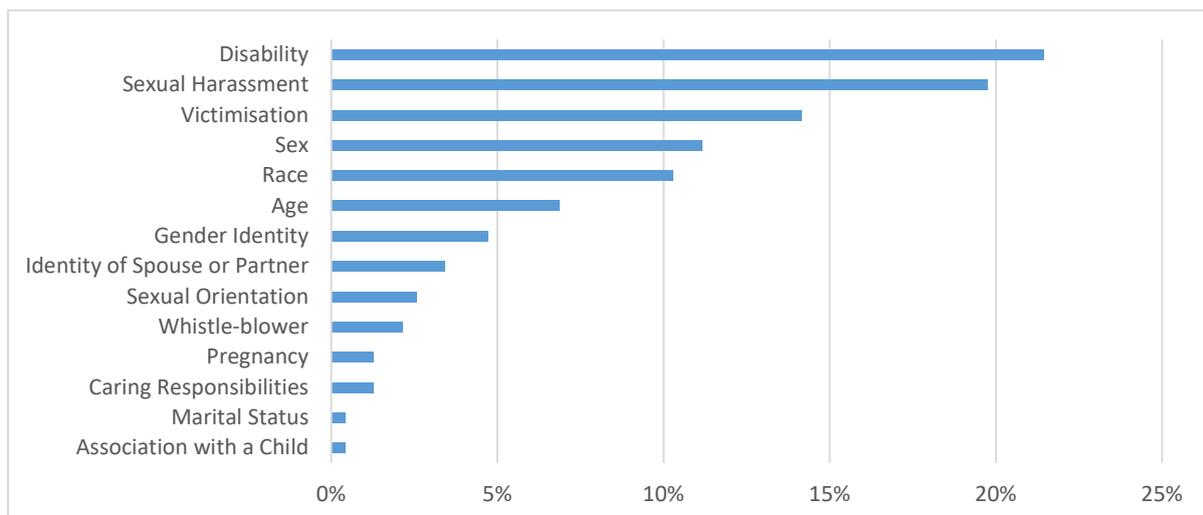


Figure 7 shows the grounds for complaints accepted in 2019-20 as a percentage of the total number of grounds.¹³

Disability discrimination was again the most common ground, at 21% of accepted complaints. Only marginally less frequent, 20% of complaints alleged sexual harassment. The remaining most frequent grounds of complaint were victimisation (14%) and discrimination on the basis of sex (11%), race (10%) and age (7%).

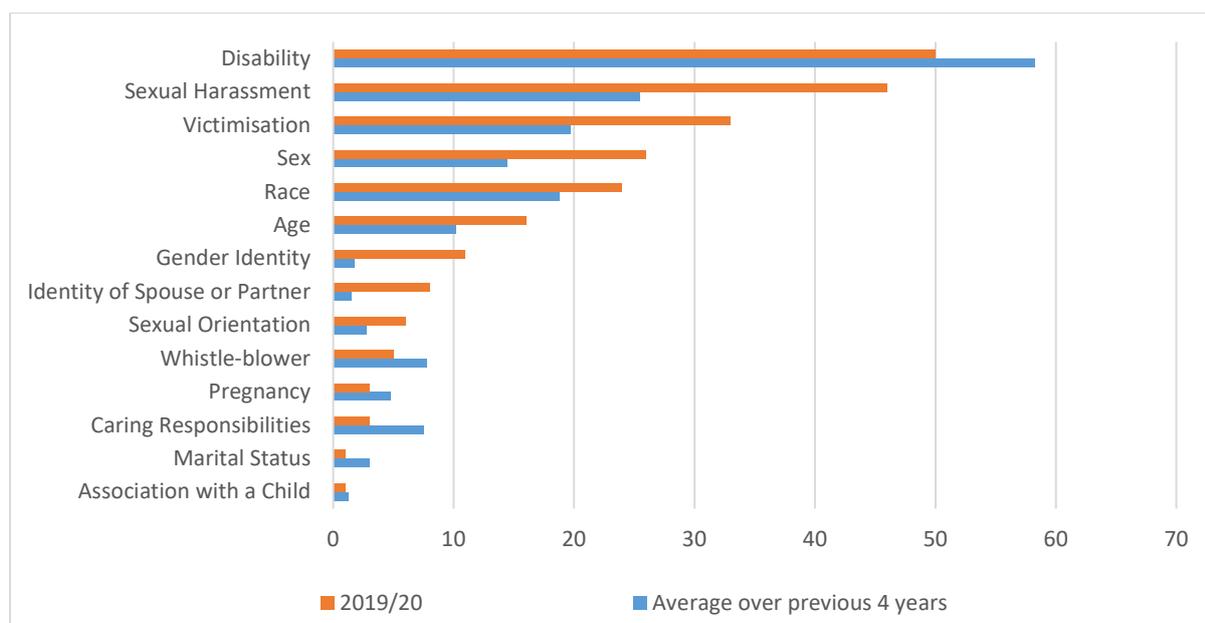
Figure 7: Accepted complaints by ground as a percentage of total grounds for 2019-20



¹³ A complaint to the Commission may be on the basis of more than one ground covered by the Act, for example discrimination on the basis of gender and race.

Figure 8 shows the accepted complaints in 2019-20 by ground, compared with the average accepted complaints for each ground over the previous four years.

Figure 8: Accepted complaints by ground in 2019-20 compared with average by ground over previous 4 years



Complaints on the ground of disability discrimination in 2019-20 were 17% lower than the average number of complaints on this ground for the previous 4 years.

The number of complaints on the following grounds were all substantially higher in 2019-20 than the average over the previous four years:

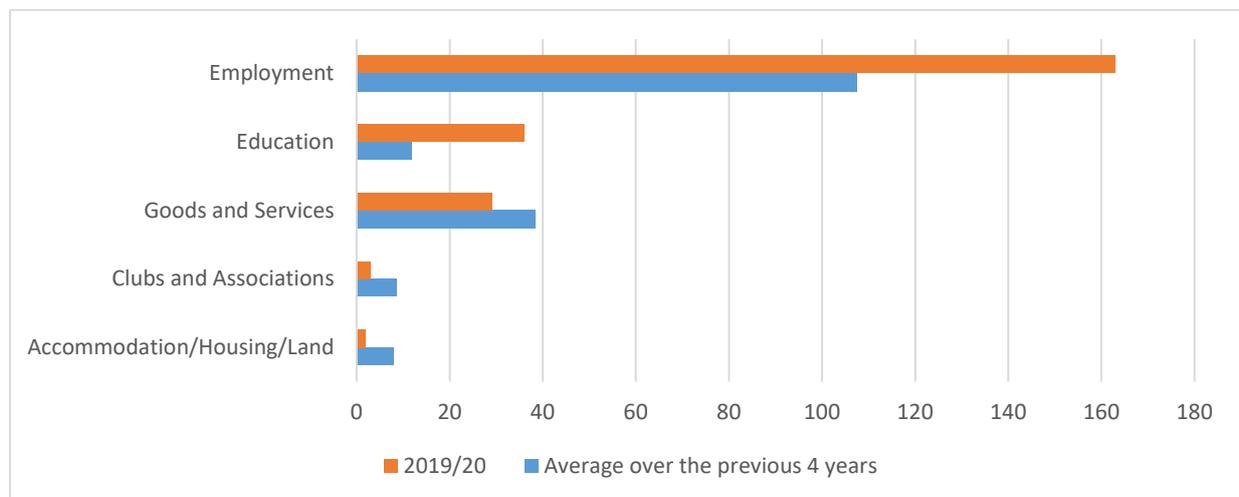
- Sexual harassment – 45% higher
- Sex discrimination – 44% higher
- Victimization – 40% higher
- Age discrimination – 36% higher
- Race discrimination – 22% higher

The number of complaints alleging discrimination on the ground of gender identity, the identity of a spouse or partner and sexual orientation were also all higher than the average over the last 4 years. Conversely, complaints on the ground of whistle-blowing, pregnancy,

caring responsibilities, marital status and association with a child were all lower. However the numbers of complaints on these grounds have been consistently small over the last 5 years and so limited weight should be placed on these changes at this time.

Figure 9 shows the areas for accepted complaints.

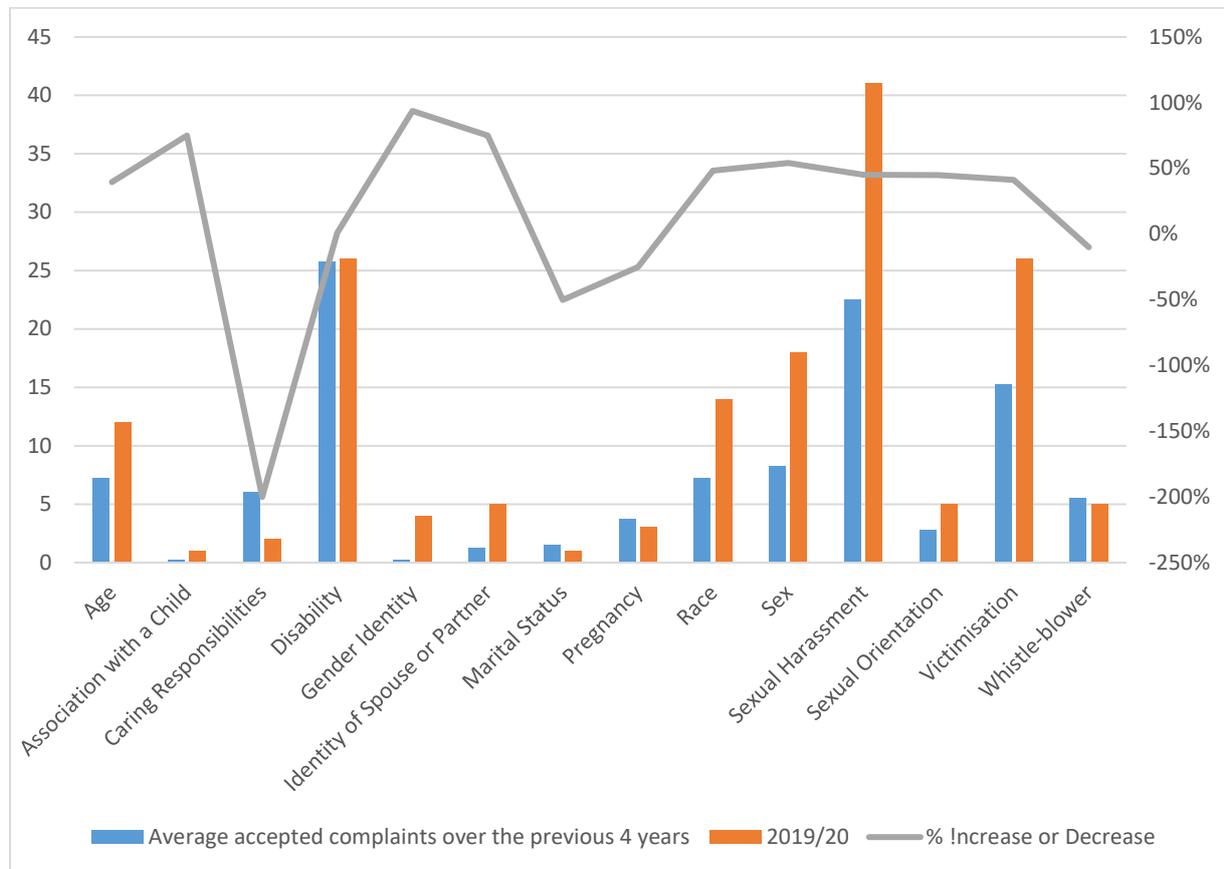
Figure 9: Accepted complaints by area in 2019-20 compared with average for the previous 4 years



Employment remained the most common area for accepted complaints in 2019-20 and complaints in this area have grown substantially (34%) when compared to the average over the previous 4 years. As was the case in 2018-19, education overtook goods and services as the second most prevalent area in which accepted complaints arose. As Figure 7 shows, there has been a 67% increase (albiet off a substantially low base) in accepted complaints in the area of education when compared to the average over the previous 4 years. In comparison, accepted complaints in the area of goods and services have reduced by 33% compared to the average over the previous 4 years.

Figure 10 shows the prevalence of the various grounds of accepted complaints in the area of employment in 2019-20 when compared to the average over the previous 4 years.

Figure 10: Accepted complaint grounds in employment in 2019-20 compared to the average over the previous 4 years

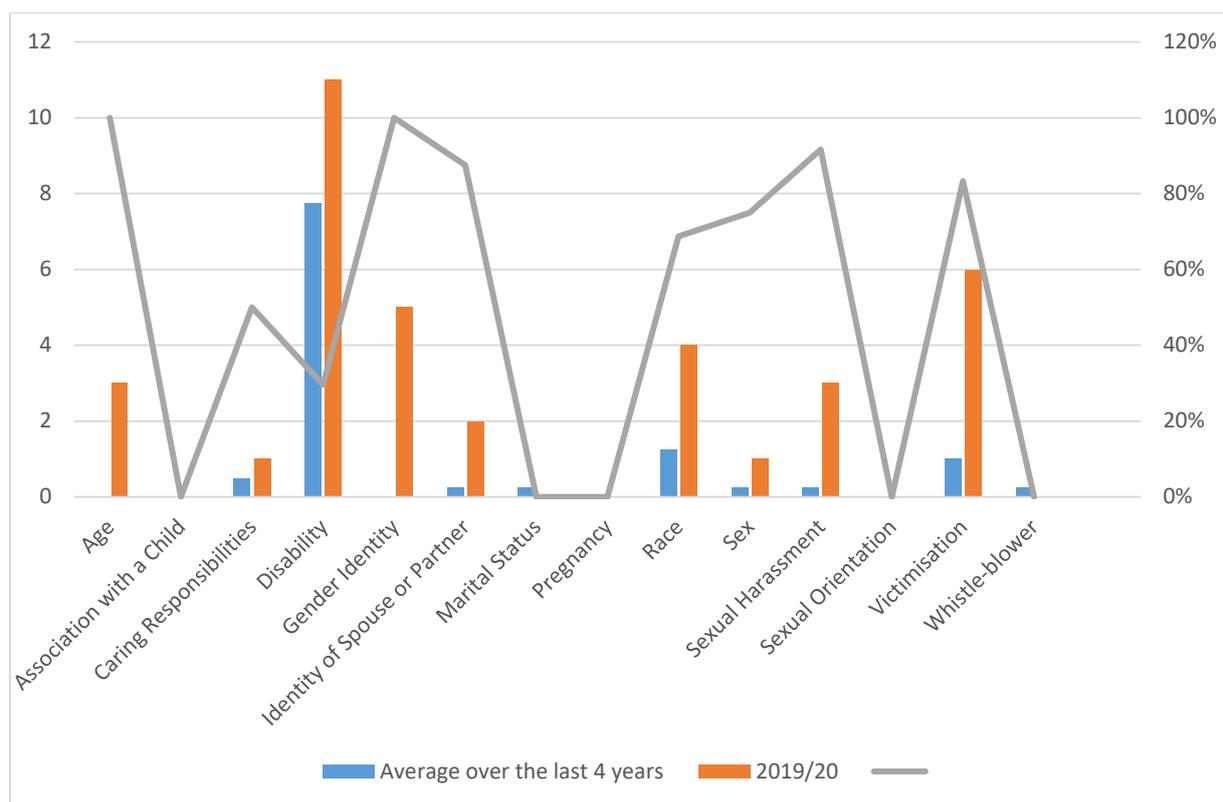


It is clear from Figure 10 that sexual harassment was by far the most prevalent ground for accepted complaints in employment in 2019-20. Complaints about victimisation and disability discrimination were the second most prevalent grounds in employment, followed by complaints of sex, race and age discrimination respectively.

While complaints of disability discrimination in employment have remained static overall for the last 5 years, there were substantial increases in the number of complaints of sex discrimination (54%), race discrimination (48%), sexual harassment (45%), victimisation (41%) and age discrimination (40%) arising in employment when compared to the average over the last 4 years.

Figure 11 shows the prevalence of the various grounds of accepted complaints in the area of education in 2019-20 when compared to the average over the previous 4 years.

