

# ANNUAL REPORT

HUMAN

RIGHTS

AND

EQUAL

OPPORTUNITY

COMMISSION



1990-1991

**Human Rights  
and Equal  
Opportunity  
Commission**

**Annual Report  
1990-91**



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9 December 1991

The Hon Michael Duffy MP  
Attorney-General  
Parliament House  
CANBERRA ACT 2600

Dear Attorney

I have pleasure in presenting the Annual Report of the Human Rights and Equal Opportunity Commission for 1990-91, pursuant to s.45 of the *Human Rights and Equal Opportunity Commission Act 1986*. The report has been prepared in accordance with the requirements of sub sections 25(6) and (7) of the *Public Service Act 1922*. A schedule detailing the location in the report of material relating to those requirements appears in the Appendices.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ron Wilson', written in a cursive style.

Ronald Wilson  
President



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The following is an overview of the major activities undertaken by the Human Rights and Equal Opportunity Commission (HREOC) during the twelve months beginning July 1990. A more detailed description of these activities and the role of the Commission follows in the body of the Report.

The charter of the Commission is to promote the acceptance and observance of human rights in Australia. In line with this charter, the Commission has continued to undertake a wide range of activities aimed at achieving systemic change as well as fulfilling its responsibility to handle individual discrimination complaints.

The Commission's **public inquiries** continued to place significant human rights issues on the political and public agenda in 1990-91.

Human Rights Commissioner Brian Burdekin announced the terms of reference for a **National Inquiry into Human Rights and Mental Illness** in June 1990. The Inquiry had received more than 400 written submissions from every State and Territory by June 1991.

The Inquiry was prompted by concern that the human rights of many thousands of Australians affected by mental illness are not being adequately protected. Public hearings for the Inquiry have so far been conducted in Melbourne, Ballarat and Sydney and have already served to focus considerable public attention on the issue.

Commissioner Burdekin reconvened the **Homeless Children Inquiry** on several occasions during the year, in line with the Commission's continuing commitment to achieving effective reforms in this area. Public hearings were conducted in several capital cities and regional centres and the Commission is maintaining a close watching brief on government and community initiatives in all States and Territories.

**The Report of the National Inquiry into Racist Violence** was tabled in Federal Parliament in April 1991. Headed by Race Discrimination Commissioner Irene Moss, the 18 month Inquiry received evidence from thousands of people around Australia.

The major findings of the Inquiry were that racist violence against Aborigines and Torres Strait Islanders was endemic, nationwide and severe. Racist violence on the basis of ethnic identity was found to be of concern but not as severe as that experienced by Aboriginal people.

The Report made 63 recommendations relating to areas such as legislation, policing practices, justice administration, education and housing. The Commission has been monitoring and promoting the implementation of the Inquiry's recommendations and will continue to make this process a major priority over the next twelve months.

The Commission's **Inquiry into the provision of medical services to the Aboriginal communities of Cooktown, Wujal Wujal and Hopevale** in far north Queensland has now been completed. The Report of the Inquiry will be presented to the Attorney-General in September 1991.

In August 1990 the Commission initiated an **Inquiry into the distribution of alcohol in the Northern Territory**. The aim of the Inquiry is to identify the factors which may contribute to alcohol abuse in the Territory and examine whether possible limitations on alcohol distribution would contravene the Racial Discrimination Act.

The work of the Sex Discrimination Commissioner is increasingly focused on addressing employment and workplace issues. The Commissioner, Quentin Bryce, is currently conducting an **Inquiry into possible sex discrimination in overaward payments**. The lack of access for women to overaward payments has been identified as a major factor in the still significant gap between male and female earnings.

An important function of the Commission is to monitor existing and proposed **legislation relating to human rights**. In 1990-91, the Commission provided advice to the Attorney General on a number of issues, including options for national anti-discrimination legislation in relation to disability, age and AIDS/HIV and the proposed ban on political advertising. A review of permanent exemptions in the Sex Discrimination Act was also commenced.

The Commission's work at all levels is dependent on accurate, up to date research. In addition to public inquiries, a wide range of activities in all areas required a major research input. In the human rights jurisdiction, these included the Commission's continuing program of action on disability, submissions to Parliament on juvenile justice, immigration and disability issues and the research involved in promoting international instruments.

Major race discrimination projects in 1990-91 included research into the provision of water supplies to Aboriginal communities, begun last year, the completion and release of a report on the experience of overseas medical practitioners in Australia and an investigation into Aboriginal—police relations on Mornington Island, the report of which is expected to be released in early 1992.

In the sex discrimination area, a major discussion paper on discrimination against women in the lead industry was released and work was commenced on drawing up guidelines to assist the superannuation industry to comply with the new amendments relating to superannuation in the Sex Discrimination Act. Draft guidelines on how to tackle sex discrimination in sport were produced and circulated for comment, with a view to releasing final guidelines in 1991-92.

One of the most significant features of the Commission's work during the year was the substantial increase in the number of people seeking assistance. There were close to 17,000 approaches for assistance, an increase of almost 30 per cent over the previous twelve months. Written complaints rose by

more than 50 per cent and complaints accepted as within jurisdiction rose by 35 per cent.

While the number of complaints lodged with the Commission has risen steadily since 1987, there were a number of specific factors contributing to the larger than average increase in 1990-91. Complaints rose in all areas of jurisdiction, but the most dramatic increases were in complaints lodged under the Human Rights and Equal Opportunity Commission Act and the Sex Discrimination Act.

Regulations came into effect in January 1990 which introduced a number of new grounds of discrimination in employment, including age. The impact of the regulations is reflected in an 88 per cent increase in complaints lodged under the HREOC Act, the largest proportion of these being complaints lodged on the ground of age.

Complaints of sexual harassment in employment lodged under the Sex Discrimination Act more than doubled in 1990-91, due in large part to the impact of the Commission's SHOUT campaign. Launched in June 1990, SHOUT was a national awareness campaign on sexual harassment, aimed specifically at young women.

Some 1,100 complaints were resolved during 1990-91. Only 5 per cent of complaints proceeded to public hearing. Matters referred to public hearing included complaints by eight Aborigines of refusal of service at two hotels in Mareeba in far north Queensland. The Commission found seven of the complaints substantiated and ordered compensation to be paid to the complainants.

Another significant determination was in the case of *Gibbs v the Australian Wool Corporation*, the first pregnancy discrimination complaint to be referred to a public hearing. The Commission found in favour of the complainant and ordered \$5,000 compensation.

Despite the Commission's additional complaint handling load over the year, the average processing time per complaint was

reduced from ten months in 1989-90 to eight and a half months in 1990-91.

The community education work of the Commission has focused increasingly on reducing discriminatory practices in the workplace by helping employers to comply with their obligations under anti-discrimination legislation. Industry training programs are being developed in a number of areas. They include a major training program to promote the requirements of the International Labor Organisation Convention 111, a project aimed at improving race relations in the workplace and a training package for managers on sexual harassment in the workplace.

The Commission is one of four bodies responsible for devising and coordinating the Community Relations Strategy announced by the Prime Minister in 1990 as part of the National Agenda for a Multicultural Australia. A Community Relations Strategy Unit was established on a temporary basis in January 1991 to implement a program of seven national projects. The unit's work has initially focused on developing three of these projects: two which are aimed at helping Aborigines and Torres Strait Islanders and people of non English speaking background gain better access to human rights protection, and one which is aimed at promoting the adoption of uniform national reporting and data collection on incidents of racist violence, intimidation and harassment.

The past twelve months has seen a significant expansion in the role of the Privacy Commissioner, Mr Kevin O'Connor. In addition to his two original jurisdictions under the Privacy Act (the Information Privacy Principles and the Tax File Number Guidelines), the Commissioner gained new responsibilities under the spent convictions provisions of the Crimes Act, the credit reporting amendments to the Privacy Act and monitoring of the increased use of tax file numbers for data-matching under the *Data matching Program (Assistance and Tax) Act 1990*.

Major activities of the Privacy Branch in 1990-91 included providing advice to Commonwealth agencies on new policy proposals such as the proposed changes to the Pharmaceutical

Benefits Scheme and the enhanced Medicare card; the preparation of the second Commonwealth Personal Information Digest; the release of a discussion paper on Data-matching in Commonwealth Administration; the development of a Code of Conduct for the credit reporting industry and the beginning of audits of Commonwealth agencies and tax file number users in the private sector.

A number of investigations were carried out during the year into allegations of interference with privacy. While formal complaints under the Privacy Act increased slightly (with 66 complaints within jurisdiction being received compared to 59 last year), there were some 5,000 enquiries relating to that Act.

All four Commissioners and the President, Sir Ronald Wilson, undertook a heavy schedule of speaking engagements to help -promote human rights issues and the work of the Commission. These are detailed in the body of the report.

The major promotional activity for the Commission is the presentation of the annual Human Rights Medal and Awards, established in 1987 to recognise Australians who have made a significant contribution to human rights in this country.

In 1990, the Medal was awarded to Professor Fred Hollows for his work in reducing the incidence of trachoma caused blindness among Aboriginal people. Professor Hollows was also named Australian of the Year.

## Objectives

The Human Rights and Equal Opportunity Commission has two major objectives:

- To increase the understanding, acceptance and observance of human rights and equal opportunity in Australia; and
- To promote a fairer society by protecting basic human rights and ensuring that Australia complies with its human rights obligations under international law.

## Charter

The Commission is a permanent independent statutory authority with responsibility for the following Acts of Parliament:

- *Human Rights and Equal Opportunity Commission Act 1986*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*

The Commission also assists the Privacy Commissioner in administering the:

- *Privacy Act 1988*

These Acts give force to the following international instruments to which Australia has committed itself:

### **Human Rights and Equal Opportunity Commission Act**

- *International Covenant on Civil and Political Rights*
- *Declaration of the Rights of the Child*
- *Declaration on the Rights of Mentally Retarded Persons*
- *Declaration on the Rights of Disabled Persons*
- *International Labour Organisation Convention Concerning Discrimination in Respect of Employment and Occupation (ILO Convention 111)*

### **Racial Discrimination Act**

- *International Convention on the Elimination of All Forms of Racial Discrimination*

### **Sex Discrimination Act**

- *International Convention on the Elimination of All Forms of Discrimination Against Women*

### **Privacy Act**

- *International Covenant on Civil and Political Rights (Article 17)*
- *Organisation for Economic Cooperation and Development Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*

## **Functions**

In broad terms, the Commission both advises on legislation relating to human rights and monitors its implementation. It reviews existing and proposed legislation for any inconsistency with human rights or for any discriminatory provision which impairs equality of opportunity or treatment in employment or occupation. It examines any new international instruments relevant to human rights in order to advise the Federal Government on their consistency with other international treaties and existing Australian law. The Commission may also propose laws or suggest actions that the Government should take on matters relating to human rights and discrimination.

The Commission also inquires into acts or practices that may infringe human rights or that may be discriminatory and, in the event that infringements are identified, recommends action to remove them. It sponsors public discussions and also undertakes and coordinates research and educational programs to promote human rights.

For the purposes of the Commission's jurisdiction, 'human rights' are defined as those set out in the Covenant and Declarations scheduled to the Human Rights and Equal Opportunity Commission Act (HREOC Act). Sections 11 and 31 of that Act detail the full functions of the Commission.

Schedule 1 of the *Privacy Act 1988* amends the HREOC Act to make the Privacy Commissioner a member of HREOC. The Privacy Commissioner administers the Privacy Act in his own right but is assisted in that task by staff of the Commission.

## History

The protection of human rights is a continuing commitment. Even in countries where the human rights of citizens have usually been well protected, vigilance is needed to guard against overt or covert erosion of those rights. Legislation relating to the protection of human rights needs to be monitored to ensure its efficacy.

In the international arena, the United Nations (UN) has been actively promoting human rights since the Universal Declaration of Human Rights was adopted on 10 December 1948. Two major Covenants associated with the Universal Declaration were developed: the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (ICCPR). These were adopted by the UN General Assembly and became operative in 1976.

In Australia, the Federal Government ratified the ICCPR in 1980 and established the Human Rights Commission the following year, through the *Human Rights Commission Act 1981*. That Commission handled complaints in relation to the ICCPR, and initiated educational campaigns about it and other UN Declarations dealing with the Rights of Children, the Mentally Retarded and People with Disabilities. Working in tandem with the Human Rights Commission was a Commissioner for Community Relations, who was responsible for the administration of the *Racial Discrimination Act 1975*. This Act incorporated the International Convention on the Elimination of All Forms of Racial Discrimination, which was ratified by the Australian Government in 1975.

With the passing of the Sex Discrimination Act in 1984 and the introduction of National and State Committees dealing with discrimination in employment and occupation, the structure and functions of the former Commission came under review.

In 1986, the Hawke Labor Government introduced the Human Rights and Equal Opportunity Commission Bill, creating a new organisation with three full-time Commissioners (Human Rights Commissioner, Race Discrimination Commissioner and Sex Discrimination Commissioner), a part-time President, considerably reduced staff and budget, and a relocation from Canberra to Sydney. The creation of the new statutory office of Privacy Commissioner under the Privacy Act of 1988 complements the protection of human rights provided by the other three portfolios within the Commission

## **Commission Structure**

The present Human Rights Commissioner and Race Discrimination Commissioner were appointed for statutory terms of seven years each, while the Sex Discrimination Commissioner and the Privacy Commissioner were each appointed for five years.\*

The Commissioners are assisted in the administration of their portfolios by an organisational structure which is outlined in the chart at the back of this report. Employees of the Commission also provide corporate support and staff regional offices in Queensland, Tasmania and the Northern Territory, as well as the central office in Sydney.

## **Powers**

The Commission is given certain powers by law to discharge its responsibilities effectively. These include power to:

- conduct an inquiry as a result of a complaint, or on its own initiative, or when the Minister so requests, and to conciliate in the matter;
- decline an inquiry as the result of a complaint;

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\* A Commissioner's term of office may be terminated by the Governor-General by reason of misbehaviour or physical or mental incapacity, or for certain other reasons including bankruptcy, neglect of Commission duties or failure to disclose interests in accordance with section 42 of the HREOC Act.

- require individuals to furnish information, produce documents or appear before it to give evidence (including on oath or affirmation);
- in certain circumstances, prohibit the disclosure of the identity of the person providing information.

The Commission can report to the Government on any matter arising in the course of its functions. With the approval of the Minister, it can establish advisory committees. It can delegate its powers and work with and consult appropriate individuals, government bodies and non-government organisations. The Commission is also empowered to:

- formulate guidelines for the avoidance by government of practices that infringe human rights;
- intervene, with leave of the court, in legal proceedings which involve human rights;
- undertake research and educational programs which promote human rights and coordinate any such programs undertaken by any other persons or authorities on behalf of the Commonwealth;
- inquire, report, conciliate and educate in relation to the International Labour Organisation Convention Concerning Discrimination in Respect of Employment and Occupation.

Under the Racial Discrimination Act and the Sex Discrimination Act, the Commission has further powers to inquire into any alleged unlawful act of discrimination on the basis of race, sex, marital status or pregnancy following a written complaint or when it appears to the Commission that an unlawful act has been committed. The relevant Commissioner attempts to settle the matter by conciliation.

The Privacy Act lays down strict standards that Federal Government departments and agencies must observe in collecting, storing and using personal information. The Privacy Commissioner can inspect the records of agencies and direct them to change their information handling practices to ensure that they follow certain Information Privacy Principles (IPPs).

He can investigate complaints of breaches of the IPPs or the Tax File Number Guidelines and can award compensation if damage results from a breach of the IPPs by a Federal Government agency. He can also issue Public Interest Determinations where the acts or practices of agencies breach the IPPs but the public interest in the agencies so doing outweighs the public interest in adhering to the Principles.

## **The Minister**

The Minister responsible in the Federal Parliament for the Commission is the Attorney-General, the Honourable Michael Duffy MP. He has the following powers under the HREOC Act:

- to make, vary or revoke an arrangement with the States for the performance of functions relating to human rights or to discrimination in employment or occupation;
- to declare, after consultation with the States, an international instrument to be one relating to human rights and freedoms for the purposes of the Act;
- to establish an advisory committee (or committees) to advise the Commission in relation to the performance of its functions and, at his request, to report to him on Australia's compliance with ILO Convention 111 and to advise him in regard to national policies relating to equality of opportunity and treatment in employment and occupation.

The Attorney-General also has the power to request the Commission to report to him on certain matters and to issue to the Commission a certificate that the disclosure of certain information or the contents of certain documents would not be in the public interest.

Under the Sex Discrimination Act and the Racial Discrimination Act, the Attorney-General may:

- appoint people to participate in inquiries and determine the terms and conditions of such appointments including their termination;
- refer any matter to the Commission for inquiry as a complaint;

- authorise financial assistance, under certain circumstances, to people who are parties to proceedings before the Commission.

The Minister also has a role under the Privacy Act, including receiving the Privacy Commissioner's reports to him about interferences with privacy or about proposed Federal legislation that may interfere with privacy. He can also consider applications for financial assistance and can issue certificates which prevent the disclosure of certain matters in the public interest.

During the year the Minister was required to exercise his statutory powers only in respect of arrangements with the States for the performance of functions relating to human rights.

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## ACROSS THE COMMISSION

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### The President

By 30 June 1990, Sir Ronald Wilson AC, KBE, CMG, had completed seventeen months of his five-year term as President of the Commission. During the year, Sir Ronald sat as Hearing Commissioner on fourteen public inquiries, chaired the Commission's Inquiry into the Provision of Health and Medical Services to the Aboriginal Communities of Cooktown, Hopevale and Wujal Wujal, and spoke at a wide range of meetings, seminars and conferences.