Figure 11: Accepted complaint grounds in education in 2019-20 compared to the average over the previous 4 years



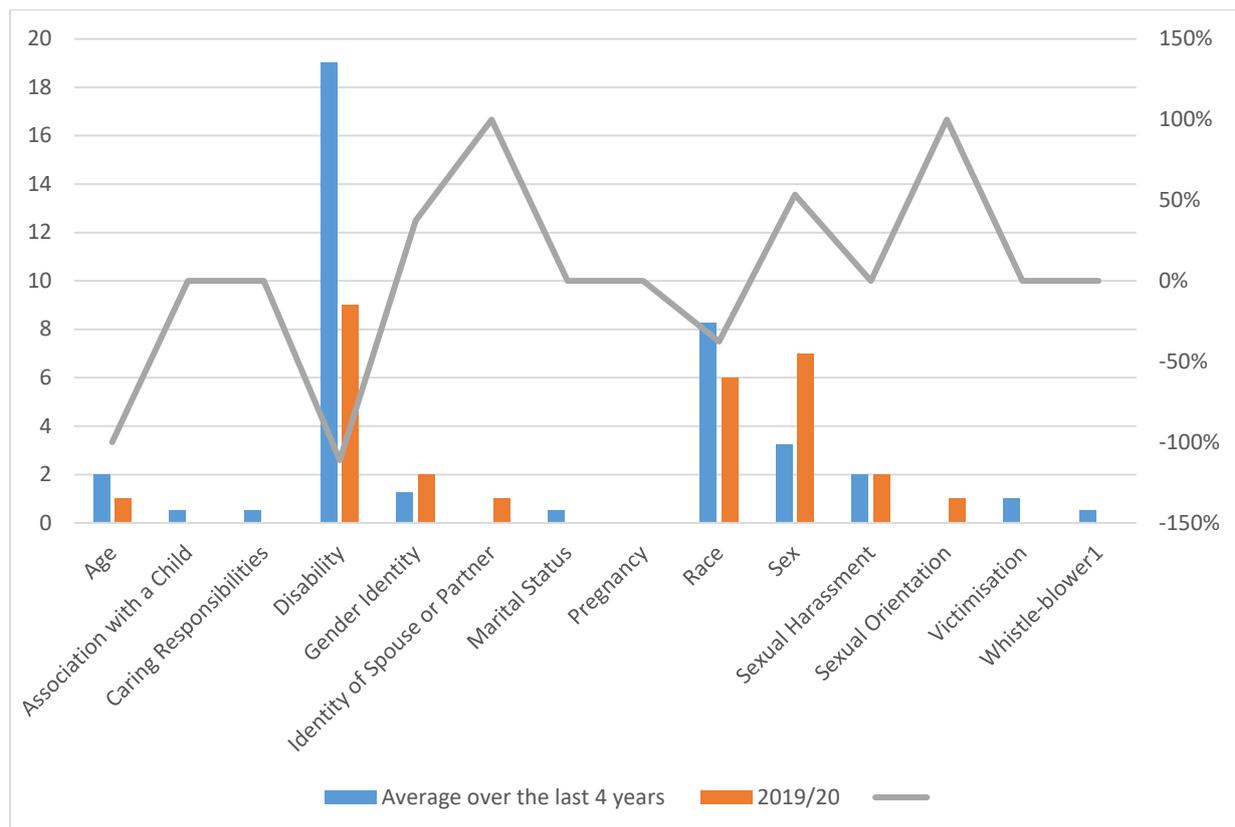
As Figure 11 shows, complaints for most grounds in the area of education rose in 2019-20 when compared to the average over the last 4 years. This has led to a substantial (67%) increase in total complaints of discrimination in the area of education. It should be noted however, that complaints for almost all grounds in the area of education have risen from a low base.

Figure 12 shows the prevalence of the various grounds of accepted complaints in the area of goods and services in 2019-20 when compared to the average over the previous 4 years.

It can be seen from Figure 12 that there has been a very substantial decrease in complaints on the ground of disability discrimination in this area. Complaints of race discrimination have

also decreased (from a low base). Conversely, complaints of sex discrimination have increased (again, from a low base). Overall, as noted previously, complaints in the area of goods and services provision have declined by 33% when compared to the average over the last 4 years.

Figure 12: Accepted complaint grounds in goods and services in 2019-20 compared to the average over the previous 4 years

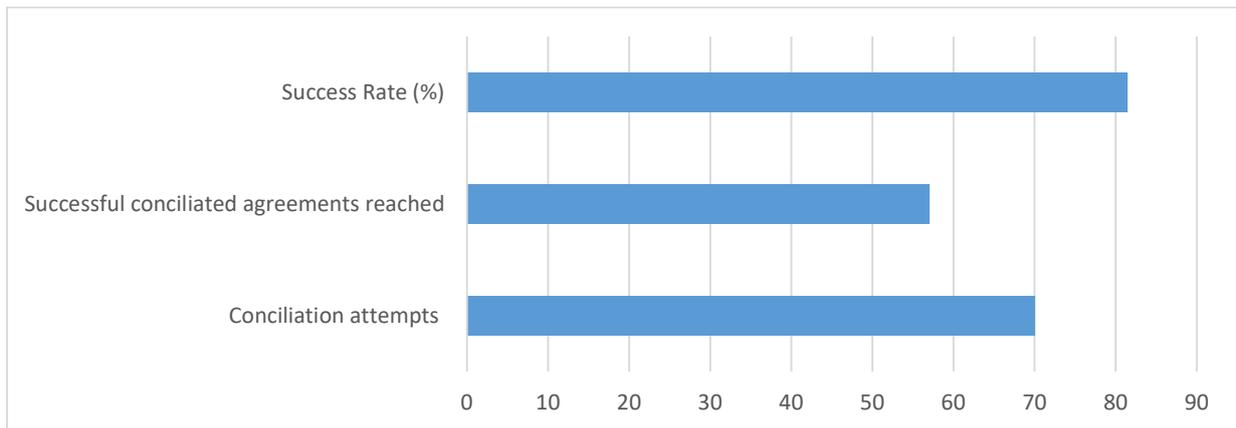


Under section 95 of the Act, if the Commissioner believes a complaint may be resolved by conciliation (other than matters declined by the Commissioner under section 95A), then the Commissioner must make all reasonable endeavours to resolve the complaint by conciliation.

Conciliation is a flexible and responsive dispute resolution process that provides an alternative to the more formal legal proceedings in the SACAT or the South Australian Employment Tribunal (SAET). Where conciliation does not achieve a resolution, the Commissioner may refer the complaint to the SACAT (or in some circumstances, to the SAET) for hearing and determination, unless the complaint is declined by the Commissioner or withdrawn by the complainant.

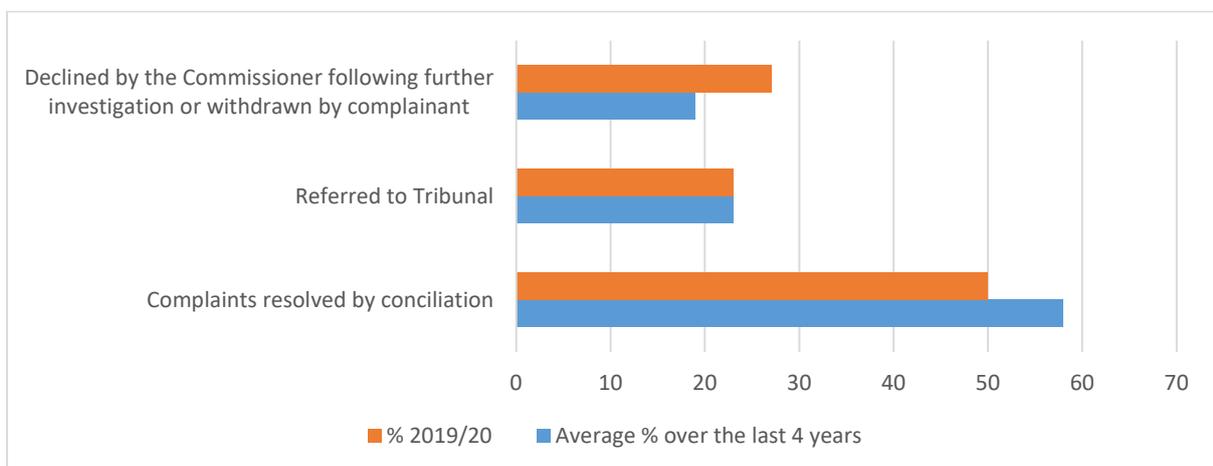
Figure 13 displays the number of conciliation attempts made in 2019-20 and the number in which a successful agreement was reached. It shows that, of the 70 complaints in which conciliation was attempted, this was successful in reaching a resolution in 81% of cases.

Figure 13: Conciliation success rate



There was a slight (2%) increase in the number of accepted complaints finalised in 2019-20 compared to the average over the previous 4 years. Figure 14 shows the outcomes of the total accepted complaints finalised in 2019-20 compared to the average over the previous four years.

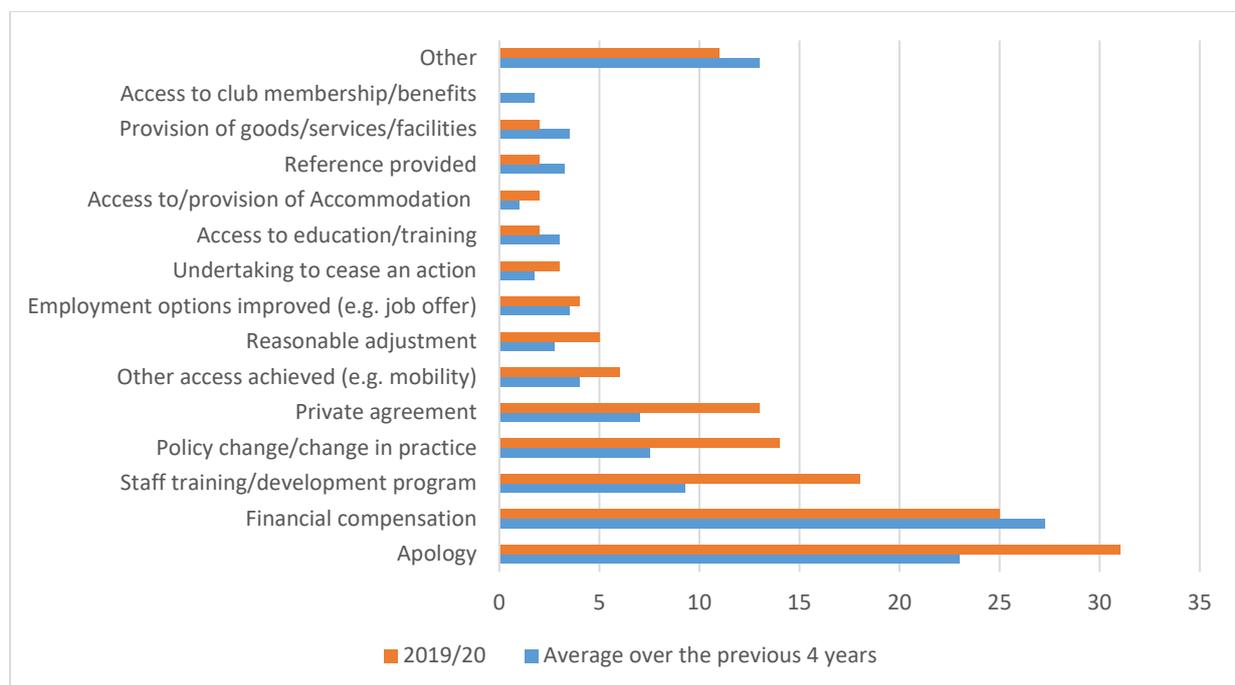
Figure 14: Outcomes of accepted complaints finalised in 2019/20 compared to the average of the previous four years



As Figure 14 shows, 50% of all accepted complaints finalised in 2019-20 were resolved by conciliation. This is an 8% decrease on the average percentage over the previous 4 years. Twenty-three percent were referred to the Tribunal¹⁴, unchanged from the average over the previous 4 years. Twenty-seven percent were declined by the Commissioner following further investigation, or withdrawn by the complainant (in two cases, after conciliation was attempted). This represents an 8% increase on the average percentage over the previous 4 years.

For complaints that were successfully conciliated, Figure 15 shows that in 2019-20 the issuing of an apology and financial compensation were the most common outcomes achieved in settlement agreements. This has been the case on average for the last 4 years. It should be noted that settlement agreements often include more than one outcome and not all successful conciliations involve a written agreement.

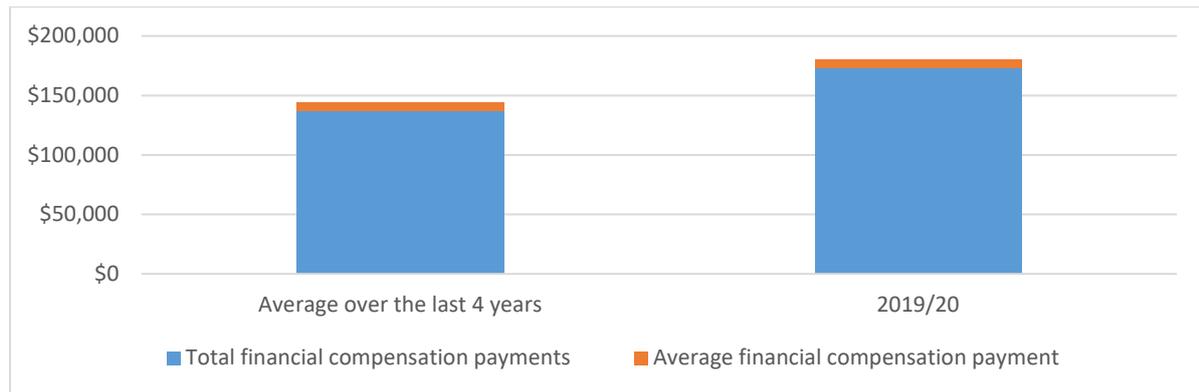
Figure 15: Outcomes from successful conciliation



¹⁴ Of those complaints referred to the Tribunal, 42% were referred following an unsuccessful conciliation attempt and the rest were referred without attempting conciliation.

For those settlements involving financial compensation in 2019-20, individual agreements ranged from to \$300 to \$20,000. As Figure 16 shows, the average sum paid out per agreement in 2019-20 was similar to the average sum over the last 4 years. The total amount of financial compensation was 21% higher than the average total amount over the last four years.

Figure 16: Financial payments in conciliated settlement agreements



As Figure 17 shows, the majority of complainants (77%) in 2019-20 were aged between 20 and 59. There was a large increase in the percentage of accepted complaints from people aged 20-29 in 2019-20, double the average of the previous 4 years.

Figure 17: Percentage of complainants in age categories in 2019-20 compared to the average over previous 4 years (accepted complaints)

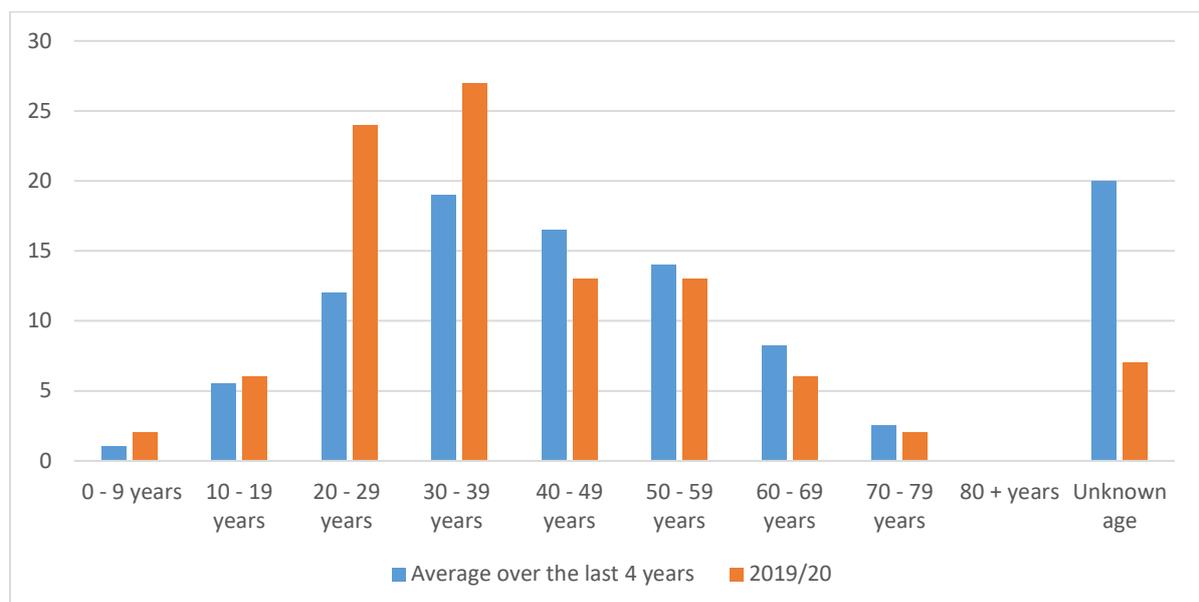
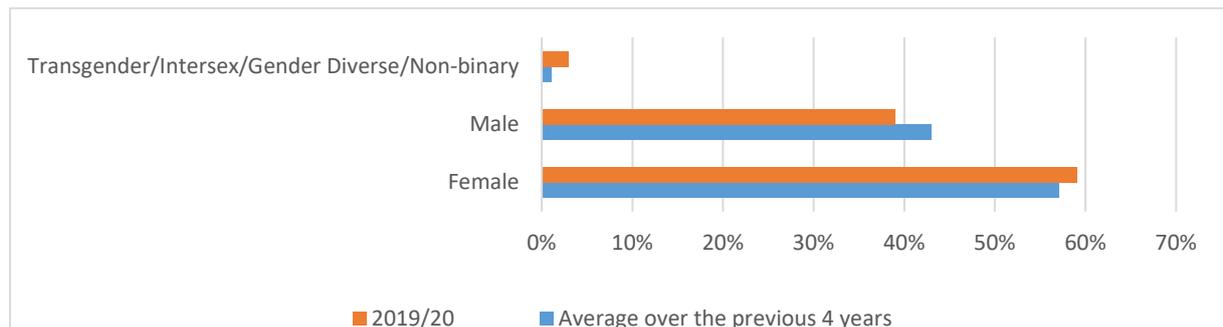


Figure 18 shows that, similar to the average over the previous 4 years, a higher percentage (59%) of complainants were female in 2019-20. A small proportion (3%) of complainants identified as transgender/intersex/gender diverse/non-binary.