### Statement from the President

*Australia's human rights record is generally one in which we, as a nation, can take some pride. We cannot, however, afford to be complacent.*

*There are still many disadvantaged and vulnerable groups in our society who require protection from discrimination and who lack equal opportunity - none more so than Australia's Aboriginal and Torres Strait Islander population for whom discrimination and disadvantage are often daily facts of life. People with mental illness or other disabilities are also in a very vulnerable position.*

*The Human Rights and Equal Opportunity Commission was set up to protect the civil and political rights of all Australians, but I mention these particularly vulnerable groups because the problems they face are an indication that we still have a long way to go before we can claim to have a truly fair society in Australia.*

*One issue of interest to the Commission during the past year has been the debate on the 'New Federalism', particularly in*

*relation to the elimination of duplication of services between the State and Federal Governments — which the Commission has tried to avoid as far as possible by maintaining appropriate cooperative arrangements with the States.*

*Whilst welcoming the competence of the States to legislate against discrimination, the Commission is convinced that the Federal Government has special responsibility in relation to Australia's international human rights obligations in accordance with the various treaties to which we are a party. We also believe that our basic rights ought to be the same regardless of where in the country one lives. The Commission hopes that one product of the 'New Federalism' will be a truly national legal regime to protect the basic rights of all Australians, consistent with our international obligations.*

*This report sets out the Commission's endeavours throughout 1990-91 to meet its obligations under the charter given to it by the National Parliament. I believe it is a comprehensive record of achievement for a small agency and I commend the report to the Parliament and to readers generally.*

## **Complaint Handling**

The year under review has seen a further significant increase in the Commission's complaint handling workload. During 1990-91 the Commission received some 16,800 approaches for assistance, including over 14,000 telephone enquiries and 448 personal interviews, which is an increase of 29% over 1989-90.

During 1990-91, complaints under Federal legislation were handled in one of two ways: by the Commission's central office in Sydney or one of its regional offices in Brisbane, Hobart and Darwin; or by the State Equal Opportunity/Anti-Discrimination agencies in New South Wales, Victoria, South Australia and Western Australia under cooperative arrangements with the Commonwealth. The State agencies may investigate and attempt to conciliate complaints lodged under the *Racial Discrimination Act 1975* and the *Sex Discrimination Act 1984* through delegations from the Federal Commission. Complaints

under the *Privacy Act 1988* are, at present, handled only by the Commission's Sydney office.

On 1 January 1990, Regulations came into effect which introduced a number of new grounds of discrimination in employment, including age. The impact of these Regulations has been that the greatest number of complaints received at central office were lodged under the *Human Rights and Equal Opportunity Commission Act 1986* (which is the relevant Act for the new grounds) and the largest proportion of these were on the ground of age. This is also indicative of the emerging importance of age discrimination as an issue which needs to be addressed by government. There has also been a steady stream of complaints relating to privacy issues.

During 1990-91, the Commission received 3107 written complaints — an increase of 52% over 1989-90. Of these, 1437 were found to be within the jurisdiction of one of the four Acts administered by the Commission (see Table 1). This represents a 35% increase on the previous year's total of 1064. The remainder were assessed to be outside jurisdiction.

The conciliation process continues to be effective in resolving complaints. Table 2 shows that a total of 1410 cases were finalised during the year, an increase of 51% over last year's figure of 932. Of the cases closed, 1138 were considered to be successfully conciliated with a mutually agreed settlement, or by the complaint being discontinued. Settlements included agreements by organisations to policy changes and substantial financial settlements — some in excess of \$20,000. The Commission and its agencies declined 114 of the cases referred on the basis that they could not be substantiated. Only 5% of complaints were referred for a formal hearing before the Commission as the relevant Commissioner considered that they could not be conciliated. The outcomes for each agency are shown in Table 3.

In the period 1 July 1990 to 30 June 1991, 1418 written complaints received by the Commission were found to be outside jurisdiction. Table 4 shows a breakdown of these NUA

(Not Under the Act) complaints and illustrates the range of issues being brought before the Commission.

The relevant sections in this report dealing with the Racial Discrimination and Sex Discrimination Acts contain details of some of the significant referred matters. The HREOC Act does not include a referral process, although the Human Rights Commissioner may report to the Attorney-General on the outcome of a complaint under that Act, and the Privacy Commissioner has the power to make determinations under the Privacy Act in respect of complaints against Federal agencies.

Staffing in the conciliation section of the central office has remained stable over the past year. With the increased numbers of complaints received, the conciliators have carried large case loads resulting in delays in dealing with some matters. There has also been -a substantial increase in the number of telephone enquiries received at central office, placing increased demands on the Enquiry Officers. Case loads were also high in the Brisbane office. Nevertheless, complaint processing times on average have been reduced.

Attempts are still being made to regularise the collection and recording of statistics by the State Agencies. A format has been developed and the State agencies have been requested to supply statistics in accordance with this format. New software has recently been acquired which will improve the methods of collection and analysis of statistical information. This will further assist the Commission to identify those groups using (or not using) its services and enable more accurate identification of groups who may require additional information.

There have been several significant changes in relevant legislation over the year, including amendments to the Racial Discrimination Act, the Human Rights and Equal Opportunity Commission Act and the Sex Discrimination Act through the *Law and Justice Legislation Amendment Act 1990*. The Privacy Act now covers several new areas following amendments to the Privacy Act and the Crimes Act. Further details appear in the relevant portfolio sections.

## **ACT Complaints**

The Commission continues to provide a service to complainants in the Australian Capital Territory (ACT). Nine per cent of complaints within jurisdiction handled by central office originated in the ACT.

Changes to legislation which came into effect on 22 December 1990 limit the Commission's capacity to deal with ACT matters. The Commission no longer has jurisdiction to deal with complaints under the Sex Discrimination Act relating to acts or practices of the ACT Government, or to deal with complaints under the HREOC Act in relation to human rights where the act or practice occurred under an ACT enactment. These amendments align the status of the ACT with that of the States.

Where a complaint originating in the ACT is lodged in respect of an act or practice of the Commonwealth, the Commission retains jurisdiction. The Commission also retains jurisdiction to investigate complaints of discrimination in employment relating to ACT Government employees under ILO Convention 111.

While the Commission does not have an office in the ACT, it has lodged a 'New Policy Proposal' for the establishment of one in 1991-92. With the enactment of anti-discrimination legislation in the ACT anticipated at some time during 1991, discussions have been held with the ACT Government concerning a cooperative arrangement for joint administration of the Territory and Federal legislation. The Privacy Branch has a number of officers located in temporary premises in the ACT to monitor data matching by the Department of Social Security.

## **Referrals and Interventions**

The number of matters referred for inquiry because the conciliation process had been exhausted increased dramatically in the past year. A total of 48 matters were referred to the Commission for inquiry under the Sex Discrimination Act (26)

and the Racial Discrimination Act (22). By comparison, in 1989-90, a total of 19 matters were referred.

The Commission received four requests to intervene in court proceedings involving human rights issues pursuant to section 11(1)(0) of the HREOC Act. The Commission sought and obtained leave to intervene in two matters — the *Municipal Officers Association Case* (MOA) and *In re Marion*. These two interventions are discussed in detail in the sections of this report dealing with sex discrimination and human rights respectively.

## **Promotional Activities**

In keeping with its charter to increase the understanding, acceptance and observance of human rights and equal opportunity in Australia, the Commission undertakes a continuing educative role. The President, Commissioners and staff take frequently address gatherings ranging from small, special-interest groups to major conferences. The Commission continues to use innovative ways of focusing public attention on human rights issues - including the annual Human Rights Awards and participation in public exhibitions.

The Commission maintains both a media unit and an education and promotion unit to ensure that the general public is made aware of human rights issues and that media coverage is well informed.

The Commission also has a publications program so that its reports, pamphlets, and occasional papers are published and distributed to the extent that resources permit. 1990-91 saw a 13% increase in the number of publications distributed, while written and telephone enquiries for information were up by some 55% over the previous year.

## **Human Rights Awards**

The Commission established the Human Rights Medal and Awards in 1987. They are awarded annually and their presentation is the major activity organised by the Commission in Human Rights Week.

The Human Rights Medal is awarded to an Australian who has made an outstanding contribution to human rights in this country. In 1990, the Medal was awarded to Professor Fred Hollows AC who pioneered a program aimed at reducing the incidence of trachoma-caused blindness among Australia's Aboriginal people. Professor Hollows has worked at all levels in promoting Aboriginal health as a public issue and helped establish Aboriginal-managed health services in rural and urban Australia. He has also trained Eritrean doctors in less than a year to perform cataract surgery, providing a model for the surgical prevention of blindness in the rest of Africa. Professor Hollows was subsequently named Australian of the Year for 1990.

The Human Rights Awards acknowledge the promotion of public understanding and discussion of human rights in Australia through the media, in literature and through film. The year saw the introduction of inaugural awards for songwriting and regional print media. (A complete list of award winners and commendations is included in the section on 'Other Activities'.)

### Human Rights Commissioner

Brian Burdekin, the Human Rights Commissioner, graduated in Arts and Law from Melbourne University and holds a Master's degree in International Law from Georgetown University, Washington, DC. He is responsible for handling issues that arise under the Human Rights and Equal Opportunity Commission Act, and for the day-to-day administration of the Commission as its Executive Head.

Before taking up this appointment, Commissioner Burdekin was a lawyer and diplomat, representing Australia in Washington and Geneva and in a number of international negotiations.

### Statement from the Human Rights Commissioner

*The Commission has continued to be very active in a number of areas, both at the National and International level. Our work has included preparation of numerous submissions and reports to government, which have focused on areas as diverse as disability and discrimination, age discrimination, HR/AIDS, the proposed ban on political advertising immigration law and practice, juvenile justice and electoral boundaries.*

*The major focus of my work has been the National Inquiry Concerning the Human Rights of People with Mental Illness. The Inquiry has already heard evidence from nearly 200 witnesses in two States (Victoria and New South Wales). Hearings in the remaining States and Territories will be completed by June 1992.*

*International recognition of the work of our Commission has increased to the point where we have been requested by the*

*United Nations to educate other countries about the structure and scope of our national machinery for the protection of human rights.*

*Nationally, recognition of the need for human rights and equal opportunity legislation is evidenced through the ratification and development of further international instruments, and by the development of anti-discrimination legislation by the Queensland Tasmanian, ACT and Northern Territory Governments. The Commission has been consulted, and has provided advice on the proposed legislation in each of these jurisdictions.*

*Considerable work has been done, in consultation with disability groups, on the proposed new International Standard Rules on Equalisation of Opportunities for those with Disabilities and on finalising the Principles for the Protection of those with Mental Illness and the Improvement of Mental Health Care. The Commission will continue to take a leading role in these negotiations.*

*I reconvened hearings of the Homeless Children's Inquiry, to hear evidence from Federal, State and Territory Governments on responses to our Report.*

*The Commission also continued its efforts to see the Convention on the Rights of the Child ratified. This occurred in December 1990. We are now particularly concerned to see the standards laid down in the Convention effectively implemented for the most disadvantaged children in Australia - including Aboriginal children, those who are homeless and those with intellectual, physical or psychiatric disabilities.*

## **Public Inquiries**

### **Mental Illness Inquiry**

Commissioner Burdekin, assisted by the Hon Dame Margaret Guilfoyle, DBE and Mr David Hall, is currently conducting a National Inquiry concerning the Human Rights of People with Mental Illness. Over 400 written submissions (from every State and Territory) had been received by 30 June 1990. Many are from individuals affected by mental illness or from those who care for them. Other submissions came from organisations which collectively represent over 100,000 people in Australia.

The Inquiry conducted its first public hearings in April 1991 in Melbourne and Ballarat, and conducted further hearings in Sydney in June. By mid 1992 public hearings will have been conducted in all capital cities and a number of major regional centres throughout Australia.

A paper outlining the terms of reference for the Inquiry has been widely distributed and is available from the Commission upon request.

### **Homeless Children Inquiry**

The Commission has continued to monitor developments and to press for speedy and effective reforms to address abuses of human rights of homeless children and young people. The Human Rights and Equal Opportunity Commission Act gives the Commission a clear mandate to perform such a monitoring function and this has continued in a number of ways.

The Inquiry reconvened several times throughout the year, hearing evidence in Sydney on 9-11 July 1990, Cairns on 24 July, Brisbane on 25-26 July, Perth on 29-30 November and Adelaide on 3 December. Demands on the Commission's limited budget precluded hearings in Tasmania and the Northern Territory, but the Commission funded some

representatives from those areas to give evidence in Melbourne the previous year and in Cairns during the current year.

The Inquiry was disappointed at the lack of cooperation which still exists between some government personnel and community-based workers concerning the development of effective programs. This reflects an unfortunate and continuing problem of government bureaucracies being unable to appreciate the importance of effective consultation with the non-government sector. The Commission will continue to press for better coordination and consultation to ensure the present situation improves.

In addition to its public efforts, the Commission has continued to correspond with relevant Federal Ministers, Premiers and Chief Ministers about specific developments in the States and Territories. Issues addressed range from broad policy and program development to individual representations concerning youth agencies and community groups (mainly in regard to funding difficulties). The Commission has been particularly encouraged by the continuing commitment and interest demonstrated by numerous church and community based organisations concerned with the welfare of these young people.

The involvement of philanthropic trusts has also continued. The Commission joined with the Buckland Trust of Victoria to bring to Australia Ms Deborah Shore, the Executive Director of the Sasha Bruce Youthwork organisation in Washington, DC. This agency is the largest in that city and has been offering effective services to homeless youth and their families for fifteen years. Community workers and agency personnel were given opportunities in Melbourne, Sydney and Brisbane to share ideas with Ms Shore and learn from her extensive experience.

Ms Shore said several times during her presentations that the situation in the Australian cities she visited was reminiscent of the 1970s in Washington when the program first commenced. The difficulties there would have been manageable at that time if the authorities had provided the necessary resources to

establish the range of services required. Regrettably, according to Ms Shore, the city and state authorities chose to ignore the warning signs and the current situation is 'out of control'. This not only applies to Washington but, in her view, to New York, Chicago and several other major American cities.

The same choice faces Australia: ignore the signs and bear the consequences; or respond to the challenge in a positive way and provide the infrastructure necessary to break the grip of alienation and hopelessness that engulfs homeless young people.

On a more positive note, the Federal Government and some States funded a number of initiatives, despite the decline in economic activity over the year. These must continue and the pace of change must quicken. The problems of homeless children must be a priority and programs to address the problems need to be urgently put in place.

A report by the National Legal Aid Advisory Committee (*Legal Aid for the Australian Community*) endorsed a number of the recommendations of the Inquiry relating to legal needs and services for homeless young people and young people at risk of homelessness. The Commission made a further submission to the Attorney-General in response to the report of this Committee, emphasising the need for prompt action on the recommendations and expressing concern that the Committee report contemplated consideration only in the 1992-93 Budget context.

The Commission looks forward to the establishment of the National Advisory Committee on Discrimination in Employment and Occupation. A number of draft background papers on issues relevant to the Committee have been prepared in anticipation of its commencement.

## **Discrimination in Employment and Occupation**

The Commission is aware that there can be significant problems for employers in ensuring that their staff are provided with appropriate anti-discrimination training. To provide a practical training solution the Commission, in conjunction with Catalyst Training Systems, has produced a computer-based training (CBT) program and workbook called *Preventing Discrimination at Work*.

The training package explains discrimination in simple terms, using case studies, with the topics covered being considered the most important for staff and management to understand.

A marketing strategy has been developed in conjunction with Catalyst and the CBT package will soon be available for sale.

## **Research**

Each of the Commission's Public Inquiries, legislative reviews and major submissions requires accurate, up-to-date research. A significant amount of research was therefore conducted by the Commission during 1990-91 on a wide range of subjects. Research topics relating to legislative review in the human rights area included disability and discrimination, age discrimination, HIV/AIDS, and the proposed ban on political advertising in the electronic media.

The Human Rights Commissioner's submissions to Parliament during the year included research on immigration law and practice, juvenile justice and disability issues. The Commission's promotion of human rights through more effective international instruments also involved substantial research.

## **Program of Action on Disability**

A major focus of research has been the Commission's continuing Program of Action on Disability, discussed in the 1989-90 Annual Report.

The Commission continued to receive and analyse submissions in response to the discussion paper — *The Rights of People with Disabilities: Areas of Need for Increased Protection* — based on work done by the National Council on Intellectual Disability (in association with Disabled People's International and ACROD) and issued by the Commission in November 1989.

As discussed under the heading Legislative Review, a report by the Human Rights Commissioner on needs and options for national anti-discrimination legislation in relation to disability will be released in August 1991.

Advice was provided to the Minister for Community Services and Health on the need to ensure that proposed reallocation of responsibilities for disability services between Federal, State and Territory Governments is accompanied by appropriate standards and mechanisms for their monitoring and enforcement. It was emphasised that this is necessary to ensure that the rights of people with disabilities are protected and that the particular responsibilities of the Federal Government regarding human rights are met.

Research was also conducted as the basis for submissions and legislative review regarding the rights of people with disabilities referred to in other sections of this Report, and on several related disability issues.

In particular, the Human Rights Commissioner provided advice to the Public Service Commission regarding standards for permanent appointment to the Australian Public Service affecting the rights of people with disabilities. Advice was also provided to the Queensland Minister for Housing regarding the Housing Assistance Plan.

At the request of the Queensland Electoral and Administrative Reform Commission (EARC), the Human Rights Commissioner presented a paper on human rights provisions and principles relevant to public assembly laws to a public

**Public Assembly  
Laws**

seminar convened by EARC in Brisbane. This paper was reflected in the report *Review of Public Assembly Law*, released in February 1991.

## **Electoral Laws**

Also at the request of EARC, the Commission provided comments on the applicability of Article 25 of the ICCPR (which recognises, inter alia, the right to equal suffrage) to the drawing of electoral boundaries. In its subsequent Report *Queensland Legislative Assembly Electoral System*, EARC took this provision into account but recommended that the proposed electoral distribution be weighted in favour of a number of geographically large electorates in remote areas. The Human Rights Commissioner wrote to the Premier of Queensland expressing concern that EARC had not correctly applied the human rights principles involved. In his reply, the Premier indicated that, while the Queensland Government was committed to implementation of EARC's recommendations, the Commission's views would be taken into account in a future review of electoral boundaries.