Figure 18: Gender identity of complainants in 2019-20 compared to the average over previous 4 years (accepted complaints)



4.1.1.2.1. Assistance to parties before the Tribunal

Subject to section 95C subsection (2) of the Act, the Commissioner may, at the request of the complainant or respondent, provide representation for them in proceedings before the Tribunal at public expense. The Commissioner must apply available public funds judiciously, so before providing representation, the Commissioner considers a range of factors including:

- the capacity of the party to represent themselves or provide their own representation;
- the nature and circumstances of the alleged contravention of the Act;
- whether the case has good prospects of success;
- whether the party can afford to pay for representation without hardship; and
- any other matter considered relevant by the Commissioner.

In the 2019-20 financial year, the Commissioner agreed to fund five complainants for assessment by a lawyer to determine the prospects of success for their case before the Tribunal. The amount expensed for legal costs in 2019-20 was \$27,363.

4.1.1.3. Exemptions from the Act

Section 92 of the Act provides for persons, businesses, corporations, Government departments and associations to apply to the SACAT for an exemption from the Act for a specific purpose. If an exemption is granted (via an Exemption Order), this allows the applicant to lawfully discriminate against a person, or a class of persons.

The purposes for which an exemption would be granted include increasing the employment of a class of persons within an organisation (i.e. designating a position for an Aboriginal employee), or increasing the participation of a particular sex in the provision of a service or employment (i.e. to ensure the advancement of women in a particular industry to promote gender equality and reduce the gender pay gap).

Overwhelmingly, however, applications for exemptions from the Act are from the defence industry. South Australia plays a significant role in the Australian and International defence industry and the economic interests of defence contractors in South Australia are substantial. Defence contractors have obligations under International Arms Regulations which generally preclude the contractors from tendering for or performing work for an international company where its employees have certain citizenships or nationalities. Accordingly, the granting of an Order for an exemption from the Act, on the basis of race, has very serious consequences for South Australia and the Commissioner takes her responsibilities under this section of the Act very seriously.

When an application for an exemption is made, the Commissioner is notified and afforded the right to make submissions to the SACAT about the appropriateness of the application. The Commissioner may also negotiate with the applicant where she has concerns with the scope of the application; for example, where she is of the view that the terms being sought are too broad. In 2019-20, the Commissioner was able to successfully negotiate with the applicants directly (where required) to limit and curtail the scope of applications to appropriately balance South Australia's economic interests with protecting citizens from unfair discrimination.

Section 8.3 of the Appendix (Section 8) contains a brief summary of all applications for exemptions from the Act received in 2019-20.

4.1.1.4. Customer satisfaction

In 2019-20, the Commission moved its service satisfaction survey online and a link was sent to complainants and respondents following conciliation finalisation. This resulted in a 54% increase in the number of surveys completed this year (72) compared to the previous year (33). Survey results indicated 96% overall satisfaction with the Commission's complaint-handling services (Table 3).

Table 3: Survey evaluation results of complaint-handling services

Questions:	Agree / Strongly Agree
The complaint process was well explained to me.	96%
I was kept well informed throughout the complaint process.	97%
I understood the information provided by Commission staff.	100%
The documents provided were easy to understand & use.	96%
Staff were professional, helpful and courteous in their manner.	100%
I was treated fairly and impartially.	93%
The other party was treated fairly and impartially.	99%
I am satisfied with the time it took to resolve the complaint.	93%
I am satisfied with the complaint outcome reached.	89%
I am satisfied with the complaint handling process overall.	93%
Overall Average Satisfaction	96%

Survey respondents are also asked for their comments and/or suggestions on how to improve our service. Examples of feedback provided by survey respondents and others are included below (full details of comments are included in the Appendix - Section 8).

- *I have never dealt with the commission before but believe the process was handled in an excellent and professional manner. Thank you [Conciliation Officer] for your professionalism and guidance in this matter. No improvement needed in my opinion*
- *I was very happy with the service provided and hope that the Minister will fund the EOC adequately in the future. This is a public service of great value to the community and a fully funded service enables the EOC to meet the Government's obligations to enable citizens' rights and probably saves money in the long run.*
- *I write to thank you for the assistance you provided to [complainant]. I acknowledge the professionalism and empathy you displayed in dealing with this matter. My thanks also to the Commission and Dr Vincent for providing assistance to a vulnerable person in difficult circumstances.*
- *I found this process was not as daunting as I thought it would be and the people in the involved were very helpful and courteous. A big thank you to all.*
- *The experience could not be improved on. It was handled with professionalism and empathy.*
- *Our conciliation officer was amazing. [Conciliation Officer] was able to explain things very well and was able to allocate time for questions or clarification to be answered.*
- *Thank you for your assistance with this matter, I sincerely feel you went above and beyond and I appreciate the assistance you have given me in regards to the whole situation...*

4.1.2. Other initiatives funded by the Attorney-General's Department to foster and encourage informed and unprejudiced attitudes with a view to eliminating discrimination

4.1.2.1. Advice to the Public Service Association and Department of Treasury and Finance regarding gender-neutral parental leave in the SA Public Service

On 26 February 2020 the Commissioner wrote to the Public Service Association (PSA) to request that gender-neutral parental leave provisions be included in the PSA's log of claims for the enterprise bargaining process regarding the *SA Modern Public Sector Enterprise Agreement*.

This letter outlined the Commissioner's concerns that the maternity leave provisions in the 2017 agreement may operate to reinforce gendered expectations that only mothers take significant time out of the workforce to care for young children, create barriers for male employees who wish to more equitably share parenting responsibilities and disproportionately exclude same-sex parents.

The Commissioner further committed to providing a detailed analysis of the issue to the PSA, the Director of Enterprise Bargaining at the Department of Treasury and Finance and the Commissioner for Public Sector Employment, to support discussions and decision-making.

This detailed analysis was provided to all parties above on 1 May. The analysis comprised a summary of trends and research supporting the growing movement towards gender-neutral parental leave provisions in workplace agreements, an in-depth analysis of the benefits of gender balanced leave provisions, comparisons with other Australian public sector agreements, and options for achieving gender-neutrality in the South Australian agreement's provisions.

It was further highlighted that the adoption of gender-neutral parental leave provisions sits comfortably with the commitment by the State Government to achieving gender equality and the objectives of the Workplace Equality and Respect (WER) Project (see section 4.3.2), through which all State Government departments are implementing a Gender Equality and Respect Action Plan.

4.1.2.2. Letters to SA travel insurers regarding disability discrimination

On 11 June 2020 the Commissioner sent letters to three SA-based travel insurers regarding the potential for disability discrimination stemming from blanket mental health exemptions.

These letters were based on the work of the Victorian Equal Opportunity and Human Rights Commission's 'Fair-minded: Investigation into mental health discrimination in travel insurance' report, which revealed the 'prevalent and widespread' practice amongst travel insurers of issuing policies with a blanket mental health exclusions, thereby unlawfully discriminating against people with mental health conditions.

The three-page letters, issued to RAA Insurance Limited, Insurance and Membership Services Limited (formerly COTA Insurance) and Insurance Australia Limited (formerly SGIC), provided education and resources about the responsibilities of insurers under SA anti-discrimination law with regards to disability discrimination.

The letters further requested a response outlining the actions each insurer is taking or plans to take to ensure their insurance policies as they apply mental health exemptions comply with the SA Act, and therefore clause 104 of the new General Insurance Code of Practice 2020, which requires compliance with relevant state anti-discrimination laws.

On 19 June the Commissioner received a response from Ian Stone, Group Managing Director, RAA, confirming that RAA travel insurance policies do not contain blanket exemptions for mental health. RAA's response further confirmed that all staff who sell RAA Travel Insurance are trained in all areas of compliance. As at 30 June responses had not been received by the other two insurance providers.

4.1.2.3. Disability Employment Forum with PwC

In 2019-20, the Commission initiated planning for a Disability Employment Forum in conjunction with PwC, scheduled to be held on 27 May 2020. PwC was identified as a fitting corporate partner for this event because of its strong disability employment focus and national disability employment strategy. The forum was to bring together key stakeholders, including people with lived experience, with a particular focus on engaging high-level personnel from private industry.

Two planning meetings were jointly convened. However, this forum was postponed on account of the various impacts associated with the COVID-19 pandemic, including the limitations posed by social distancing protocols and meeting size restrictions.

Circumstances permitting, it is intended that this event will take place in-person as soon as practicable in the 2020-21 reporting year.¹⁵

¹⁵ As the first event of its kind in Adelaide, in-person engagement is considered necessary to ensure optimal attendance, engagement and success of the event.

4.1.2.4. Participation in diversity and inclusion reference groups

Road2Employment Steering Group

In 2019-20 the Commissioner accepted an invitation to join the Road2Employment Steering Group, convened by Julia Farr Association Purple Orange. This group steers a NDIS-funded program aimed at building the capacity and capability of South Australian small to medium enterprises to provide employment opportunities for people with disability.

The program involves the establishment of at least three industry-specific 'communities of practice' to develop actions and targets to increase employment outcomes for people living with disability in those industries, as well as other components such as linking in with schools and offering one-on-one support to employers.

SA Public Sector Diversity and Inclusion Strategic Committee

The Commissioner accepted an invitation to join this newly formed committee and attended the first meeting in late 2019-20. The committee is chaired by the Commissioner for Public Sector Employment and exists to support her office and the State Government Senior Management Council in implementing the South Australian Public Sector Diversity and Inclusion Strategy. The committee will also monitor the implementation and progress of the SA Public Sector Disability Employment Strategy 2020-2021.

4.1.2.5. Stop Racism Taskforce

The Stop Racism Taskforce is a group of 27 South Australian peak bodies, government agencies, academics and social justice advocates. Members of the Taskforce come together to share information about their work and identify and promote good practice initiatives to prevent and reduce racism in workplaces and the broader community. The Commission convened two meetings of the Stop Racism Taskforce in September and December 2019. Restrictions associated with COVID 19 have meant that no other meetings were convened in the 2019-20 financial year, although members have kept in touch via email.

4.1.2.6. Race Relations in SA online event hosted by Reconciliation SA and SA Aboriginal Legal Rights Movement

On 23 June 2020, the Commissioner was a panel member on the Race Relations in SA online event. Other panel members included, Cheryl Axelby, Chief Executive ALRM, Grant Stevens, Commissioner for Police, April Lawrie, Commissioner for Aboriginal Children and Young People and David Brown, Chief Executive Department for Correctional Services.

The event was held to discuss current issues in race relations in SA, including the incarceration rates of Aboriginal people, the over representation of Aboriginal people in the criminal justice system generally, the continuing number of deaths of Aboriginal people in custody since the Royal Commission into Aboriginal Deaths in Custody (1987–1991) and the actions needed to address these issues.

4.1.2.7. Update on inclusive school uniform policies in independent and faith-based schools

In May 2018, the Commissioner approached independent and faith-based schools urging them to consider more inclusive and non-discriminatory school uniform policies that consider students' gender, disability, religious dress requirements and cultural diversity. The Commissioner advised that failing to address these issues may give rise to a complaint of discrimination under equal opportunity laws.

On 30 July 2019, the Commissioner wrote to the Hon. John Dawkins, AO, Presiding Member Education Standards Board (the Board), about the application of the 'Standards for Registration and Review of Registration of Schools' to student uniform codes and the importance of these codes allowing for the expression of diversity in a non-discriminatory manner.

She noted that while State Government schools already have appropriate guidelines in place, a number of South Australian independent and faith-based schools still required female students to wear open clothing, such as skirts or dresses (with the exception of sporting activities). The Commissioner expressed her concern about the lack of action taken by these schools to review their uniform codes.

The Commissioner outlined that uniform codes which mandate different uniforms for females and males perpetuate unhelpful gender stereotypes, reduce the opportunity for self-expression and could potentially give rise to a claim of discrimination under the Act.

The Commissioner acknowledged that she had received correspondence from several Catholic and Independent schools that have taken positive action in bringing about gender equality in their school uniform codes.

4.1.2.8. Training and Public Education

The Commission provides education and training services to employers, employees and community groups to help them achieve compliance with the Act, embed best practice and support cultural change on equal opportunity. These services include in-house training courses and customised training for organisations and workplaces.

Training Referral Program

In 2019-20, following the pilot program in 2018-19, the Commission continued to run its Training Referral Program (TRP). The TRP connects South Australian businesses and organisations with a panel of approved providers who deliver relevant training. This program complements the training offered by the Commission, and is aimed at assisting assist South Australian businesses and organisations to easily and efficiently source training in regard to the Act from private organisations.

In 2019-20, a panel of four of the five training providers from the pilot TRP continued to work with us to support and extend the Commission's capacity to deliver equal opportunity training, they were:

- Perks People Solutions (trainers Cecilia White and Sarah Hills)
- YWCA Australia (trainers Michelle Tatyzo, Mason Somerville and Jemma Taylor-Cross)
- Diversity Inclusion (trainer Lucinda Hewitson)
- Leed Consulting (trainer Anna Lee)

Training topics included within the scope of the TRP in 2019--20 were:

- The Contact Officer – roles and responsibilities;
- Refresher training for the Contact Officer role;
- Prevention of workplace bullying, discrimination and harassment (for the individual or workforce);
- Managers - Prevention and resolving complaints of workplace bullying, discrimination and harassment;
- Bystander awareness;
- Unconscious bias;
- Diversity and inclusion leadership;
- Customised training in the areas of ‘Disability and Inclusion in the Workplace - Responsibilities of Managers and Supervisors’ and ‘Disability Discrimination’
- Prevention and management of sexual harassment complaints¹⁶

As a result of the impact of the COVID 19 pandemic and the resulting downturn in referrals to the TRP providers from March 2020 to June 2020, the Commission has not been able to confidently review and assess the success of the TRP in 2019-20. As a result the TRP will resume in its current format with a new application and assessment process beginning at the end of the current contractual period on 31 August 2020.

For the period 1 July 2019 to 30 November 2019, the TRP pilot delivered 16 training sessions with 209 participants (Table 4).

¹⁶ As a result of increasing requests for training on the prevention and management of sexual harassment complaints in 2019 -2020, this additional program has been added to the scope of the TRP.

Table 4: Number of in-house and customised training sessions and participants

	2017/18	2018/19	2019/20
Customised training			
Participant nos.	598 [^]	274 [^]	209 [#]
Training sessions nos.	29	19	16 [#]
In-house training			
Participant nos.	144	128	29 [*]
Training sessions nos.	15	12	4 [*]
Total - participants	742	302	238
Total - sessions	44	31	20

[^] 2017/18 numbers include community education participants. As of 2018/19 community education participant numbers are no longer collected.

[#] Due to the start of the COVID 19 pandemic in March 2020 and social distancing requirements the Commission stopped accepting referrals for training for the TRP. Therefore these numbers only cover the period from July 2019 to November 2019.

^{*} Due to the COVID 19 pandemic in March 2020 and social distancing requirements, the Commission cancelled the remainder of In house training program. As such, these numbers only cover the period from August 2019 to February 2020.

4.1.2.9. Commissioner's public education activity

Speaking engagements

The Commissioner delivers regular presentations to a range of community and business groups, industry associations, peak bodies, government and non-government organisations, and unions with a view to informing and engaging on equal opportunity and anti-discrimination, sexual harassment and victimisation issues and promoting the work of the Commission. In 2019-20, the Commissioner spoke at 47 events (see details in Table 5 below) reaching more than 6000 people. However, many additional scheduled speaking engagements were postponed or cancelled between March and June 2020 due to COVID-19.