## **Other Research**

Other research has been conducted as the basis for:

- correspondence with the NSW Government regarding conditions in prisons (including in relation to complaints by a number of prisoners serving sentences under Federal law);
- discussions on a range of human rights matters with Federal Government departments (including with the Department of Immigration, Local Government and Ethnic Affairs regarding conditions in detention facilities; with the Attorney-General's Department on human rights aspects of a draft report by them on the right to an interpreter; and with the Department of Community Services and Health regarding a draft of the discussion paper prepared by them on HIV/AIDS and anti-discrimination law);
- major speeches (for example on adoption law; on the relationship between international and Australian law;

on freedom of religion; and on the role of the United Nations regarding human rights).

## **Submissions**

### **People with Disabilities**

The Commission made a submission in July 1990 to the inquiry by the Industry Commission on Aids and Appliances for People with Disabilities. This emphasised the need to ensure that taxation and industry policies promoted affordable access to aids and appliances of assistance to people with disabilities.

A submission was made in February 1991 to the Minister for Community Services and Health in response to the Labour and Disability Workforce Consultancy conducted on behalf of the then Department of Community Services and Health. This submission emphasised:

- the wide range of barriers to equality for people with disabilities in employment and in other areas of life;
- the need for national anti-discrimination legislation to deal with discrimination on grounds of disability;
- the need for this legislation to be as comprehensive as possible, rather than being restricted to the area of employment;
- and the need for a range of legislative and practical strategies, rather than anti-discrimination legislation alone, to promote equality for people with disabilities.

### **Migration**

The 1989-90 Annual Report referred to a submission prepared for the Joint Select Committee on Migration Regulations Inquiry into the Regulations under the *Migration Act 1958*, and to the fact that this Inquiry lapsed with the Federal election of March 1990. A revised submission, dealing with the Regulations as further revised, was made to the reconstituted Inquiry. A further submission, dealing specifically with detention under the Migration Act with particular reference to

applicants for refugee status, was made at the request of the Committee.

## **Juvenile Justice**

A submission was made to the coronial inquest into the deaths of two young men, Dermot Pigeon and Alexander Amy, in NSW juvenile justice institutions. This submission drew the attention of the court to human rights principles relevant to the protection of young people detained under the NSW juvenile justice system, and concerns regarding the observance of these principles (including concerns identified in the Report of the National Inquiry into Homeless Children).

A more comprehensive submission was prepared for submission to the inquiry on Juvenile Justice by the NSW Legislative Council Social Issues Committee. This has not yet been submitted, pending clarification of the continuation of the Inquiry following its lapse due to the NSW elections.

## **Legislative Review**

### **Disability: National Anti-discrimination Legislation**

The Commission, as part of its continuing Program of Action on Disability, has prepared a major position paper on the need for national legislation to protect people with disabilities. The paper will be released in mid 1991. The Commission will also conduct further consultations with interested organisations to develop detailed recommendations for anti-discrimination legislation which provides the most effective protection possible against discrimination on grounds of disability, and for further legislative and programmatic steps which are also needed.

At the invitation of the Minister for Health, Housing and Community Services, the Commission is also participating (with the Disability Advisory Council of Australia, the Attorney-General's Department and the Department of Health,

Housing and Community Services) in a Working Party and national consultations leading to a report to the Federal Government in late 1991 on national legislation dealing with discrimination against people with disabilities.

## **HIV/AIDS**

A response to the Discussion Paper on Anti-Discrimination Legislation issued by the Intergovernmental Committee on AIDS (IGCA) was submitted in April 1991 to the Government.

The Commission's response:

- supported a model for national legislation similar to the Sex Discrimination Act - providing for enforceable remedies, in relation to employment and a range of other areas, and relying on all relevant Commonwealth powers rather than the external affairs power only; and
- supported the recommendation that the States amend or introduce legislation to provide protection against discrimination based on HIV/AIDS or sexuality on as comprehensive and uniform a basis as possible.

## **Age Discrimination**

The 1989-90 Annual Report referred to a national seminar conducted by the Commission in 1989, and advice provided to the Attorney-General in 1990, on the need for national legislation to provide further protection against discrimination on the basis of age. In October 1990 Federal Cabinet approved a process of consultation and preparation of an Issues Paper on this subject.

The Human Rights Commissioner has written to the Attorney-General indicating concern regarding apparent lack of progress in this process. In particular the Commissioner has indicated that in a substantial number of age discrimination complaints under the existing provisions of the Human Rights and Equal Opportunity Commission Act, there are difficulties in achieving a satisfactory settlement since discrimination is permitted under existing statutory or award provisions.

## **Proposed Ban on Political Advertising**

In response to an announcement by the Minister for Administrative Services of a decision by the Federal Government to ban all 'political advertising' on radio and television, the Human Rights Commissioner wrote to the Minister indicating that there were potential human rights concerns (particularly in relation to infringements of freedom of speech) with respect to the proposed ban, and requesting details of the decision. Subsequently the Commissioner wrote to the Attorney-General setting out at length the nature of these concerns. These included the potentially discriminatory impact of such a ban on people with sensory disabilities and on those who are illiterate; and the inconsistency between the proposed ban and the right to receive and impart information and ideas as recognised in the International Covenant on Civil and Political Rights.

Following the introduction into Parliament of a Bill to give effect to the proposed ban, and discussions with the Minister for Administrative Services, the Human Rights Commissioner again wrote to the Minister detailing remaining and additional concerns. A number of these advices were released pursuant to requests under the Freedom of Information Act. Appropriate sections of one advice were also provided to the Leader of the Opposition at his request. The Commissioner also responded to two requests for advice from the Leader of the Australian Democrats, indicating concerns with certain aspects of suggested proposals.

The legislation has been referred to a Senate Select Committee for inquiry and report by November 1991.

## **Guardianship under the Family Law Act**

In response to representations from a number of persons, the Human Rights Commissioner conducted an examination of provisions of the Family Law Act in relation to orders for guardianship of children. The examination expressly excluded

any review of the decisions or operation of the Family Court of Australia. The Commissioner formally reported to the Attorney-General that the relevant provisions of the Family Law Act were not inconsistent with or contrary to any human right.

## **Legal Regimes of Australia's External Territories**

In July 1989 the Commission made a submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry on the Legal Regimes of Australia's External Territories. This submission identified a number of serious human rights problems in relation to the legal regimes applying to the territories of Christmas Island and the Cocos (Keeling) Islands. In March 1991 the Committee issued a Report, *Islands in the Sun*, which recommended urgent action to address the breaches of human rights identified by the Commission.

The Commission is preparing a response to the Report of the Committee.

## **Interventions**

The Commission sought and obtained leave to intervene pursuant to section 11(1)(o) of the HREOC Act in the matter of *In re Marion*.

In April 1990 the parents of a child with an intellectual disability applied to the Family Court for an order authorising her sterilisation. In May 1990 the Chief Justice of the Family Court remitted the matter to the Full Family Court for decision on the questions of law involved. The Commission was invited to intervene and obtained leave to do so at the hearing before the Full Court in June 1990. Submissions were presented on the human rights issues involved, in particular the rights of persons with intellectual disability.

When the question of whether the parents of the child could lawfully authorise the carrying out of a sterilisation procedure without an order of the court was not clearly determined by the Full Court, an appeal was lodged with the High Court of Australia.

The High Court appeal was heard on 30 April and 1-2 May. The Commission, as first intervener in the matter before the Full Family Court, appeared. The Attorneys-General of the Commonwealth, the Northern Territory, New South Wales, Western Australia and South Australia also appeared. The decision was reserved.

## **International Instruments**

### **Convention on the Rights of the Child**

The Commission welcomed the ratification by Australia of the Convention on the Rights of the Child on 17 December 1990. As indicated in previous annual reports, the Commission has devoted considerable energy to achieving this result, including a public awareness campaign conducted by the Commission and a number of major non-government organisations concerned with the protection of children.

In a public statement on ratification, and in subsequent representations to the Government, the Human Rights Commissioner has emphasised the need for consideration of further measures to ensure implementation of the Convention.

In 1990, in anticipation of Australian ratification of the Convention, the Commission embarked jointly with the Australian Council of Social Service (ACOSS) on a survey of Australian law and practice relevant to the Convention. Responses to the survey have been slower than anticipated, and the time for completion of the project has been extended accordingly. The report will be issued in early 1992.

The Commission co-sponsored a national seminar on implementation of the Convention with the Australian National University and ACOSS in July 1990. The proceedings of the seminar will be published in September 1991.

### **ICCPR: First Optional Protocol**

Last year's Annual Report noted that the Commission had recommended ratification by Australia of the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), to permit individual complaints to the United Nations Human Rights Committee regarding breaches of Australia's obligations under the ICCPR. During 1990-91 the Commission again recommended ratification and advised that, in its view, there was no reason for further delay.

### **ICCPR: Second Optional Protocol**

The Commission also recommended ratification of the Second Optional Protocol to the ICCPR, which prohibits capital punishment. Australia ratified the Second Optional Protocol on 2 October 1990.

### **Declarations Under the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment**

In 1991 the Commission recommended to the Attorney-General (pursuant to HREOC Act s. 11(1)(j) and (k)) that Australia make the declarations provided for under Articles 21 and 22 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

These declarations would allow the United Nations Committee Against Torture to receive complaints from individuals, or from other nations which are parties to the Convention and have made the same declaration, alleging breaches of Australia's obligations under this Convention.

Making of these declarations, as with ratification of the First Optional Protocol to the ICCPR, would not involve Australia accepting any new substantive obligations but would enhance the procedures available for monitoring compliance with existing obligations.

The right to freedom from torture and cruel, inhuman or degrading treatment or punishment is also recognised by the ICCPR and is hence within the definition of human rights for the purposes of the Commission's jurisdiction. However, the Commission's ability to afford protection in some cases is very limited - particularly in relation to alleged 'cruel, inhuman or degrading treatment' in State and Territory institutions, including prisons, facilities for people with mental illness, juvenile justice institutions and child welfare institutions.

In the Commission's view, the making of these declarations would also demonstrate Australian commitment to effective international measures to address what are particularly grave human rights problems in many countries.

## **Draft Hague Convention on Intercountry Adoption**

As noted in last year's Annual Report, the Commission provided advice on human rights issues in relation to the proposed Convention on Intercountry Adoption for the Australian Government delegation to the 1990 meeting of the Hague Conference on Private International Law considering the proposed Convention.

During 1991, the Commission provided further advice on the revised draft Convention to ensure its consistency with the

Convention on the Rights of the Child, and participated in preparation of further briefing for the Australian Government delegation to the negotiations.

## **Proposed Standard Rules on Disability and Human Rights**

In 1990 the United Nations Economic and Social Council (ECOSOC) approved consideration by the UN Commission for Social Development of a further international instrument to protect the rights of people with disabilities. Although its exact status and nature are yet to be determined, the proposed instrument is intended to promote the practical application of rights recognised in existing instruments for people with disabilities.

The Commission has been asked to participate in the drafting of this instrument. Representations have also been made to secure an Australian Government contribution to the cost of the international meetings involved.

## **HIV/AIDS**

In May 1991, the Commission participated in an international conference at the Hague convened to work towards a draft Declaration on AIDS and Human Rights. A drafting group was authorised to continue work on the Declaration following the conference and a draft text will be submitted to participants (including HREOC) for comment before transmission to the United Nations.

## **Mental Illness Principles**

As in 1989-90, the Commission again made significant contributions to the development of the United Nations Principles for the Protection of Persons with Mental Illness and

for the Improvement of Mental Health Care. The Commission contributed to the briefing for the Australian delegation and the Human Rights Commissioner again served as adviser to delegation. The Commission prepared a paper which identified technical defects in the existing draft of the Principles, and which contributed substantially to the quality of the Principles being improved. The Principles were formally adopted by the United Nations Commission on Human Rights in February 1991 and are expected to be endorsed by the General Assembly later this year.

## **Complaint Investigation Resolution & Enquiries**

Complaints under the HREOC Act are handled by Commission offices only and not by the State agencies. The majority of complaints dealt with at the Commission's central office continue to be those lodged under the HREOC Act. This followed the trend which emerged last year resulting from the introduction of additional grounds for discrimination under ILO Convention 111.

Table 5 shows that 216 complaints within jurisdiction were lodged under the HREOC Act during the Year. This represents an increase of 88% over last year.

Table 6 shows the types of HREOC Act complaints lodged at the Commission's central and regional offices. Of the 202 complaints which related to ILO 111, 186 were lodged under the new grounds introduced by Regulation. Age continues to be the ground attracting the greatest number of complaints (75). Respondents to complaints lodged at the Commission's central office under the HREOC Act included Federal departments (49), State departments (25) and private sector organisations (59).

Since the introduction of the additional grounds under ILO 111, there has been a decrease in complaints lodged under the other UN instruments scheduled to the HREOC Act. Eight

complaints were received under the International Covenant on Civil and Political Rights, five under the Declaration on the Rights of Disabled Persons and one under the Declaration on the Rights of the Child. While this is a decrease of 66% over last year, by far the highest proportion of complaints received by the Commission relate to discrimination in employment, and these can now be investigated under ILO Convention 111.

A variety of results has been achieved in the conciliation of complaints under the HREOC Act, including financial compensation for lost wages as well as agreed changes in the employment practices of some organisations (effectively preventing further discrimination from occurring). There continues to be resistance by some employers to the conciliation of complaints lodged on the ground of age, but it is hoped that with increasing community awareness and education in this area, a more conciliatory attitude will develop.

## **Case Studies**

The following case studies are included to illustrate the range of complaints dealt with by the Commission under the HREOC Act and the remedies available.

### **Case Study 1 - Disability**

A man employed by a Federal Government department had a disability caused by cerebral palsy which required him to use a walking stick. He alleged that he had been discriminated against on the ground of his disability when he twice applied for permanent promotion to the level at which he had been acting and was unsuccessful. He claimed that good reports on his work performance were not considered by the selection panel and that he was excluded from the informal office networks that the successful candidates belonged to because of his disability.

The department conducted an internal investigation into the allegations and, following negotiations, the complaint was settled. Though the department did not formally acknowledge that its actions had been discriminatory, it agreed to promote the

complainant and to introduce procedural changes to ensure compliance with anti-discrimination legislative provisions for promotion and recruitment.

### **Case Study 2 - Disability**

A man alleged that his son's past and subsequently controlled medical condition had hindered the son's chances of employment in the Australian Public Service despite its public commitment to EEO policies. His son had occupied various temporary positions in the Service over a three-year period and the man alleged that his son was being discriminated against on the basis of his disability because he was not being offered permanent employment.

The son suffered from a condition which was one of many symptoms loosely categorised as schizophrenia. He claimed to be a diligent worker and had a number of tertiary qualifications. The man argued that continual temporary employment resulted in his son receiving fewer benefits and created fear and stress as he did not know whether his employment would continue beyond review periods (which had been at monthly and sometimes weekly intervals).

The complaint was successfully conciliated when the department with which the son had been temporarily engaged agreed to employ him with a view to permanent appointment subject to the usual probationary requirements. The department also undertook not to extend probation or terminate the employment for reasons related to his disability or medical condition.

### **Case Study 3 - Disability**

**A man who had worked as a teacher for thirty years lodged a complaint of discrimination in employment against a State/Territory education department. The complainant claimed**

that he could not project his voice due to a vocal disability resulting from his long period of teaching service. A government medical officer had previously recommended that the man be placed in an administrative position with the department. The department had not implemented the recommendation and claimed that there were no positions in the department for those who could not teach. The complainant also alleged that he had not been offered an early retirement package as had other teachers because of his 'sickness'. He had instead been offered a less generous invalidity package.

During investigation it appeared that the department had not taken sufficient steps to assist the complainant's return to employment. The matter was resolved when the department agreed to organise a clerical placement for the complainant at a level appropriate to his skills and to provide any necessary extra training. Review periods for the arrangement were also set. Soon after this conciliation agreement was reached the complainant was offered and accepted a position as agreed.

#### Case Study 4 - Age

A man complained that he had been discriminated against in employment on the ground of age when he contacted a company to inquire about a job advertisement for an electrician. The man alleged that the first question he was asked was his age and that when he told the company he was sixty-one years old, he was informed that he could not be employed and that the company had a policy not to employ anyone over the age of sixty. He claimed to be qualified, experienced and competent to fill the advertised position.

During investigation of the complaint, the company denied that there was a policy as alleged. The company also denied the specific content of the alleged discriminatory conversation. The man had also gained employment elsewhere and no longer sought a position with the respondent. The matter was settled when the respondent acknowledged that the matter had been handled incorrectly, affirmed its policy of merit—based selection

and apologised to the complainant for the inconvenience suffered.

### **Case Study 5 .Age**

A trade union brought to the Commission's attention a job advertisement placed by a Federal statutory authority at which the union had members. The advertisement stated that a 'young' person, preferably between twenty-five and thirty years of age was sought for the particular position. After the union had unsuccessfully attempted to deal directly with the employer over the issue, the Commission accepted the matter as a complaint of age discrimination in employment.

The Commission raised the matter with the authority and the matter was settled when the authority provided assurances of its commitment to non-discriminatory employment and recruitment practices and that future job advertisements would be non-discriminatory.

### **Case Study 6 .Criminal Record**

A man complained that he had been discriminated against when he was refused employment with a Federal Government agency due to a conviction for a criminal offence five years previously. He had received a twelve-month bond for the offence and had subsequently committed no other offences.

Following an internal investigation, the agency agreed to give consideration to the complainant's application on merit, without taking into account his criminal record. The agency informed the Commission that this decision had been reached after it had looked at the circumstances surrounding the complainant's conviction. The complainant advised that he was undergoing the agency's selection procedure and the matter was satisfactorily resolved.