Table 5: The Commissioner’s speaking engagements 2019-20

July 19	Panel member for the 2019 Industrial and Organisational Psychology Conference. Topic: Building agility in hierarchical organisations: the challenge for the public sector
	Presentation at the ICT and Digital Government Forum entitled ‘Innovation and Ethics in the Digital Age’
August 19	Guest Speaker at 2019 Women in Leadership Journey – Flinders University. Presentation title: ‘Promoting Diversity and Inclusion in SA: Equal Opportunity Law and Beyond’ (20 participants from Vietnam).
	Guest Speaker to Law Reform class at Adelaide University Law School. Topic ‘Promoting diversity and inclusion in SA: Equal Opportunity law and beyond’.
	Presentation to DPC Cabinet Office Monthly Meeting. Topic: ‘The SA Equal Opportunity Commission’
	Keynote Speaker at the 2019 Council of Ambulance Authorities (CAA) Australia-New Zealand conference (Perth WA). Presentation titled ‘Beyond buzz words and box ticking: Building diversity and inclusion into organisation DNA’ (note that this address was undertaken during the Commissioner’s annual leave as the interstate travel, although funded by the conference organisers, was declined by the Attorney General)
	Panel member at the Australian Property Institute 2019 National Leadership Series SA Breakfast. Theme: Strength in Diversity
	Panel member for City of Unley event ‘Celebrating 125 th Anniversary of Women’s Suffrage’
	Panel member for Chartered Accountants Australia and NZ Series. Topic: Diversity and Inclusion in the Workplace
September 19	Guest Speaker at the ICT and Digital Government Industry Forum. Topic Innovation and Ethics in the Digital Age 2.0
	Presentation for the Sex Work decriminalisation MP briefing at Parliament House. Presentation titled ‘Decriminalisation of Sex Work in SA: Impact on the Equal Opportunity Act 1984 (SA)’
	Presentation at the SA Wine Industry employment relations seminar. Topic ‘Workplace discrimination and harassment: how is SA doing?’
	Interviewed for a Women on Boards event.
	MC of the Village Foundation Launch and interviewed founder Tiffany De Sousa Machado
	Panel member at 2019 Women in Hotels Conference.
	Keynote Speaker and Panel session at Public Service Association Women’s Conference speech entitled ‘125 years of women’s suffrage in SA: Unfinished business’.
October 19	Chaired panel session at the History Teachers Association of Australia Conference. Topic: 125 anniversary of women’s suffrage in South Australia

	Keynote Speaker at Spence Club Suffrage Event. Speech entitled 'The impact of suffrage and what it means for women today in South Australia'
	Presented at the 2019 Diversity and Inclusion in Sport Forum: Challenges of inclusion and the key ingredients that make it work (in Sydney). Topic 'Beyond Buzzwords and Box-Ticking: Building Inclusion into Organisational DNA'
	Guest Speaker on leadership and presented certificates at the Kangaroo Island Leaders Forum graduation dinner
	Presented at Zest Fest. Speech and panel on 'Ageing well: the role of work and employment'
	Australian Council of Human Rights Authorities (ACHRA) Melbourne Conference (chaired 2 day conference)
	Guest Lecture to MBA course students on 'Leading for Growth'
	Keynote presenter at the 2019 Australian Human Resources Institute (AHRI) State Conference. Presentation entitled 'The state of the state: Equal Opportunity Matters'
	Panel member at UniSA Business School 2019 EQUIS Re-accreditation
	Presentation to the University of Adelaide External Relations Branch Team Development Day. Speech entitled 'On Resilience' followed by a Q&A
November 19	Presented to Webster's Lawyers development program. Topic: Human Rights and Equal Opportunity' (with Claire O'Connor SC).
	Guest Speaker at the Australian Police Industrial Relations Group Conference 2019. Presentation entitled: 'Building diversity and inclusion into organisational DNA – beyond tick-boxes and buzzwords'
	Commissioner facilitated CEDA Lunch on the topic of 'Women and the future of work' (with SA Chiefs for Gender Equity).
	Presented to Attorney-General's Department Aboriginal and Torres Strait Islander Employee group. Topic: 'The state of the State: Equal opportunity matters'.
	Presented at the Small Business Commissioner's BIZLINK Seminar. Topic: Understanding SA's Equal Opportunity laws and how diversity and inclusion improves workplace culture and delivers better decision making, performance and productivity'
	Keynote presentation at City of Salisbury 125 th Anniversary Women's Suffrage event. Topic: The importance of women in leadership
	Presented at SA Water's Innovation and Excellence Forum. Topic: Building diversity and inclusion into organisational DNA (and why you need to care about it).
	On panel for Fabians South Australia event. Topic: Gender, work and wages (with Brad Chilcott, Abbey Kendall and Jamila Rizvi)
December 19	Presented and facilitated the Equal Opportunity Commission's '16 Days of Activism Against Gender-Based Violence' event and panel session
	Panel member for the University of Adelaide's 'Celebrating 125 th Anniversary of Women's suffrage' event

	Presented to Kaplan Business School MBA students. Topic: Leadership matters
	Commissioner narrated 'Up and Doing: Sweeping away an injustice too long existing' Parliamentary re-enactment of women's suffrage.
February 20	Commissioner facilitated panel event and questions at Committee for Economic Development Australia lunch. Topic: Women and Leadership Series Launch (with Chiefs for Gender Equity)
	Keynote speaker at the Governor's Leadership Foundation 21 st anniversary celebration event.
March 20	Keynote speaker at the Women in Super IWD (Flagship) event. Topic: The realities of equal opportunity in our state and what you can do to help create a more tolerant and equitable society
	Panel session for the City of Adelaide International Women's Day event. Topic: #EachforEqual
	Chaired Australian Council of Human Rights Authorities videoconference
April 20	Delivered the Mavis Robertson Address for the Conference of Major Super Funds (CMSF). Speech entitled 'Gender Equity: How can we play our part?'
June 20	Online Panel member for Flexible Working Day 12 June 2020 session (with Chiefs for Gender Equity). Topic: How workplaces must adapt to rapid change as we face a post-pandemic world
	Interactive webinar panel session on 'Race Relations in SA and the impact of #BlackLivesMatter' (with SA Police Commissioner, Commissioner for Aboriginal Children and Young People, CEO of the Aboriginal Legal Rights Movement and CE of Department for Correctional Services).

Media engagement

The Commissioner also proactively and reactively engages with radio, online and print media as a platform to help educate the community about their rights and responsibilities under equal opportunity law, and to draw community attention to and/or respond to issues of discrimination, sexual harassment, victimisation and other matters relevant to the work of the Commission. In 2019-20, the Commissioner was mentioned/quoted in/interviewed for 80 media reports/segments. This represents a 45% increase on the previous year, but sadly, a significant number of additional media engagements were related to allegations of sexual assault/sexual harassment by a Member of the SA Parliament and to a rise in racial vilification issues in the SA community associated with COVID-19.

Table 6: The Commissioner’s media engagements 2019-20

July 19	ABC Radio Adelaide Breakfast and ABC North & West 3 July – Attorney-General criticises the Equal Opportunity Commissioner over use of her budget
	InDaily 3 July – SA Attorney-General and EO Commissioner in open conflict over budget
	The Sunday Mail 28 July – Let girls wear the pants: Gender-neutral uniforms offered by more schools
	Opinion piece by the Advertiser 29 July – Choice of uniform styles a student right
	ABC Adelaide Drive 29 July – Jules Schiller interviewed Commissioner Vincent on school uniform choices for students
	ABC Online 29 July – Autistic children left ‘completely traumatised’ after holiday park refuses entry to assistance dog
	The Advertiser 30 July – Police Officers get second chance at key survey
August 19	SBS News 5 August – Adelaide nightclub accused of ‘racial profiling’ after turning away patron
	10 News First 5 August – Man Claims Nightclub Refused Him Entry Because He’s African
	ABC Radio Adelaide Mornings 5 August – David Bevan interviewed Commissioner Vincent re Adelaide nightclub accused of racism after turning away Zimbabwean man
	The Advertiser Adelaide 8 August – Flinders University research finds most private schools ignore anti-discrimination law on uniform choice for girls
September 19	Sunday Mail Adelaide 1 September – Fathers lose out on flexi hours
October 19	Opinion piece for The Advertiser Adelaide 7 October – Equal Pay for equal work still a dream
November 19	The Advertiser Adelaide 7 November – Adelaide: WSP parental policy to win over staff
	ABC Radio Adelaide Drive program 11 November – Jules Schiller interviewed Commissioner Vincent for segment on workplace relationships - the dos and don’ts
	ABC Radio Adelaide 13 November – interview on Racist letter written to a neighbour: Explanation of the Racial Vilification Act
	ABC Online 14 November – Aboriginal man left ‘stunned’ after being sent ‘racist’ letter in Adelaide
	InDaily 18 November – Chapman has another crack at Equal Opportunity Commissioner
	The Advertiser Adelaide 20 November – Equal Opportunity Commissioner concerned about disability access concerns if Overland train service closes
	5AA Adelaide Radio 21 November – interview about future of The Overland train and disability issues
	The Advertiser Adelaide 23 November – Compulsory training for SA Public servants to reduce violence against women
	The Mandarin 26 November – Compulsory training for SA Public servants to reduce violence against women

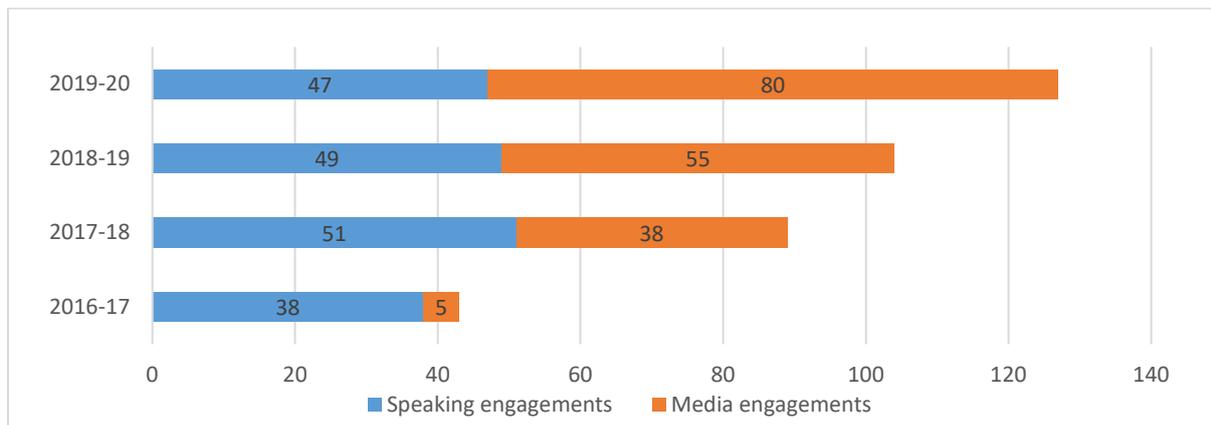
	The Advertiser Adelaide 26 November – Santos sets new bar for parental leave
	ABC Radio Adelaide Afternoons 28 November – Sarah Hanson-Young wins defamation case against David Leyonhjelm (treatment of women in politics)
December 19	ABC Radio North & West 3 December – segment on Future of the Overland train service and disability concerns
	ABC Radio Adelaide Afternoon Program 5 December – Dr Niki Vincent, SA Equal Opportunity Commissioner; Stacey Nelan Domestic Abuse Survivor; Sylvia Powell, Eldercare - segment on the ways workplaces can better support employees who are victims of domestic violence
	ABC Radio North & West 6 December – segment on report that reveals exploitation of people from overseas in SA
	The Advertiser 14 December – EO Commissioner warns about inappropriate workplace behaviour over the Festive Season
	ABC Radio Adelaide 17 December – segment on Mildura woman attempts to tear down Aboriginal flag in viral video
January 20	The Advertiser 5 January – MP sorry for bottom slap
	Channel 7 TV News – Sexual harassment by MP
	ABC News 6 January – SA Opposition calls for MP Sam Duluk to be stood down and wants independent investigation
	InDaily 7 January – Independent inquiry to probe parliament’s “nightmare before Christmas”
	he Advertiser 8 January – Independent inquiry to investigate Duluk
	InDaily 9 January – Speaker silent on Duluk inquiry
	ABC Radio Adelaide 20 January – Adelaide nightclub restricts access to men unaccompanied by a woman
	InDaily 24 January – LGBTI pamphlet “disturbing’ but not illegal
February 20	ABC Online 4 February – Liberal MP Sam Duluk to return to Parliament for first sitting day since inappropriate conduct claims
	Channel 7 News 4 February – EO Commissioner Dr Niki Vincent is urging any staffers with complaints against Sam Duluk to bring them to her
	Channel 10 News 4 February – The Equal Opportunity Commissioner says she’s prepared to investigate a night of booze fuelled offensive behaviour
	ABC Radio Adelaide and ABC Radio North & West 4 February – Commissioner urges anyone with workplace sexual harassment complaints to come forward
	ABC Radio Adelaide and ABC North & West 20 February – Equal Opportunity Commission believes she will be able to investigate Sam Duluk’s allegations
	ABC Radio 20 February – interview regarding motion passed asking the Equal Opportunity Commissioner to investigate Sam Duluk
	The Advertiser 21 February – Gender pay-gap gains grind to a halt

	ABC Radio 28 February – Dr Niki Vincent, Equal Opportunity Commissioner & Victoria Putman, Author & Ali MacGregor, Entertainer - discussion regarding Be a Lady, They said video re: confusing messages women receive
March 20	Chiefs for Gender Equity video 2 March for International Women’s Day – Dr Niki Vincent from the SA Chiefs for Gender Equity group says it’s business leaders who must drive change in 2020
	ABC News Online 5 March – Equal Opportunity Commissioner to investigate ‘19 th century boys ‘club’ culture in SA Parliament
	In conversation with Tony D’Alessandro for Chiefs for Gender Equity video 6 March – discussing how the superannuation gap for women is pushing many into poverty
	The Advertiser 6 March – SA gender equity chief call for zero tolerance on workplace harassment
	The Advertiser 6 March – MPs probed on shoddy behaviour
	ABC Radio Adelaide & ABC North & West 6 March – Equal Opportunity Commissioner agrees to investigate the workplace culture of Parliament
	Opinion piece for The Advertiser 7 March – Super system failing women, says SA Equal Opportunity Commissioner Niki Vincent
	ABC Radio Adelaide Drive 10 March – Jules Schiller interviewed Commissioner about the ‘19 th century boys ‘club’ culture of SA Parliament
	The Advertiser 11 March – Report identifies challenges to SAPOL gender equality
	The Mirage News 11 March – Equal Opportunity Commission Final Report of South Australia Police released
	The Advertiser 24 March – Duluk-inspired probe could include Federal expertise
	InDaily piece 26 March – Working from home
April 20	Opinion piece for InDaily 1 April – COVID-19 makes life tougher for those already struggling
	ABC News 8 April – South Australian councillor spat at in racist coronavirus attack
	The Advertiser 8 April – Northern Suburbs council worker subject to racist attack amid coronavirus pandemic
	Channel 7 News 8 April – Coronavirus-fuelled racism incident at Salisbury supermarket
	Triple M & HIT Adelaide Radio 8 April - Coronavirus pandemic: Equal Opportunity Commissioner condemns racial attack
	ABC Radio Adelaide & ABC North & West 14 April – Coronavirus pandemic: Claims a racist attach on a local councillor is absolutely abhorrent
May 20	ABC Radio Adelaide and ABC North & West 1 May – Equal Opportunity Commissioner welcomes new laws regarding MP sexual harassment
	Channel 7 News 4 May – Coronavirus discrimination continues to rise as SA businesses refuse service to those in face masks (imputed disability)
	The Advertiser 5 May – SA businesses under investigation for COVID-19 discrimination

	ABC Radio Adelaide and ABC North & West 5 May – Coronavirus pandemic: Three SA businesses under investigation for discrimination
	The Advertiser 13 May - Open letter from Natasha Stott Despoja and prominent South Australians calls for greater domestic violence vigilance
	Mirage News 14 May - Disability Discrimination Commissioner joins Play by Rules with colleagues Sex Discrimination Commissioner Kate Jenkins (co-chair), and South Australia’s Equal Opportunity Commissioner Dr Niki Vincent
	The Advertiser 19 May – How could it happen? Taskforce to probe how Anne Marie was failed
	Channel 7 News 21 May – Adelaide grocer under fire after ‘racist’ TikTok ‘sneeze prank’ shared on Instagram
	ABC Adelaide TV News 21 May – Adelaide grocer under fire after ‘racist’ TikTok ‘sneeze prank’ shared on Instagram
	Australian Times 21 May – SA grocer to be investigated for ‘sneezing’ prank video
	Channel 9 News 21 May - interviewed on a segment regarding the recent ‘sneeze prank’ video shared on social media
June 20	Public Service Association Magazine June – When ‘not fair’ is unlawful
	Channel 7 News Adelaide 5 June – Sale of golliwogs (with Aboriginal Elder Garth Dodd)
	The Advertiser 6 June – Opportunity to move past gender inequity
	The Advertiser 6 June – Face mask discrimination emerging in SA, says Equal Opportunity Commissioner
	The Sunday Mail 7 June – National survey records almost 400 cases of Asian-Australian COVID-19 related racism

Figure 19 shows the Commissioner’s public education activity over the last four years.