## **Case Study 7 - Trade Union Activity**

A trade union lodged a complaint of discrimination on the basis of political opinion in employment on behalf of one of its members. The member alleged that he had not been selected for employment by a large Federal Government authority because of his past involvement as a union official and his views on whether the employer should be publicly or privately owned. He had applied for over thirty positions with the employer over a two-year period and had previously worked for the organisation for fifteen years.

Throughout the investigation of the complaint, the respondent denied the allegations and asserted that the complainant was not the most competitive applicant for the positions. After examining the relevant employment applications and interviewing the personnel involved, the allegations were substantiated and the matter was successfully conciliated.

The terms of settlement included the payment of \$22,500 to the complainant by way of damages for lost entitlements and agreement to employ him. The respondent also agreed to improve its performance in relation to equal employment opportunities (EEO), to look at establishing a mechanism to monitor EEO matters and to provide a progress report within six months of settlement.

## **Promotional Activities**

### **Participation in United Nations Commission on Human Rights Session**

As in previous years, the Commission was invited to participate in the Australian delegation to the United Nations Commission on Human Rights in Geneva in 1991. This session was

particularly significant as it marked Australia's return to membership of the UN Commission for a three—year term. The Human Rights Commissioner attended and the Commission contributed significantly to the statements delivered by Australia on a number of items, including in relation to the Convention on the Rights of the Child, the draft Principles on Mental Illness, the possible development of regional arrangements for promotion and protection of human rights in the Asian-Pacific region and the importance of national human rights institutions. Informal discussions were also held with representatives from several countries which expressed interest in Australia's national Commission as a model.

## **Continuing Education Program**

Under ILO Convention 111, the Commission has a responsibility to reduce discrimination in employment. This year the Commission's education and training focus shifted towards helping industry meet its obligations with respect to equal opportunity and anti-discrimination law. The Commission was successful in obtaining a grant of \$450,000 from the New South Wales Education and Training Foundation (ETF) for the development and implementation of industry-based training programs which include trainers' workbooks, videos and computer-based training programs.

The Commission's Continuing Education Program has five parts, which are being developed within the context of award restructuring and the Structural Efficiency Principle (SEP). The Program has tripartite support, with the Labour Council of New South Wales participating along with the Australian Chamber of Manufacturers and the NSW Employers' Federation.

The funding provided by the ETF has been directed towards training industry trainers who will, in turn, assist managers to increase productivity and efficiency in their workforce by eliminating discriminatory practices in the workplace.

A training package and video entitled *ILO 111: The Best Person for the Job - Helping Managers Eliminate Discrimination in Employment and Occupation* is being developed as part of the overall training resources.

**Human Rights  
Commissioner's  
Major Speaking  
Engagements  
1990-91**

13 Jul 90	Address	1990	Australian	National Association for Mental Health Conference, Hobart
16 Jul 90	Address			Public Meeting in Burnie on follow-up to the Homeless Children Inquiry
19 Jul 90	Open			4th Annual Youth Conference, Prince of Wales Hospital, Sydney
23 Jul 90	Address			Queensland Meeting of 4th National Family Law Conference on Responsibilities of the Legal Profession to Disadvantaged Children
24 Jul 90	Opening			Address, Reconvened Hearings of the Homeless Children's Inquiry, Cairns
16 Aug 90	Address			Public Meeting organised by the St Vincent de Paul Society on Homeless Children, Forster (NSW)

- 18 Aug 90            Address Conference organised by the National Association for the Prevention of Child Abuse and Neglect (NAPCAN), Melbourne
- 21 Aug 90            Address to launch Programs for the Melbourne City Mission
- 23 Aug 90            NSW launch of materials for National Child Protection Week, Sydney
- 25 Aug 90            Address NAPCAN Annual General Meeting and Conference, Melbourne
- 27 Aug 90            Address Annual General Meeting of Victorian Mental Health Review Board on the National Mental Illness Inquiry, Melbourne
- 28 Aug 90            Address Youth Needs Group, Outer East, Melbourne
- 31 Aug 90            Address Public Launch of Youth Services study for Beenleigh and District, Brisbane
- 4 Sep 90             Address to Lane Cove Uniting Church on Homeless Children and Human Rights, Sydney
- 5 Sep 90             Address Graduate Union of the University of Melbourne on Human Rights, Social Justice and Responsibilities of Graduates
- 6 Sep 90             Address Conference organised by the Endeavour Forum re Convention on the Rights of the Child, Melbourne
- 8 Sep 90             Opening Address to the National Conference of the United Nations Association of Australia, Melbourne

- 9 Sep 90            Address to launch 'Teamcare' Project — Mt Evelyn Christian Community Care Association Inc, Lily dale, Melbourne
- 15 Sep 90           Address Seminar on Public Assembly Law and Australia's International Treaty Obligations, Brisbane
- 18 Sep 90           Address ACT Council of Social Services Conference on Homeless Children and Human Rights
- 19 Sep 90           Address to the Annual Conference of the National Council on Intellectual Disability, Canberra
- 21 Sep 90           Launch Report by the Victorian Council of Social Services on Homeless Children, Melbourne
- 5 Oct 90            Opening 4th National Conference on Adoption, Canberra (by proxy)
- 16 Oct 90           Address to the Jewish Board of Deputies, Sydney
- 17 Oct 90           Address to the Detached Family Counsellors of NSW Inaugural Conference, Sydney
- 18 Oct 90           Address to Forum on People in Poverty, Newcastle University
- 18 Oct 90           Address Newcastle Youth Accommodation Services Ltd, Newcastle
- 22 Oct 90           Launch of the Queensland Shelter for the Homeless Fund, Brisbane
- 23 Oct 90           Address to the Queensland Association for Mental Health, Brisbane

- 23 Oct 90            Address to the Annual General Meeting of the Australian Association of Adolescent Health, Brisbane
- 25 Oct 90            Address to the 33rd Annual State Conference of Association of Civilian Widows, Petersham, Sydney
- 22 Nov 90            Address to the Annual Conference of the Council on Disability, Sydney
- 23 Nov 90            Address to the 11th Annual Congress of the Aust and NZ Association of Psychiatry, Psychology and Law, Melbourne
- 27 Nov 90            Address to the Richmond Fellowship Annual General Meeting, Melbourne
- 28 Nov 90            Open the National Biennial Australian Association for Adolescent Health Conference, Perth
- 28 Nov 90            Address to the WA Annual Conference of the Australian Association of Social Workers
- 29 Nov 90            Opening Address, Reconvened Hearings of the Homeless Children Inquiry, Perth
- 5 Dec 90             Address the Annual Dinner of the National Association for Mental Health, Melbourne
- 12 Dec 90            Launch Brotherhood of St Laurence Report on State Wards and Children Leaving Care, Melbourne
- 12 Dec 90            Deliver the 1990 Thomas More Lecture, Brisbane
- 8 Jan 91             Address to Youth Leadership Camp, Koonjewarre, Queensland

- 12 Feb 91            Deliver the Australian Statement on National Human Rights machinery to the Annual Session of the United Nations Human Rights Commission, Geneva
- Feb 91                Deliver the Australian Statement on the Need to Adopt the New Principles for the Protection of the Mentally **III** to the Human Rights Commission, Geneva
- 4 Mar 91             Deliver the Australian Statement on the Rights of Indigenous People to the Human Rights Commission, Geneva
- 19 Mar 91            Address to the Annual General Meeting of the Australian Association of Philanthropy, Melbourne
- 29 Mar 91            Address to the Australian Conference of the Re-organised Church of Jesus Christ of Latter Day Saints, Melbourne
- 8 Apr 91             Opening address for the National Inquiry on Mental Illness, Melbourne
- 11 Apr 91            Address on Rights of the Mentally Ill, Ballarat
- 14 Apr 91            Address to the Sydney District Conference of Rotary International, Wollongong
- 18 Apr 91            Launch 'Linkup' Program for Juvenile Offenders for 'Boystown', Brisbane
- 23 Apr 91            Address Newcastle Business Men's Club
- 23 Apr 91            Address to launch film on schizophrenia, *Spinning Out*, by Anne Deveson, Sydney
- 24 Apr 91            Address Conference on 'Employment for People who are Mentally Ill', Brisbane

- 9 May 91 Address to Elders and Members of the  
Gnuraren Aboriginal People, WA
- 13 May 91 Launch of Salvation Army Report  
*Unfinished Business*, Melbourne
- 13 May 91 Address Major Donors Dinner - Wesley  
Mission, Sydney
- 17 Jun 91 Opening Address for the NSW Hearings of  
the National Inquiry on Mental Illness,  
Sydney

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## RACE DISCRIMINATION

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11 M M M E S I E N N E N N E

### **Race Discrimination Commissioner**

Irene Moss graduated in Arts and Law from Sydney University and later took a Masters degree in Law from Harvard University in the USA.

Prior to her appointment as Race Discrimination Commissioner, she worked with the New South Wales Anti-Discrimination Board (1977-86) where she was involved in a number of landmark discrimination cases relating to race and sex discrimination, physical and intellectual disability and other human rights issues.