Figure 19: The Commissioner’s public education activity 2016-17 to 2019-20



4.1.2.10. Website and Social Media

Commission website

The Commission's website (www.eoc.sa.gov.au) forms an integral part of its community information service and delivers access to a range of information and educational resources, including publications, factsheets, policies, procedures, case studies, training videos, online courses and quizzes. It also enables people to lodge complaints of discrimination online, view the Commission's training calendar, and enrol for in-house equal opportunity training programs.

In 2019-20 the website had 137,684 visitor sessions (62,228 more than 2018-19) and 297,897 page views (86,615 more than 2018-19).

Accessibility of the Commission website

In early 2020, the Commissioner and her team began liaising with the eGovernment team, Office for Digital Government in the Department of the Premier and Cabinet, to progress an upgrade of the Commission website to ensure it meets the Web Content Accessibility Guidelines (WCAG).¹⁷

The upgrade to the Commission website is also being used by the eGovernment team as an opportunity to have the internal template system for all State Government department websites validated for compliance by Vision Australia.

The upgrade is expected to be completed by the end of 2020.

¹⁷ The Web Content Accessibility Guidelines are part of a series of web accessibility guidelines published by the Web Accessibility Initiative of the World Wide Web Consortium, the main international standards organisation for the Internet. They are a set of recommendations for making Web content more accessible, primarily for people with disabilities—but also for all user agents, including highly limited devices, such as mobile phones. WCAG 2.0, was published in December 2008 and became an ISO standard, ISO/IEC 40500:2012 in October 2012. WCAG 2.1 became a W3C Recommendation in June 2018.

Social Media

In 2019-20 the Commission continued to grow its social media presence on Facebook and Twitter, amplifying the reach and impact of its work. The Commission's Facebook page has seen a 36% increase in followers from 1025 to 1400 for the 2019-20 financial year, reaching 30,195 people through its posts in the same period.¹⁸

The Commissioner has her own Facebook page that has seen an increase in followers to almost 2000. The Commissioner's Twitter followers are now at 1927. The Commissioner also has over 10,000 connections on LinkedIn.

The Chiefs for Gender Equity Facebook page reached 1,157 followers with 1,120 page likes, and the Chiefs for Gender Equity LinkedIn page has 343 connections

4.2. Initiatives developed through external partnerships

4.2.1. Free Legal Advice Clinic – Adelaide University Law School

In January 2018, the Commission established a free legal advice clinic in partnership with the University of Adelaide to improve access to justice for members of the community. The clinic was based at the offices of the Commission until COVID-19 restrictions came into place in March 2020 (after which, it provided a phone service from the university campus). It provides legal advice to any individual who believes that they have been unlawfully discriminated against, sexually harassed or victimised. While the clinic is available to all, it is particularly helpful in supporting people who are disadvantaged or ill-equipped to cope with the challenges of legal process. It is staffed by final year law students and a qualified legal practitioner. All advice provided by the service is checked by an experienced lawyer. The clinic can work with people to identify equal opportunity and discrimination issues and can advise

¹⁸ This is the first time the Commission has reported on data for the number of users reached through its Facebook page.

and support people through the entire complaints process. This includes drafting and lodging complaints, providing referrals to other resources and supports, preparing documents, and preparing for Tribunal hearings.

The clinic also provides important legal training for our future lawyers by exposing students to the practical application of the law.

Between 1 July 2019 and 30 June 2020, the clinic assisted 102 people.

4.3. Initiatives funded through membership fees or fee-for-service consulting

4.3.1. Chiefs for Gender Equity

The Chiefs for Gender Equity are a group of South Australian organisational leaders working together with the common goal of achieving gender equality. Collectively, the group represents a broad range of sectors, with all members committed to informing and influencing all levels of South Australian business and government and driving change within the organisations they lead, their industries and the South Australian community.

The Chiefs vision is that by 2030,¹⁹ South Australia is achieving economic growth and prosperity through the equal representation and recognition of women and men across all aspects of community, work and family life. The Chiefs for Gender Equity's plan of action has continued to focus on the following six areas in 2019-20:

- Our Leadership Shadow – making sure Chiefs walk the talk and model the behaviour expected from employees and peers. This includes taking a public stand, such as honouring the 'panel pledge' and refusing to speak at events where there are no women speakers;

¹⁹ In line with timeframes for the UN Sustainable Development Goals.

- Flexible work – ensuring that Chiefs’ employees, men and women, have access to working arrangements that enable them to manage their work and life responsibilities. Workplace flexibility is critical to continuing to increase women’s workforce participation and to enabling men and women to increasingly ‘share the care’;
- Reducing unconscious bias – finding ways to eliminate entrenched biases in recruitment and leadership decisions. Eliminating biases creates fairness as well enhances opportunities to attract and retain diverse, high-quality talent, which will assist South Australian businesses in meeting the social and economic challenges of the future;
- Accountability – each Chief develops a reporting matrix that enables their organisation to address any existing, and gain insight into emerging, gender equity issues, monitor progress and strengthen public accountability;
- Gender Pay Gap – working to address the gender pay gap to promote gender equity and women’s financial security and independence across their lifetime; and
- Workplace responses to domestic violence – the Chiefs recognise that workplaces are key environments where preventative action can be undertaken to reduce violence against women and to support those experiencing or escaping violence.

Membership

In 2019-20 the group continued to meet a minimum of six times yearly. The Commissioner continued as convenor of the group and oversaw the executive and administrative support provided. Membership of the group included:

- Ms Chris Barnesby, Head of Pandemic Response (formerly, General Manager, Olympic Dam), BHP
- Mr Hamilton Calder, State Director SA/NT, Committee for Economic Development of Australia
- Mr Kim Cheater, Partner, PwC
- Mr Tony D’Alessandro, CEO Statewide Super

- Ms Victoria MacKirdy, CEO, City of Victor Harbor
- Dr Neil McGoran, Director, Catholic Education SA
- Professor Caroline McMillen, Chief Scientist SA
- Mr Jake Parkinson, CEO, South Australian National Football League
- Ms Jane Pickering, CEO, Eldercare
- Mr Matthew Salisbury, SA & NT Regional Director, WSP
- Ms Catherine Sayer, CEO, Food South Australia (*resigned at end of FY*)
- Mr Grant Stevens APM, Commissioner, South Australia Police
- Mr Ian Stone, Group Managing Director, RAA
- Ms Karen Thomas, Partner and Head of Office, Dentons
- Mr Roger Zammit, CEO, Badge Group
- Mr Ben Owens, Head of Retail, Westpac and BankSA, SA & NT

Each Chief pays a \$5,000 annual membership fee. The fees are used to fund the Chiefs' activities, administrative and executive support, and a media consultant. In 2019-20 the Chiefs secured \$25,000 in additional funding from the SA Department of the Premier and Cabinet to fund a project promoting gender equity in small and medium enterprises (SMEs) - details below.

Gender equity in SMEs project

Early in the 2019-20 reporting year, the Chiefs presented a proposal to the Premier, the Hon Steven Marshall MP, regarding a project to advance gender equity in South Australian SMEs. The project aimed to fill a gap in accessible resources available to SMEs on workplace issues related to gender equality,²⁰ and proposed to proceed in two stages.

Phase 1 of the project proposed to understand the challenges, via consultation, facing SMEs in improving gender equality within their businesses, with Phase 2 involving the development

²⁰ The Chiefs identified that existing resources available to business on the topic of gender equality were often inaccessible to SMEs, in terms of complexity and applicability of content and resources required for the implementation of ideas. Existing resources were therefore of limited impact in South Australia, where SMEs constitute the vast majority of all businesses and are a major employer.

of resources to support in achieving this. The Department of the Premier and Cabinet funded Phase 1 of the project to the value of \$25,000.

With the advent of the COVID-19 pandemic and the inability of industry to participate in consultation in the early stages, the project was pivoted to begin with resource development. Draft resources on key topics were provided to industry stakeholders for feedback. Eight resources covering the following topics were produced and are now publically available:

- Business case for gender equality
- Assessing workforce equality
- Recruitment strategies
- Workplace flexibility
- Parent and carer supports
- Improving workplace culture
- Workplace sexual harassment
- Family and domestic violence

These resources were distributed to industry associations, the Small Business Commissioner and the Office for Women, and promoted through print media and social media posts on the Chiefs for Gender Equity pages. The full funding for the project was utilised in the 2019-20 FY.

Engagement with state government MPs

Two key Members of the South Australian Government attended Chiefs for Gender Equity meetings in 2019-20. The Hon Steven Marshall MP attended the 6 August 2019 meeting and was presented with case studies from Eldercare and Badge Group about workplace initiatives aimed at advancing gender equity. Intersections between the objectives of State Government and Chiefs for Gender Equity were discussed, with a particular focus on the importance of gender equity for SA to effectively transition to a STEM-focussed economy. The SME project (see above) was also discussed.

At this meeting it was agreed that the Commission would prepare a briefing for the Premier on policy reform to address the gender superannuation gap for South Australian women.²¹ This briefing was provided on 4 February and outlined a number of key recommendations, including that detailed analysis be undertaken from a macroeconomic perspective by the relevant agency. It was noted that the issue and potential reforms could be raised at Council of Australian Governments for further consideration.

The Hon Michelle Lensink MLC attended the Chiefs for Gender Equity 2 June 2020 meeting, and was presented with case studies of gender equity initiatives from BHP, Badge Group and WSP. Minister Lensink was provided with an update on the progress of the SME project. Intersections between the objectives of the Department for Human Services and Chiefs for Gender Equity were discussed, including a request for information from the Minister about State Government responses to the recommendations of the Australian Human Rights Commission's *Respect@Work* report on sexual harassment in the workplace.

Media and social media engagement

The Chiefs are regularly approached by media for comment on a range of topics related to gender equality. Throughout 2019-20, the Chiefs for Gender Equity were featured or mentioned in 29 media stories (representing a 66% increase from 19 pieces in 2018-19). Features included six opinion pieces by various Chiefs in South Australian and national publications, two feature articles in SA Life, one television story, and two pieces of national coverage, as well as various radio interviews. Additionally, seven of the Chiefs were speakers in eight public speaking or webinar events relating to gender equity issues.

The Chiefs for Gender Equity Facebook page has 1,157 followers (up from 1,049 in 2018-19) with 1,120 page likes, and the Chiefs for Gender Equity LinkedIn page has 343 followers (up from 305 in 2018-19). In late 2019-20 the Chiefs for Gender Equity established a Social Media

²¹ As on average, at age 60-64 at the time of retirement, women retire with just over half of the superannuation savings as men. Clare R 2017, 'Superannuation account balances by age and gender', Association of Superannuation Funds of Australia (AFSA), viewed 14 January 2020 < https://www.superannuation.asn.au/ArticleDocuments/359/1710_Superannuation_account_balances_by_age_and_gender.pdf.aspx?Embed=Y>

Guideline for internal use to harmonise approaches amongst Chiefs and Chiefs for Gender Equity media with the intention of engaging with a wider audience in 2020-21.

4.3.2. Workplace Equality and Respect (WER) Project

The Commission has been funded by Senior Management Council (the CEs of every State Government department) to deliver the whole-of-government Workplace Equality and Respect (WER) Project over three years.

Commencing in January 2018, the project aims to strengthen gender equality and promote safe and respectful workplace cultures across the SA public sector. It contributes to the State Government's efforts to prevent violence against women by addressing, through the workplace, the underlying drivers or causes of gendered violence.

The project's focus encompasses workplace sexual harassment and sexual assault, as well as improved workplace responses to employees experiencing domestic and family violence and employees who might be concerned about their use of violence.

The project builds upon the initial White Ribbon Workplace Accreditation Project, led by the Commission from 2015 - 2017, through which 19 State Government agencies achieved White Ribbon Workplace Accreditation.

In 2019-20, each of the 24 State Government agencies participating in the WER Project has implemented an agency-specific Gender Equality and Respect Action Plan that aligns with Our Watch's best practice Workplace Equality and Respect Standards.

All agencies participating in the WER Project will also seek reaccreditation as White Ribbon workplaces in late 2020 or early 2021.

As well as ongoing project governance and coordination, the Commission provides regular advice to participating agencies on leading practice approaches to workplace gender equality and prevention of violence against women.

Additionally, the Commission is progressing projects to promote gender equality and prevent violence against women at a whole-of-government level, including:

- Undertaking a systematic examination of what State Government agencies currently have in place to respond to employees who use domestic and family violence and issues for agencies in responding. The Commission has produced a report with recommendations for future work to build the public sector’s capacity to recognise and respond to employees who use domestic and family violence.
- The SA Public Sector gender equality data standards project: The Commission and the Office of the Commissioner for Public Sector Employment are progressing a project to improve SA public sector gender equality data capability in line with national benchmarks.

The WER Project positions the State Government as a national leader in workplace prevention of violence against women.

4.3.3. Sex Discrimination and Sexual Harassment in South Australia Police

The Commission was invited by South Australia Police (SAPOL) to conduct an Independent Review into the nature and extent of sex discrimination and sexual harassment, including predatory behaviour, within SAPOL (the ‘Independent Review’). The final report was released in December 2016 and included 38 recommendations to combat sex discrimination, sexual harassment and predatory behaviour and improve the safety and wellbeing of SAPOL staff.

Six key areas covered in the recommendations included:

- Leadership
- Workforce management
- Training and development
- Flexible workplace cultures
- Dispute resolution and complaints
- Wellbeing and support services.

All recommendations were accepted for implementation by SAPOL. The Commission was subsequently engaged to independently monitor and report on SAPOL’s progress in implementing these, and to evaluate whether a change in culture is being achieved.

Funded by SAPOL, the Commission's SAPOL Monitoring Project commenced in May 2017 and concluded in February 2020. The Commission completed four progress reports for SAPOL over the course of the project:

- Report 1 (delivered January 2018) focused on the extent to which SAPOL had set a foundation for positive cultural change and noted seven areas for improvement on the issues of change management, change leadership and immediate actions for cultural change.
- Report 2 (delivered September 2018) focused on an assessment of the policies, processes and systems that contribute to the desired culture and noted six areas for improvement for flexible working options for specialist roles, gender equality reporting, target setting and employee exit management processes.
- Report 3 (delivered May 2019) focused on an assessment of SAPOL's supervisors' and managers' capacity and willingness to support cultural change, and the capacity of the Diversity and Inclusion Branch to fulfil its purpose and objectives. Seven areas for improvement were noted.
- Report 4 (final – delivered February 2020) focused on evidence of change in perceptions, experiences and practices that support a sustainable culture of gender equality. The Commission found that since 2016 SAPOL has achieved important progress in initiating cultural change. The final report provides key advice to SAPOL about how to continue its change momentum, addressing the key challenges and barriers to equality within its workforce.

All reports can be viewed by the public on the Commission's website.

4.3.4. Strengthening Responses to Sexual Assault and Sexual Harassment at the University of Adelaide

In 2017 the Commission was engaged by the University of Adelaide (the University) to undertake an audit of its systems and structures that prevent and respond to incidents of sexual harassment and sexual assault experienced by students. The Commission's resultant Audit Report found the University had the fundamental infrastructure to prevent and respond

to these behaviours. Forty two recommendations were made to strengthen efforts to eliminate sexual harassment and sexual assault and the sociocultural drivers that enable them.

The University subsequently established the *Respect. Now. Always.* Taskforce (the Taskforce) to align the 42 Audit Report recommendations to form a single University-wide Action Plan. The Taskforce endorsed a two-year review of progress against the Action Plan.

In 2019 the Commission was engaged by the University to undertake an independent two-year audit on progress made towards implementing the Commission's recommendations across the University community. The 2019 Progress Audit was underpinned by a program logic model that determined that some recommendations would require cultural change and therefore more than two years to implement.

The Progress Audit reviewed evidence under the following broad topic areas:

- University community development
- policies, processes and procedures
- information and communication technology
- resourcing
- communications and engagement
- training
- further investigation.

The Progress Audit was delivered in November 2019. The Commission found that the University was on track to deliver policy, process and systems changes to implement all 42 recommendations. Ongoing implementation of the recommendations is required to enable the University to evolve to a culture where gender diversity, inclusivity and sexual respect ensure a safe and equitable learning environment for all.

Section 5

Function 2: Research, data collection and the dissemination of information relating to discrimination

5.1. Activities funded by the Attorney-General's Department

Information relating to discrimination, sexual harassment and victimisation is disseminated through the Commissioner's public speaking engagements and media activities (see section 4.1.2.9) as well as via other activities reported in this report.

5.1.1. Disability-related data capture – revision of Commission categories

The Commission undertook a revision of its disability-related data collection categories in 2019-20. This was in recognition that the categorisation of disabilities as part of the Commission's enquiries and complaints process was outdated, had other limitations and required reconsideration.

In determining the new categories, the Commission consulted with the Australian Human Rights Commission regarding their current classification system for disability; considered the Commission's reporting obligations; considered present trends and potential future trends in complaints/enquiries; and aligned the categories so far as possible with the classification of certain types of disability by key texts or peak bodies.

These revised disability categories were implemented by the Attorney-General's Department ICT Team and will be utilised for the 2020-21 reporting period and beyond. The revised categories are intended to more accurately and usefully capture data to assist in identifying trends and providing a clearer evidence-base on which to base the future work and focus of the Commission in this area.

5.2. Research activities developed in collaboration with other organisations

5.2.1. The University of Adelaide iPhD Program

The University of Adelaide PhD program was established in 2017 as a resource-effective means of furthering the research function of the Commission while influencing and supporting doctorate research in South Australia in relevant areas.

In 2019-20 the Commission continued its PhD program with the University of Adelaide to deliver research into key workplace and cultural equity issues facing South Australia. During this period, the program was brought under the University of Adelaide's Industry PhD (UAI PhD) stream, formalising the industry component and placement associated with the PhD research for accepted candidates going forward.

The UAI PhD with the Commission includes a stipend scholarship funded by the University for up to four years, as well as an internship component with the Commission. Students with a strong academic record in fields such as psychology, law, economics, social sciences, business or management are eligible for the scholarships. The Commissioner provides academic supervision and guidance in collaboration with the student's university supervisor.

Scholarships were offered through the University of Adelaide's regular major round PhD scholarship cycle in September 2019. Six applications were received, with one applicant being considered suitable and shortlisted for interview. This applicant was ultimately unsuccessful following eligibility advice from the University of Adelaide, and so no new PhD students were accepted into the program this reporting year.

The Commission team has reviewed research topics on offer in line with the key areas of work within the Commission, which will be advertised again in the next major round of the PhD scholarship cycle in August/September 2020.

The two successful candidates from the 2018-19 major round continued their research this year into men's uptake of flexible working arrangements, and best practice for resolving

disability discrimination disputes in education where the student's behaviour is an issue, respectively.

The latter research aims to make recommendations to improve the efficiency of the Commission's conciliation service and to address knowledge gaps that exist in the literature. The candidate has received high risk ethics clearance from the University of Adelaide and commenced their research in December 2019. The first chapter of the literature review on Alternative Dispute Resolution has been completed, and recruitment emails and letters have been issued to the Victorian Equal Opportunity and Human Rights Commission and the Australian Human Rights Commission, as well as various other statutory and educational bodies, regarding phase one of the research.

The research regarding men's uptake of flexible working arrangements, and impact thereof on gender equity, seeks to understand barriers and facilitators to men's flexible work and will provide actionable recommendations to improve the accessibility of flexible work. A series of interviews with organisational leaders has been completed and a second series of interviews with men engaged in flexible work is planned. This candidate's research has been accepted for presentation at the international Gender, Work & Organization conference in 2021.

5.2.2. University of Adelaide's Law and Justice Internship Program

In 2019-20 the Commission has continued its partnership with the University of Adelaide in providing placement opportunities to Bachelor of Laws students as part of the university's Law and Justice Internship Program.

Student interns are able to gain an appreciation for the practical operation of equal opportunity law by undertaking a 22-25 day placement at the Commission, usually part-time over the duration of a semester. Interns are typically final year students who are recommended by the university program coordinator as high-achieving and with a demonstrated passion and interest in public law.

During their internship, students are supported by Commission staff to analyse the impact of law from a policy perspective and in the context of social and cultural diversity. During their

internship the student produces a project proposal, literature review, research, and final report regarding a specified research topic, and presents an overview of this research to the Commission team in their final week. Student interns are also supported to conduct consultations with key stakeholders to inform their research and further develop their professional skills.

In early 2019-20 a student report was completed summarising research into the accessibility of the Commission's complaint service to First Nations people in South Australia. The research involved consulting with prominent South Australian First Nations leaders, community workers and cultural advisors on issues relating to the Commission's activities and services.

The report identified a number of barriers for First Nations people in accessing the Commission's complaint handling process, and made recommendations to improve the accessibility of the Commission's services. These included by providing information and education to First Nations people with a focus on rural and remote areas, co-designing with community culturally specific and appropriate material, providing educational and informational seminars within targeted areas, establishing a trusted and ongoing presence in the First Nations community by collaborating with trusted leaders and organisations, and altering aspects of the conciliation process to make it more attractive and accessible to First Nations people.

In the second semester of 2019, the Commission hosted a student intern who researched and produced a report on 'Mitigating the Disadvantages of Conciliation as a Method of Resolving Equal Opportunity Complaints'. This research considered the benefits and disadvantages of conciliation as the dominant method of resolving equal opportunity complaints, and the extent to which conciliators can mitigate these disadvantages. In addition to reviewing the available research, consultations were conducted with conciliators from three equal opportunity commissions operating in different Australian jurisdictions.

The report concluded that the disadvantages of conciliation are deeply intertwined with its benefits, making it difficult for conciliators to mitigate these disadvantages without compromising the qualities that make conciliation a true alternative to the formal adversarial system. However the report found that conciliators are developing a coherent practice that enables them to manage these difficult balancing acts.

The discussion in this report also emphasised the importance of the interplay between conciliation, later parts of the complaint resolution process, and the Commission’s educative, training and research functions in achieving the Act’s imperative of eliminating discrimination. It was concluded that for this system to function effectively, there must be a governmental commitment to adequately resource all of its functions.

In the first semester of 2020, the Commission hosted a student intern who conducted research into assistance animal laws across Australian jurisdictions, and the impacts of the operation of these laws on various stakeholders. As part of this research, 10 key stakeholders from various peak bodies and research institutions, some with lived experience, were consulted, and submissions and case studies were received from a further six people living with disability.

The final report produced identified that the current inconsistencies across jurisdictions have the effect of creating confusion, ultimately undermining the objectives of the relevant laws, and made recommendations to harmonise laws across jurisdictions regarding the definition of an ‘assistance animal’ and the associated accreditation and identification requirements.

In 2020-21 the Commission plans to summarise and fact-check this report with the assistance of the national Assistance Animal Working Group,²² prior to distributing and making the report publically available.

5.2.3. Flinders University ‘Law in a Digital Age’ software application development

In Semester 1 2020, the Commission took part as a collaborating agency for two software applications regarding equal opportunity, developed by students undertaking the ‘Law in a Digital Age’ course at Flinders University.

²² AAWG is made up of representatives from all states and territories and relevant Commonwealth departments, and is focussed on progressing the work on nationally consistent regulations and accreditation of assistance animals.

The Law in a Digital Age course is taught to Bachelor of Laws students at Flinders University, and requires students to undertake research into relevant laws and learn coding to write legal software applications related to access to justice issues.

The Commission core team identified two topics that could be fitting for the development of publically available software applications (apps) and that would further the work of the Commission and create greater efficiency in resource usage.

One application, the *'Jurisdiction Finder'* app, was developed in collaboration with the Commission's conciliation team. This app provides the user with information to assist in identifying whether the user's issue of concern falls within the jurisdiction of the Act. If so, the app provides information to the user on how to make a complaint to the Commission. Where the matter is outside of jurisdiction, the app directs the user to alternative complaint bodies that may have jurisdiction to consider the complaint.

The second app developed in collaboration with the Commission's policy team, the *'Access Alert'* app, is aimed at providing a means by which a person with disability can notify a publically accessible venue when they have encountered an access issue. The purpose is two-fold in providing an informal notification to the venue to raise awareness of their obligations under the Act, and to educate people living with disability about their right to make a formal complaint to the Commission.

In the development of the Access Alert app, the Commission collaborated with JFA Purple Orange to arrange a co-design session between the Flinders University students and four people living with diverse disabilities. The vast majority of the co-designer contributions were incorporated into the final design by the students.

The Commission core team and Commissioner attended the end of semester 'Law in a Digital Age' online presentation evening on 9 June to view the final applications developed by the students, and subsequently met with the course convenor to finalise a list of adjustments required before the Commission could acquire the apps.²³

²³ Including ensuring the apps meet Attorney-General's Department branding and accessibility requirements.

In order to acquire and host these apps the Commission is required to undertake a number of Government ICT processes at an additional cost. These budget implications will be assessed in 2020-21, and if acquisition is feasible the Commission will proceed with beta testing the apps more broadly in the community.

5.2.4. Pamphlet on assistance animal laws produced with the Dog and Cat Management Board

In 2019-20 the Commission collaborated on a project led by the Dog and Cat Management Board regarding the production of a publication detailing the rights and responsibilities of publically accessible venues and facilities with regard to access for assistance dogs.

This publication outlines the relevant provisions of laws in operation in South Australia, including the Act and the federal *Disability Discrimination Act 1992*. The Commission provided advice and input on the obligations and exemptions under the Act, and has made the finalised publication available via its website and promoted it amongst its networks, including via social media. The Commission has insufficient funding to print and distribute this publication in hard copy form.

Section 6

Function 3: Recommendations for reforms that will advance equal opportunity and prevent discrimination in SA

6.1. Submissions to the SA Attorney-General

6.1.1. Feedback on proposed Statute Amendments (Legalisation of Same Sex Marriage Consequential Amendments) Bill 2019

On 16 July 2019 the Attorney-General sought comment from the Commissioner on the Statute Amendments (Legalisation of Same Sex Marriage Consequential Amendments) Bill 2019. This bill proposed to update, by removing gendered language from 19 acts of parliament to reflect the federal definition of marriage being gender-neutral as per the passing of the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth).

In response, the Commissioner confirmed her support for the amendments proposed. However the Commissioner noted that the proposed amendments to four superannuation-related Acts did not address the requirement in those Acts for 'cohabitation'. As South Australian legislation continues to evolve to respond to modern community family and relationship arrangements, the Commissioner advised that cohabitation should no longer be a pre-requisite for a spousal relationship. Further, the Commissioner reflected an understanding that the reform Bill was limited in scope, especially regarding Acts that are not assigned to the Attorney-General.

6.1.2. Improving protections against discrimination and vilification in South Australia

On 26 July 2019 the Commissioner wrote to the Attorney-General to provide advice on the current protections, and gaps in protection, available to South Australians under the Act, recommending that Legislative Services work with the Commission to develop a suite of

amendments to the Act and that proposed amendments to the Act be subject to public consultation.

This briefing built on a briefing from the previous reporting period (dated 27 May 2019), which outlined the number and nature of complaints lodged with the Commission on the grounds of religious appearance and dress from 2009 to April 2019, and expanded the recommendations in a number of ways. A key recommendation made was to adopt a dual system for categorising acts of vilification, akin to the Queensland system, with ‘vilification’ being captured by the Act, and ‘serious vilification’ (a threat of harm to person or property) remaining a criminal act.

The Commissioner considers the apparent gap in legislative protections for acts of vilification to be of significant concern and of increasing relevancy in the South Australian community. The importance of these issues were once again highlighted later in 2019-20 with reports of increased racial vilification related to the COVID-19 pandemic and the renewed momentum behind the Black Lives Matter movement. Further, the Commission received correspondence on 9 June 2020 from Transcend Australia raising concern about the vilification of transgender and gender diverse children, in offensive material being distributed in the community.

6.1.3. Investigation powers of Equal Opportunity Commissions in Australia

On 29 July 2019 the Commissioner briefed the Attorney-General about the investigation powers of other Commissions across Australia about matters where there is no complaint received from an aggrieved person. This followed a briefing provided to the Attorney-General in the previous reporting period (on 7 June 2019) which outlined weaknesses in the SA Commissioner’s investigation powers under the Act.

Examples of investigation powers of Equal Opportunity Commissioners from the Victorian and Tasmanian jurisdictions were provided, and it was proposed that legislative reform of the SA Act could be considered in line with the Tasmanian model. As the full adoption of the Tasmanian model would require substantial legislative amendment, the Commissioner recommended legislative amendments be limited to the following:

- providing the Commissioner with the power to compel a response from a person or agency
- removing the requirement to seek the Attorney-General's permission to apply to the Tribunal under s93A(1).

6.1.4. Future operating model of the Equal Opportunity Commission

On 30 July 2019 the Commissioner briefed the Attorney-General about potential operating models of the Commission in light of reduced resource allocation to the Commission in 2019-20 and 2020-21.

Five options were outlined that aimed to adequately balance providing services required under the Act that meet the needs of the South Australian community, while operating within budget and adequately mitigating risks to the Commission.

6.1.5. Feedback on Married Persons (Separate Legal Status) Bill 2019

On 5 August 2019 the Attorney-General sought the Commissioner's comment on the Married Persons (Separate Legal Status) Bill 2019. This Bill proposed to create a standalone act that established in gender-neutral terms that married persons are separate legally and equal to non-married persons as concerns their legal capacity, and was aimed at ensuring SA law reflects and is compatible with same-sex marriage.

The Commissioner provided unconditional support for the intent and proposed wording of this Bill.

6.1.6. Update on Chiefs for Gender Equity gender pay gap work

In the lead up to Equal Pay Day on 28 August 2019, at the request of the Attorney-General the Commissioner provided a submission outlining the statistics and causal factors

contributing to the gender pay gap nationally, inclusive of South Australian specific factors, and the work being undertaken by the Chiefs for Gender Equity to address the gender pay gap.

A number of case studies were provided from Chiefs' organisations demonstrating a commitment to making systematic changes in this area, including from Statewide Super, RAA, Eldercare, PwC, WSP and South Australian Police.

6.1.7. Proposed amendments to sexual harassment provisions of the Act

The Commissioner briefed the Attorney-General on 14 January, recommending the Act be amended to make sexual harassment by one MP towards another MP unlawful.

This briefing provided a summary of arguments covering the conduct between two MPs that were submitted by MPs during the parliamentary debate surrounding the Equal Opportunity (Sexual Harassment) Amendment Bill of 1996.

The Commissioner outlined her view that in omitting to cover the conduct between MPs:

- the Act did not reflect current community standards around sexual harassment in the workplace and the expected conduct of MPs as leaders of the community;
- the Act did not take into due consideration the disparity in power that may exist between MPs, and therefore omitted to afford MPs with appropriate obligations and protections regarding sexual harassment; and
- that concerns regarding parliamentary privilege in enacting a provision covering the conduct between two MPs would be overcome by the existence of s.87(6d) (i.e. that s.87(6c) does not apply in relation to anything said or done in the course of parliamentary proceedings) and by s.93AA which requires that a complaint alleging that an MP has acted in contravention of s.87 lodged with the Commissioner for Equal Opportunity must be referred to the Presiding Officer of the relevant house to determine whether dealing with the complaint under the Act could impinge on parliamentary privilege.

The Commissioner recommended that the sexual harassment provisions in the Act be amended to cover sexual harassment between members of Parliament, and that further investigation and consultation be undertaken to inform a decision regarding making sexual harassment between judges and between local government elected council members unlawful under the Act.

6.1.8. Review of Victimisation provisions in PID and ICAC Acts

On 12 May 2020 the Commissioner briefed the Attorney-General regarding reforming the process for complaints of victimisation received by the Commission under the *Public Interest Disclosure Act 2018* (SA) ('the PID Act') and the *Independent Commissioner Against Corruption Act 2012* (SA) ('the ICAC Act').

In this submission, the Commissioner expressed concern that the victimisation provisions outlined in, and the processes which result from, the ICAC and PID Acts as currently configured do not operate with optimum efficiency and in a manner that best utilises the expertise of the organisations involved.

The submission outlined issues with the complex and technical nature of considering complaints of victimisation under the PID and ICAC Acts, and that the initial enquiry required – that is, whether the disclosure in question meets the requirements of the scheme under the relevant Act – is outside of the usual day-to-day work of the Commission and may be better placed with ICAC or the Office for Public Integrity who routinely undertake these assessments. It was highlighted, however, that the subsequent steps in the process - assessing whether the alleged victimisation occurred on account of the disclosure and whether the matter is appropriate for conciliation – align well with the usual functions of the Commission.

A key concern outlined was the clear inefficiency created by the process in the initial line of enquiry, whereby the Commission requires a response from a respondent agency regarding the facts of the alleged disclosure and such responses have likely been required and received by another state agency (ICAC/OPI). Further, the submission highlighted that the system as it currently functions appears to be a remnant left over from the *Whistleblowers Protection Act 1993* (SA) (as repealed by the *Public Interest Disclosure Act 2018* (SA)), despite the ICAC and

OPI having been established since the time that the *Whistleblowers Protection Act 1993* was enacted.

The Commissioner outlined two possible changes to how matters of alleged victimisation under the ICAC and PID Acts are dealt with to overcome these concerns, and recommended that the Attorney-General's Department give the issue further consideration.

6.2. Other submissions

6.2.1. Ministerial correspondence

The Commission took action on three matters raised via Ministerial correspondence, namely:

- The potentially discriminatory impact on people with hearing impairment or deafness of primary health care providers requiring a mobile number in order to process online appointment bookings
- Concerns raised by a constituent about his treatment by a Local Government body with respect to his therapeutic dogs
- The discriminatory nature of the charging system employed by access taxis for people with mobility issues

6.2.2. Letter to the Minister for Education about Continuity of Service ('break in service') arrangements for Department of Education Employees

In response to a letter issued by the Commissioner in the previous reporting period, in July 2019 the Commissioner received a response from the Minister for Education, the Hon John Gardner MP, regarding the potentially discriminatory impact of the Department for Education's 'break in service' arrangements on employees (mostly women) with caring responsibilities. In this response the Minister advised that as the Department and the Australian Education Union (AEU) were in enterprise bargaining negotiations, it was inappropriate to respond in full at that time.

In April 2020, the Commissioner wrote again to the Minister, raising concern that no agreement had been reached in the recent enterprise bargaining process to change these provisions. The Minister responded advising that the Department was seeking advice on the issues raised in light of the new Education and Children's Services Act and Regulations 2020.

The Commissioner subsequently wrote to the AEU outlining the Minister's response and inviting further information to assist in addressing the issue.

6.2.3. Letter to Minister for Innovation and Skills regarding pathways to employment for mature age jobseekers

In August 2019, the Commissioner wrote to the Minister for Innovation and Skills, the Hon David Pisoni MP, to advise that she had received correspondence from Don't Overlook Mature Employees (DOME) which raised a number of concerns about the negative impact on mature age jobseekers by the Department for Innovation and Skills' 'Skilling SA' program.

The Commissioner noted her concern about the impact on the assistance available to unemployed mature age job seekers in South Australia as a result of reduced funding to DOME and about the policy decision to no longer subsidise a number of Vocational Education and Training qualifications in the absence of a contract for an apprenticeship or traineeship. The Commissioner expressed concern that age discrimination continued to be a barrier to mature age jobseekers gaining employment and contributing to the South Australian economy.

In October 2019, the Commissioner received a response from the Minister, which highlighted the creation of thousands of jobs under the Marshall government and outlined the measures being taken to support jobseekers of all ages, including mature age jobseekers. The Minister noted that in response to the Commissioner's correspondence he had asked the Department to meet with representatives from DOME to discuss their concerns in more detail.

In March 2020, the Commissioner was advised that the Department for Innovation and Skills would not be extending funding support to DOME for the Workforce Development Project beyond the 2019-20 financial year. The Commissioner wrote directly to the Department,

highlighting the concerns previously raised with the Minister and outlining concern about the effect of reducing specialised support services for mature age jobseekers in South Australia.

In response, the Department advised they would be continuing to work with DOME to explore alternative funding opportunities to support mature age workers training and employment outcomes, and that there were a number of other 'Skilling SA' projects that supported mature age jobseekers.

6.2.4. Letter to Chief Executive Officer (CEO), Copper Coast Council regarding disability access

In February 2020, the Commissioner wrote to the CEO of the Copper Coast Council regarding a concern raised by a community member about the obstruction of an access ramp on the main street of Kadina by council-owned infrastructure.

The Commissioner advised that on the available facts it appeared arguable that this accessibility issue could come within the provisions the Act covering discrimination on the ground of disability, and that the Council may accordingly be at risk of a complaint being lodged with the Commission.

6.2.5. Response to a request from President of the Legislative Council to investigate the behaviour of an MP

In March 2020, the Commissioner responded to a request from the Hon Terry Stephens MLC, President of the Legislative Council, that she investigate all instances of harassment, victimisation and inappropriate behaviour committed by the Member for Waite, Mr Sam Duluk MP, and inviting recommendations for reforms to facilitate the handling of harassment in the parliamentary workplace.

The Commissioner respectfully declined the request, as while sexual harassment by a Member of Parliament (MP) towards parliamentary employees is prohibited under the Act, the same provisions do not appear to apply where that conduct is directed towards another

MP.²⁴ The Commissioner also noted the police investigation into the matter being undertaken at that time.

Additionally, the Commissioner stated that in her view a broader review of the workplace culture in Parliament House could provide opportunity for recommendations as to policies and processes that prevent discrimination and promote inclusiveness in parliament more generally.²⁵ On this basis, and aligned to section 11 of the Act, the Commissioner accepted Mr Stephens' invitation to make recommendations for reforms to facilitate the handling of harassment in the parliamentary workplace.

6.2.6. Letter to Ombudsman: potential disability discrimination (out of jurisdiction)

In May 2020, the Commissioner wrote to Mr Wayne Lines, Ombudsman SA, regarding a matter which had been lodged with the Commission but fell outside the jurisdiction of the Act, that she felt warranted further consideration.

The Commissioner believed that there were aspects of the matter that might engage the Ombudsman Act 1972 (SA) and so with the permission of the complainants, referred the matter to Mr Lines for his consideration.

²⁴ Sexual harassment by one MP towards another is not explicitly unlawful under the Act, and it is unlikely that a MP would be considered to be performing duties at Parliament House in the course of 'employment' for the purposes of coming within the relevant provisions. Additionally, as is clear from Hansard, the inclusion of the provisions in the Act prohibiting sexual harassment in certain circumstances were not intended to cover conduct between MPs.

²⁵The Commissioner considered that even setting aside Jurisdictional issues, a fact-finding mission regarding the specifics of these allegations risks narrowing the focus of any outcomes and recommendations. Noting that recent history indicates that inappropriate behaviour by MPs knows no party allegiance. While she was deeply concerned for those affected by Mr Duluk's alleged conduct, she hoped that the opportunity to have direct input into an independent process that has the potential to create positive change may provide a form of restorative justice for them.

6.2.7. Letter to Soroptimist International Murray Bridge regarding offering a tertiary scholarship to women only

In June 2020, the Commissioner responded to an enquiry from Soroptimist International Murray Bridge which sought clarification on the lawfulness under the Act of a tertiary scholarship being offered to females only.

The Commissioner outlined that independent legal advice was advisable regarding the Act's application to their specific circumstances,²⁶ however provided guidance on the general application of the Act, namely that while discrimination on the basis of a person's sex may be unlawful under the Act in specific areas of public life, in some circumstances this may be permissible under section 47 of the Act, 'Measures intended to achieve equality'. The Commissioner also advised the circumstances in which a person or organisation may seek an exemption order from the SACAT.

6.2.6. Letter to Commissioner for Public Sector Employment: Emergency egress for staff with disability

In June 2020, the Commissioner wrote to the Commissioner for Public Sector Employment to raise her concerns about the current process for emergency egress for employees with disability across the public service.

The Commissioner noted her concern that the onus is currently on individual employees with disability to take responsibility for their own Personal Emergency Evacuation Plan, without adequate expert support and information provided about how to do this. The Commissioner highlighted the unfavourable treatment inherent in this requirement, and raised concerns about the risk to the health and safety of employees with disability.

The Commissioner highlighted that the issue was one requiring a whole of government review.

²⁶ The Commission does not provide legal advice regarding the legality of specific circumstances so to preserve a position of neutrality if a complaint is lodged with the Commission for conciliation/referral.

6.2.7. Letter to Commissioner for Public Sector Employment: Special leave with pay for state government employees with disability

In June 2020, the Commissioner wrote to the Commissioner for Public Sector Employment to raise her concerns about the inconsistent application of special leave with pay provisions for public service employees with disability.

In this letter the Commissioner noted that the current inconsistent application of special leave with pay provisions across public service agencies means that employees with disability are not consistently protected against discrimination in the terms and conditions of their employment, leaving agencies vulnerable to complaints of disability discrimination under the Act.

The Commissioner asked the Commissioner for Public Sector Employment to review the 'Determination of the Commissioner for Public Sector Employment: 3.1 Employment Conditions – Hours of Work, Overtime & Leave' to enable all employees with disability to take special leave with pay for the purposes of accessing treatment, rehabilitation or assessment related to their disability.

Section 7

Reporting of public complaints about the Commission's service

7.1. Summary of service complaints by subject

PUBLIC COMPLAINTS RECEIVED BY EQUAL OPPORTUNITY COMMISSION IN 2019-20

Nil	0
-----	---

Data for the past five years is available at: <https://data.sa.gov.au/data/organization/attorney-general-s-dept>

7.2. Service complaint outcomes (update on 2018-19 matter)

NATURE OF COMPLAINT/SUGGESTION	SERVICES IMPROVED AS A RESULT
Update on complaint to the Commission and subsequent complaint to the South Australian Ombudsman in 2018-19 about the management of a complaint lodged with the Commission in early 2016. The complaint centred on a significant delay in the complaint being assessed and the lack of communication with the complainant during this time by the staff member managing the complaint.	As noted in the 2018-19 Annual Report, a written apology was provided to the complainant. ²⁷ Following the implementation of a number of processes and practices by the Commission to prevent the circumstances that led to the complaint happening again, the Ombudsman advised the Commissioner in writing in February 2020, that his Office would not be investigating the matter further as it "was not necessary and justifiable" and that he had closed his investigation.

²⁷ 2018-19 Annual Report, Equal Opportunity Commission of South Australia, (Adelaide South Australia, September 2019), p.47 <https://eoc.sa.gov.au/resources/annual-reports>

7.3. Freedom of Information

Under the *Freedom of Information Act 1991 (SA)* (FOI Act), members of the public have the right to access documents held by government agencies and statutory authorities.

Pursuant to the FOI Act, the Commission received two applications for a release of documents in the 2019/20 year. They relate to internal files, and are summarised as follows:

	APPLICANT	TO	TYPE	MINISTER	APPLICATION RECEIVED	FINALISED DATE
1	Sastre (1)	EOC	Other	Hon Vickie Chapman, Attorney-General	13/08/2019	12/11/2019
<p>REQUEST DETAILS All documentations including SAET representing TAFE(SA) books and Hearings, complaints, emails attachments, all material of case against TAFE(SA) 3 filed books including and transcripts 26-11-18 and decisions j given 14-5-19 and complaints EMAILS given to EOC this year 2019 including against SAET 2018 included, and case TAFE(SA). Timeframe: 1 January 2017 – 13 August 2019. 13/8 Clarified to: Case SAET complaint to EOC and all materials, documents, emails, complaints towards TAFE (SA). 30/8 Principal Officer approved extension of time until 12 November 2019. Applicant notified. 12/11 - 100 Documents released in full, 13 released in part and 57 refused.</p>						
2	Maher (10)	EOC	MP	Hon Vickie Chapman, Attorney-General	18/11/2019	29/11/2019
<p>REQUEST DETAILS The letter (and any response to the letter) to the Hon Stephen Knoll, Minister for Transport, Infrastructure and Local Government regarding the South Australian government's decision to withdraw financial support for the Overland train service. Dated 13 November 2018 and referred to on pg38 of the Equal Opportunity Commission Annual Report 2018-2019. 26/11 Copy of determination to AGO, EOC, ED FPP Two documents released in full</p>						

Section 8: Appendix (detailed enquiry, complaint and exemption data)

8.1. Enquiry Data

The Commission provides a free, impartial and confidential enquiry service to support and educate community members in understanding their rights and responsibilities under equal opportunity law. Details of enquiries are recorded to understand the types of discrimination faced by members of the community and their informational needs. This assists us to better target the delivery of information, resources and training.

There were 607 enquiries received in 2019-20 - a 7% increase in enquiries from the previous financial year. The past three years were relatively static in the number of enquiries (Table A1), with a significant reduction from the number reported in 2015-16. This is, in part, attributable to an increase in customer usage of self-service information and resources made available through the Commission's website.

Table A1: Number of enquiries received

Enquiries received	2015/16	2016/17	2017/18	2018/19	2019/20
No. of enquiries received	891	597	570	566	607
% difference from previous year	-26%	-33%	-5%	-1%	+7%

Enquiries to the Commission can be made via a range of methods, but almost 90% of enquiries were made by telephone (64%) or email (25%) in the 2019-20 financial year. Although this is a similar percentage to the previous four years for these methods combined, it should be noted that there was a 59% increase in email enquiries and a 21% decrease in telephone enquiries in 2019-20 when compared to the average for these methods of enquiry over the previous four years.

The Commission assisted enquirers in a number of ways (Table A2).

Table A2: Enquiry outcomes

Enquiry Outcomes	2015/16		2016/17		2017/18		2018/19		2019/20	
	No	%								
General information provided	331	37	260	43	233	41	195	34	165	27
Referred to Commission Website	64	7	49	9	43	8	40	7	226	37
Referred elsewhere (out of jurisdiction)	159	18	75	13	101	18	164	29	98	16
No action required	76	9	31	5	32	6	16	3	49	8
Referred to Commission's electronic complaint form	100	11	62	10	82	14	97	17	39	6
Complaint form and information package sent	58	7	38	7	25	4	16	3	14	2
Referred to advocate (to assist with EO/other Issue)	63	7	48	9	34	6	21	4	6	1
Referred to Australian Human Rights Commission	24	3	14	2	13	2	13	2	6	1
Report/publication/presentation provided/Other	11	1	19	3	5	1	1	0	4	1
Total¹	887	100	597	100	570	100	566	100	607	100

1. 100% is the rounded value.

Disability, race, sexual harassment and sex discrimination were the most commonly-reported grounds of discrimination by enquirers in the 2019-20 financial year. This is similar to the previous four years. It should be noted a substantial percentage of enquiries to the Commission are not related to any ground or area under the Act (Table A3).

Table A3: Top seven grounds of discrimination identified by enquirers

Enquiries – Grounds ¹	2015/16		2016/17		2017/18		2018/19		2019/20	
	No.	%	No.	%	No.	%	No.	%	No	%
Disability	235	23	167	25	128	21	163	27	175	27
Race	106	10	68	10	62	10	53	9	61	9
Sexual Harassment	53	5	26	5	33	5	35	6	49	8
Sex	67	7	49	7	37	5	45	7	31	5
Age	59	6	36	5	28	5	38	6	20	3
Caring Responsibilities	43	4	33	5	17	3	26	4	16	2
Pregnancy	28	3	13	2	15	2	15	2	15	2
All other enquiries (includes no EO ground)	429	42	268	41	300	48	236	39	279	43
Total²	1020	100	660	100	620	100	611	100	646	100

1. There may be more than one ground/issue per enquiry.

2. 100% is the rounded value.

The areas of employment and goods and services remained the most commonly identified areas of discrimination under the EO Act by enquirers in 2019-20 (Table A4).

Table A4: Areas of discrimination identified by enquirers

Enquiries – Areas ¹	2015/16		2016/17		2017/18		2018/19		2019/20	
	No.	%								
Employment	467	59	290	58	283	56	278	53	285	55
Goods & Services	176	22	108	21	113	23	136	26	116	22
Education & Training	56	7	43	9	45	9	47	9	53	10
Accommodation	40	5	29	6	25	5	29	6	38	7
Clubs and Associations	48	6	29	6	31	6	28	5	30	6
Advertising	9	1	3	1	3	1	4	1	0	0
Total²	797	100	503	100	501	100	523	100	522	100

1. Enquiry matters that fall outside the jurisdiction of the *Equal Opportunity Act 1984* (SA) are not included in this table.

2. 100% is the rounded value.

Table A5 shows the gender identity of enquirers (where known).

Table A5: Gender identity of enquirers

Gender of enquirers	2015/16		2016/17		2017/18		2018/19		2019/20	
	No.	%								
Female	387	44	284	48	258	46	172	48	289	48
Male	310	35	199	33	210	37	140	39	219	36
Transgender/Intersex/other	3	0	4	1	1	0	0	0	1	0
Unknown	185	21	110	18	93	17	48	13	98	16
Total¹	885	100	597	100	562	100	360	100	607	100

1. 100% is the rounded value.

8.2. Complaint Data

The Commission has implemented substantial business performance improvements in complaint-handling over the past four years, in order to streamline the complaint-handling process, reduce administrative duplication and workload, and improve the timeliness and efficiency of complaints management.

Table A6 shows the number of complaints lodged, closed and carried over in the 2019-20 financial year, compared with the four previous years.

Table A6: Number of complaints lodged, closed and carried forward

All Complaints	2015/16	2016/17	2017/18	2018/19	2019/20
	6				
Complaints lodged	187	246	213	179	181
Complaints closed	194	171	327	206	188
Complaints open at year end	101	176	62	35	28

Most complaints (77%) were made directly via the online complaint form on the Commission’s website. However, an additional 16% were lodged via email (often via a legal representative), 5% through submission of a hard copy complaint form, and 2% via a letter posted to the Commission.

8.2.1. Complaint Assessment

Table A7 shows the number of complaints assessed, accepted, declined at lodgement, and not initiated at lodgement in 2019-20 compared with the previous four years. There was a 36% increase in the number of complaints assessed in 2019-20 compared to the previous year– which is substantial given the decrease in conciliation staff to only 2 FTE.

Table A7: Number of complaints assessed and outcomes of assessment

Complaint Assessments	2015/16	2016/17	2017/18	2018/19	2019/20
No. of complaints assessed	169	245	248	151	205
Complaints accepted at assessment in the year	132 (78%)	181 (74%)	127 (51%)	77 (51%)	142 (69%)
Declined at lodgement/not initiated ¹	37	64	121	74	62 ²

1. ‘Not initiated’ complaints are those that do not initiate the SA EO Act – i.e. where there is no ground covered by the Act in the complaint.

2. One case was undetermined at 30 June 2020.

In 2019-20 there was again a substantial (32%) decrease in the average complaint assessment time (from 6.6 weeks in 2018-19 to 4.5 weeks in 2019-20). Complaint assessment time has been reduced by 62% when compared to 2016-17 (the latter being the year that business performance improvement processes were introduced).

Table A8: Complaint assessment times

Complaint Assessment Times¹	2016/17	2017/18	2018/19	2019/20
Average no. of weeks to assess complaints	11.9	11.6	6.6	4.5

1. Complaint assessment times were not measured prior to 2016/17.

The time taken to finalise complaints was also substantially decreased in the 2019-20 financial year. As Table A9 shows, there was a 41% reduction in the time taken to finalise complaints in 2019-20 when compared to the previous year. The time taken to finalise complaints in 2019-20 was 56% lower than in 2016-17 when business performance processes were first introduced.

Table A9: Finalisation times for all Complaints

Finalisation of complaints	2015/16	2016/17+	2017/18	2018/19	2019/20
Average no. weeks to finalise complaints	29.2	26.4	33.3	19.6	11.5 ¹

1. Accepted complaints were finalised in an average of 13.6 weeks and rejected complaints in an average of 5.2 weeks.

8.2.2. Grounds and Areas of Complaints

Disability was the most common ground of discrimination (occurring as a ground in 50 accepted complaints). Although this has been a consistent trend for many years (and is similar in other Australian jurisdictions), there was a considerable decrease in the percentage of disability discrimination complaints (21%) and substantial increases in the number (and percentage) of complaints alleging sexual harassment (20%), victimisation (14%) sex (11%) and race (10%) discrimination. Complaints of age discrimination represented 7% of the total grounds (Table A10).

Employment and education are the most common areas for accepted complaints.

Table A10 (3 parts): Complaints by ground and areas of discrimination (accepted complaints)

Grounds and Areas	Employment					Goods and Services				
	15/16	16/17	17/18	18/19	19/20	15/16	16/17	17/18	18/19	19/20
Age	10	5	11	3	12	4	3	1	-	1
Association with a Child	-	-	-	1	1	1	-	1	-	-
Caring Responsibilities	10	4	5	5	2	-	1	-	1	-
Disability	32	26	29	16	26	30	37	7	2	9
Gender Identity	-	-	-	1	4	2	1	1	1	2
Identity of Spouse or Partner	-	1	3	1	5	-	-	-	-	1
Marital Status	3	1	-	2	1	2	-	-	-	-
Pregnancy	3	2	5	5	3	-	-	-	-	-
Race	7	13	6	3	14	11	17	2	3	6
Sex	11	7	4	11	18	2	7	2	2	7
Sexual Harassment	21	26	29	14	41	1	7	-	-	2
Sexual Orientation	5	2	4	-	5	-	-	-	-	1
Victimisation	19	24	9	9	26	-	3	-	1	-
Whistle-blower ¹	4	5	5	8	5	-	1	-	1	-
Total	125	116	110	79	163	52	77	14	11	29

Grounds and Areas (Accepted Complaints)	Housing/Land/Accommodation					Clubs and Associations				
	15/16	16/17	17/18	18/19	19/20	15/16	16/17	17/18	18/19	19/20
Age	-	-	-	1		-	2	1	-	
Association with a Child	1	-	-	-		-	-	-	-	
Caring Responsibilities	-	-	1	-		-	-	1	-	
Disability	3	3	4	2	2	4	4	1	2	2
Gender Identity	-	-	1	-		-	-	1	-	
Identity of Spouse or Partner	-	-	-	-		-	-	-	-	
Marital Status	2	-	-	-		-	-	-	-	
Pregnancy	-	-	1	-		-	-	-	-	
Race	-	7	-	-		-	1	-	-	
Sex	1	-	-	-		1	5	-	-	
Sexual Harassment	-	-	-	1		-	2	-	1	
Sexual Orientation	-	-	-	-		-	-	-	-	
Victimisation	-	1	1	-		1	6	-	-	1
Whistle-blower ¹	-	2	-	-		1	-	-	-	
Total	7	13	8	4	2	7	20	4	3	3

Grounds and Areas (Accepted Complaints)	Education/Training					Total Grounds				
	15/16	16/17	17/18	18/19	19/20	15/16	16/17	17/18	18/19	19/20
Age	-	-	-	-	3	14	10	13	4	16
Association with a Child	-	-	-	-	-	1	-	3	1	1
Caring Responsibilities	1	-	-	1	1	10	5	8	7	3
Disability	4	13	5	9	11	65	85	52	31	50
Gender Identity	-	-	-	-	5	2	1	3	1	11
Identity of Spouse or Partner	-	-	-	1	2	-	1	3	2	8
Marital Status	1	-	-	-	-	8	2	-	2	1
Pregnancy	-	-	-	-	-	3	2	9	5	3
Race	1	1	2	1	4	19	39	10	7	24
Sex	-	-	-	1	1	15	23	6	14	26
Sexual Harassment	-	1	-	-	3	22	36	28	16	46
Sexual Orientation	-	-	-	-	-	5	2	4	-	6
Victimisation	-	2	-	2	6	20	35	12	12	33
Whistle-blower ¹	-	1	-	-	-	5	9	8	9	5
Total	7	18	7	15	36	189	250	159	111	233

1. Refers to complaints of victimisation under the Whistle-blowers Protection Act 1993 (SA), the Public Interest Disclosure Act 2018 (SA) or the Independent Commissioner for Corruption Act 2012 (SA).

Note: - In a column means zero.

Note: There may be more than one ground per complaint.

Note: Data in Table A11 will vary slightly from year to year due to database corrections and changes during the period a complaint is open.

8.2.3. Outcomes of Accepted Complaints

Of the 114 accepted complaints finalised in the 2019-20 financial year, 70 conciliations were undertaken. Of these, 57 (81%) were successful.

As Table A11 shows, 50% of all accepted complaints (57) were resolved by conciliation. 26 complaints (23%) were referred to the Tribunal (with 11 being referred post-conciliation and 15 being referred without attempting conciliation) and 31 complaints (27%) were declined by the Commissioner following further investigation or withdrawn by complainant (in two of the latter cases, conciliation was attempted).

Table A11: Outcomes of finalised accepted complaints

Outcomes of accepted complaints finalised in the year	2015/16	2016/17	2017/18	2018/19	2019/20
Complaints resolved by conciliation	58	71	66	54	57 ¹
Referred to Tribunal	18	13	66	20	26 ²
Declined by the Commissioner following further investigation or withdrawn by complainant	14	15	30	26	31 ³
Total accepted complaints finalised in the year	90	99	162	100	114

1. There were 70 conciliations attempted in 2019-20 and 57 of these were successful, representing an 81% success rate.

2. Eleven of these cases were referred to the Tribunal after conciliation and 15 were referred without attempting conciliation.

2. Two of these cases were declined/withdrawn after conciliation.

8.2.4. Complaint outcomes resulting from settlement agreements

The issuing of an apology and financial compensation were the most common outcomes achieved in settlement agreements made in conciliation in 2019-20 (Table A12). Settlement agreements can include more than one outcome, and not all successful conciliations involve a written agreement.

Table A12: Outcomes resulting from conciliated settlement agreements

Outcomes from conciliation ¹	2015/16	2016/17	2017/18	2018/19	2019/20
Apology	19	31	20	22	31
Financial compensation	27	36	29	17	25
Staff training/development program	10	9	14	4	18
Policy change/change in practice	8	9	7	6	14
Private agreement	2	2	8	16	13
Other access achieved (e.g. mobility)	6	3	2	5	6
Reasonable adjustment	3	2	2	4	5
Employment options improved (e.g. job offer)	1	1	7	5	4
Undertaking to cease an action	0	3	3	1	3
Access to education/training	2	3	1	6	2
Access to/provision of Accommodation	1	1	1	1	2
Reference provided	3	3	2	5	2
Provision of goods/services/facilities	6	3	4	1	2
Access to club membership/benefits	2	4	1	0	0
Other	17	20	10	5	11

1. There may be more than one outcome per conciliation agreement.

Table A13: Financial component in settlement agreements

Financial Compensation	2015/16	2016/17	2017/18	2018/19	2019/20
Total financial compensation payments	\$68,503	\$217,643	\$139,317	\$122,726	\$173,114
Average financial compensation payment	\$4,030	\$10,364	\$5,805	\$7,219	\$6,925 ¹

1. Individual agreements for financial compensation ranged from \$20,000 to \$300 in 2019-20.

8.2.5. Complainant Demographic Information

As Table A14 shows, the majority of complainants (77%) in 2019-20 were aged between 20 and 59. There was a large increase in the percentage of complainants aged 20-29 in 2019-20 (double the average of the previous 4 years).

As Table A15 shows, similar to the average over the previous 4 years, a higher proportion (59%) of complainants were female in 2019-20. A small proportion (3%) of complainants identified as transgender/intersex/gender diverse/non-binary.

Table A14: Age group of complainants (accepted)

Age group of complainants (accepted complaints)	2015/16	2016/17	2017/18	2018/19	2019/20
0 - 9 years	0%	0%	2%	2%	2%
10 - 19 years	3%	5%	7%	7%	6%
20 - 29 years	15%	12%	15%	6%	24%
30 - 39 years	22%	19%	9%	25%	27%
40 - 49 years	15%	15%	23%	13%	13%
50 - 59 years	19%	11%	13%	14%	13%
60 - 69 years	5%	14%	9%	5%	6%
70 - 79 years	4%	2%	3%	1%	2%
80 + years	0%	1%	0%	0%	0%
Unknown age	17%	20%	20%	23%	7%
Total *	100%	100%	100%	100%	100

* 100% is the rounded value.

Table A15: Gender identity of complainants (accepted)

Gender of complainants (accepted complaints)	2015/16	2016/17	2017/18	2018/19	2019/20
Female	50%	59%	61%	56%	59%
Male	48%	39%	39%	44%	39%
Transgender/Intersex/Gender Diverse/Non-binary	2%	1%	0%	0%	3%
Total ¹	100%	100%	100%	100%	100%

1. 100% is the rounded value.

8.2.6. Satisfaction with Complaint Handling Services

Customer satisfaction surveys are sent to all parties to a complaint (complainants and respondents) following complaint finalisation. A total of 72 evaluation surveys were returned in the 2019-20 reporting period. Survey results indicated 96% overall satisfaction with the Commission’s complaint-handling services (Table A16).

Table A16: Survey evaluation results of complaint-handling services

Questions:	Agree/Strongly Agree
The complaint process was well explained to me.	96%
I was kept well informed throughout the complaint process.	97%
I understood the information provided by Commission staff.	100%
The documents provided were easy to understand and use.	96%
Staff were professional, helpful and courteous in their manner.	100%
I was treated fairly and impartially.	93%
The other party was treated fairly and impartially.	99%
I am satisfied with the time it took to resolve the complaint.	93%
I am satisfied with the complaint outcome reached.	89%
I am satisfied with the complaint handling process overall.	93%
Overall Average Satisfaction	96%

Survey respondents are also asked for their comments and/or suggestions on how to improve our service. Feedback was as follows:

- *I have never dealt with the commission before but believe the process was handled in an excellent and professional manner. Thank you [Conciliation Officer] for your professionalism and guidance in this matter. No improvement needed in my opinion*
- *I was very happy with the service provided and hope that the Minister will fund the EOC adequately in the future. This is a public service of great value to the community and a fully funded service enables the EOC to meet the Government's obligations to enable citizens' rights and probably saves money in the long run.*
- *[Conciliation Officer] was very professional and caring of my wellbeing during the afternoon of my conference. I really appreciated that. Thanks. Give [Conciliation Officer] a pay rise!!*
- *No. The person who done our complaint was kind respectful and learnt about disability in sporting activities.*
- *I thank [Conciliation Officer] for [their] assistance.*
- *I found this process was not as daunting as I thought it would be and the people in the involved were very helpful and courteous. A big thank you to all.*
- *The matter was handled very professionally.*
- *[Conciliation Officer] provided an exceptional level of service, showing compassion and true impartiality.*
- *The experience could not be improved on. It was handled with professionalism and empathy.*
- *The professionalism of [Conciliation Officer] was outstanding and resulted in the parties being able to negotiate an outcome that met both needs.*
- *I write to thank you for the assistance you provided to [complainant]. I acknowledge the professionalism and empathy you displayed in dealing with this matter. My thanks also to the Commission and Dr Vincent for providing assistance to a vulnerable person in difficult circumstances.*
- *Thank you for your assistance with this matter, I sincerely feel you went above and beyond and I appreciate the assistance you have given me in regards to the whole situation...*

- *Very happy with the way [Conciliation Officer] handled a complex and sensitive matter. [Conciliation Officer] approach was measured, reasonable and fair.*
- *The only comment I have is with regards to the settlement agreement, we used the commissions template and we realised that we should have been clearer about the monetary component in relation to the payment being subject to tax or not. As much of a learning for us.*
- *I would like to say that [Conciliation Officer] was an outstanding mediator and I really appreciated the manner in which [Conciliation Officer] communicated with me.*
- *People with rights need to consider other people's rights too...if person being complained about have serious problems that their complainant rights affect. This needs serious considerations for future reference.*
- *[Conciliation Officer] was an outstanding mediator - my compliments - [Conciliation Officer] is gold.*
- *Greater focus on ensuring the most senior person in the agency/respondent is engaged with the complaint*
- *I am so pleased that I went down this path in my situation otherwise nothing would have been achieved.*
- *Our conciliation officer was amazing. [Conciliation Officer] was able to explain things very well and was able to allocate time for questions or clarification to be answered.*
- *[Conciliation Officer] was very helpful and professional throughout the process*

8.3. Exemption Requests

As discussed in section 4.1.1.3. of this report, section 92 of the Act provides for applicants to apply to the SA Civil and Administrative Tribunal (SACAT) for an exemption from the Act for a specific purpose. The SACAT provides the Commissioner with a copy of all applications received, to enable her to review the application and make any submissions she considers necessary before an application is considered by the SACAT.

Below is a brief summary of all applications received by the Commission in 2019-20.

Applicant	Summary	Order
Cobham Aviation Services Australia Pty Ltd	Application for a Defence exemption, to allow the applicant to comply with US contract requirements. The Commission discussed and agreed the terms of the application directly with the applicant.	Exemption Order granted.
Applicant Anonymised	Application for an exemption to recruit females to increase gender diversity. The application was subsequently discontinued as the applicant was not ready to proceed.	No Exemption Order was made as the matter was withdrawn by the Applicant.
Department for Health and Wellbeing	Application to renew an exemption allowing the Department and the Aboriginal Health Council of SA to advertise to hire Aboriginal and Torres Strait Islander (ATSI) persons, including ATSI persons of a specific gender, for positions which undertake ATSI health worker roles and functions.	Exemption Order granted.
Minister for Education and Child Development	Application to renew an exemption regarding the admission and education of girls at the single sex campus of Roma Mitchell Secondary College.	Exemption Order granted.
Hen House Co-operative Ltd	Application for an exemption to allow the applicant to prioritise and target women for some of their programs and activities, which seek to close the gender investment gap.	Exemption Order granted
Wallmans Lawyers	Application for an exemption to allow the applicant to offer a summer clerkship and mentoring program to ATSI law students, based on research and statistics regarding the low levels of ATSI persons employed in the law.	No Exemption Order was made, as the Tribunal formed the view that the situation was covered by the exemption in section 65 of the Act, and therefore the Order was not necessary. The Tribunal indicated that if necessary, it would have been granted.
ASC OPV Shipbuilders Pty Ltd	Application for a Defence exemption, to allow the applicant to comply with US contract requirements. The Commission discussed and agreed the terms of the application directly with the applicant.	Exemption Order granted.
ASC Pty Ltd & Others	Application for renewal of a Defence exemption, to allow the applicant to comply with US contract requirements. The Commission discussed and agreed the terms of the application directly with the applicant.	Exemption Order granted.



Office of the Commissioner for Equal Opportunity

Level 15, 10 Franklin Street, Adelaide SA 5000

GPO Box 464, Adelaide, SA 5001

Phone 08 8207 1977

www.eoc.sa.gov.au