Ms Moss, who was appointed Race Discrimination Commissioner for a seven-year term in 1986, exercises certain statutory powers of inquiry, conciliation, and settlement of racial discrimination complaints on behalf of the Commission.

### **Statement from the Race Discrimination Commissioner**

*The highlight of the year was undoubtedly the release of the report of the National Inquiry into Racist Violence.*

*The five hundred page report tabled in Parliament on 18 April 1991 was the culmination of an eighteen month inquiry into the nature and extent of racist violence and by definition, racism in Australia. It was the first inquiry of its kind ever undertaken in this country and necessarily involved considering the success of multiculturalism in terms of social cohesion and community relations.*

*Such an extensive project required an innovative approach to the collection of evidence. We held public hearings throughout Australia; received written submissions from several hundred individuals and organisations; conducted field work and academic consultancies; and undertook a special outreach program to gather evidence from Aborigines, Torres Strait Islanders and people from non-English speaking backgrounds who, under other circumstances, may have been reluctant to talk about their experiences for fear of retaliation or because they believed that there was nothing the authorities could do to help them.*

*This proved to be a highly successful strategy. Close to one thousand people gave evidence in one form or another, and over one thousand four hundred separate incidents of racist violence, intimidation or harassment were reported to the Inquiry.*

*The Inquiry recognised from the outset that racist violence against Aboriginal Australians was a long standing problem which was likely to differ significantly in extent and effect from that directed against people of non-English speaking background. This was confirmed by the evidence given to the Inquiry. The seriousness of this evidence is reflected in the conclusions and recommendations made in the report.*

*The evidence presented to the Inquiry indicates that multiculturalism is working well in Australia. In spite of our racial, ethnic and cultural diversity, our society's experience of racist violence is nowhere near the level experienced in many other countries. Nevertheless, the level of racist violence and harassment, particularly against Aboriginal and Torres Strait Islander people, should be a matter of concern to all Australians. It could increase in intensity and extent unless addressed firmly now.*

*Our recommendations focus on legislative change, reform of policing practices, the adoption of anti-racist policies in our institutions and improved community relations strategies. Clearly, a great deal of work now needs to be done to ensure that the Inquiry's recommendations are implemented. I trust*

*that there will be a number of positive outcomes to report in 1991-92.*

*One area where I am pleased to report significant progress during the year is in the development of the Community Relations Strategy. As discussed later in this report, the Human Rights and Equal Opportunity Commission is undertaking a number of projects for the Strategy. Particular emphasis is being placed on projects which complement the findings of the National Inquiry into Racist Violence or encourage young Australians to recognise human rights and the elimination of racism as vital issues for the future. I am confident that practical strategies which have been targeted to meet the different needs of people from non-English speaking backgrounds and Aboriginal and Torres Strait Islander people will have a positive impact on community relations in this country.*

## **Public Inquiries**

### **The National Inquiry into Racist Violence**

As part of its responsibility for ensuring that Australia complies with its international human rights obligations, the Human Rights and Equal Opportunity Commission commenced the National Inquiry into Racist Violence in response to the following concerns:

- a widespread perception in the Australian community that racist violence was increasing;
- representations from a number of ethnic community groups concerned that racist violence against people on the basis of their ethnic identity seemed to be increasing;
- the Commission's own concerns about Aboriginal people and the criminal justice system.

The report of the Inquiry was tabled in Parliament on 18 April 1991. In summary, its major findings were that:

- racist violence against Aborigines and Torres Strait Islanders is endemic, nationwide and very severe;
- there have been serious incidents of racist violence, intimidation and harassment against people from non-English speaking background, their property and places of worship. Although this was a matter of concern to the Inquiry, the extent of racist violence on the basis of ethnic identity is not as severe as that experienced by Aboriginal people;
- anti-racist activists have been subjected to violence because of their advocacy of basic human rights. The evidence indicates that this is largely perpetrated by organised extremist groups.

The report made sixty-three recommendations in areas such as policing practices, justice administration, education, housing, the workplace, community relations and, most importantly, legislation. It also indicated why current laws are inadequate to deal with the problem and why there is a need for national legislation.

The Inquiry recommended that the Federal Crimes Act be amended to create a new criminal offence of racist violence and intimidation. In addition, that there should be a clearly identified offence of incitement to racist violence and racial hatred which is likely to lead to violence.

It was also recommended that new civil remedies be created to address less serious forms of intimidation and harassment. The Inquiry proposed that the Racial Discrimination Act be amended to prohibit racist harassment and outlaw incitement of racial hostility.

The Inquiry's concern, in recommending the prohibition of incitement of racial hostility, was with conduct which had the potential to have a deep and lasting effect on the well-being of individuals or groups who were targeted because of their race. The legislation would only outlaw certain public expressions or acts of incitement, not private opinion or legitimate debate.

The Commission will continue to work towards the implementation of the Inquiry's recommendations and is consulting with appropriate government and non-government organisations to this end.

**Inquiry into Race  
Discrimination, Human  
Rights and  
Distribution of  
Alcohol  
in the  
Northern Territory**

During 1990 the Commission received representations from a number of Aboriginal communities and organisations in the Northern Territory concerning the social and individual cost of alcohol abuse- among Aboriginal people and related problems such as violence and impact on culture.

Aboriginal organisations described the high cost of alcohol abuse in terms of its destructive effect on the physical and mental health of Aboriginal people and on personal relationships and community cohesion. Aboriginal women suffer domestic violence as a result of the prevalence of alcohol abuse and there is a high level of tension in communities because of violent behaviour. Affected communities also suffer severe material disadvantage and the loss of cultural identity.

As a result of these concerns the Commission initiated an inquiry in August 1990 to ascertain the nature and extent of alcohol distribution in the Northern Territory, whether these factors contribute to alcohol abuse, and whether any possible limitations on distribution would contravene international human rights Conventions and/or the Racial Discrimination Act.

The Commission hopes through the Inquiry to assist in:

- providing the means for Aboriginal people to determine the most effective ways of reducing alcohol abuse within their own communities; and

- achieving real improvement in Aboriginal community health and welfare.

Submissions have been received and an issues paper has been drafted to identify the major areas of concern and the ways in which the Commission may be able to effect change. The Report of the Inquiry will be released in 1991-92.

## **Cooktown Inquiry**

As outlined in last year's Annual Report, the Commission has conducted an Inquiry into the provision of medical services to the Aboriginal communities of Cooktown and nearby Aboriginal and Torres Strait Islander settlements, including Wujal Wujal and Hopevale, in far north Queensland.

The Inquiry was chaired by the Commission's President, Sir Ronald Wilson, and public hearings were held in July and August 1990 in Cooktown, Hopevale, Wujal Wujal, Cairns and Brisbane, to receive evidence from members of the Aboriginal community, representatives of the Queensland Government and other organisations.

The report of the Inquiry has been completed and makes detailed recommendations on the coordination and delivery of health and medical services to improve the standard of health care and quality of life for the Aboriginal communities involved. The report will be presented to the Attorney-General by September 1991 for tabling in Parliament.

## **Aboriginal and Torres Strait Islander issues**

### **Project on Water Supplies to Aboriginal Communities**

As discussed in last year's Annual Report, this project is aimed at determining how cost-effective, efficient and appropriate technology can be used by Aboriginal communities in remote areas of Australia to gain access to adequate, reliable, safe

water supplies. Preliminary investigation demonstrated that many Aboriginal and Torres Strait Islander communities encountered severe water problems and that in many cases water could be supplied through the adoption of simple technologies.

The report on the project will include field studies of nine Aboriginal and Torres Strait Islander communities in a variety of geographical locations ranging from the central desert to coastal towns and islands in the Torres Strait. The case studies will be accompanied by a general overview of the living conditions and adequacy of water supplies to Aboriginal communities throughout Australia. Field work is being undertaken in the following communities:

*Punmu, Western Desert, WA; Coonana, WA; Yalata, South Coast, SA; Maralinga, Northern SA; Dareton, Murray River, NSW; Tingha, NSW; Doomadgee, far north Queensland; Boigu Island and Coconut Island, Torres Strait.*

The Commission received a draft interim report in November 1990 from the consultant, Dr Bruce Walker, of the Centre for Appropriate Technology, Alice Springs. A number of additional field studies have been completed since then and the consultant has started the final round of community consultations. A report will be released early in 1992.

The Commission anticipates that the final outcome of the project will be a national strategy to ensure the adequate provision of reliable and safe water supplies to Aboriginal and Torres Strait Islander communities. Consultations with Aborigines and Torres Strait Islanders have been undertaken to this end and the Commission has held discussions and coordinated its activities with relevant government agencies with a view to implementation of the report recommendations.

It is anticipated that a meeting with the Aboriginal and Islander communities involved in the case studies will be convened by the Commission in Alice Springs early in the new financial year. The meeting will provide a forum for the Commission to brief the participating communities on the findings and

recommendations made in the report and to develop a preliminary strategy for their implementation.

## **Poster and Pamphlet for Aboriginal Communities**

Cognisant of the diversity of specialist information needs within Aboriginal and Torres Strait Islander communities, the Commission has commenced work on the production of a poster specifically targeting those communities about the Racial Discrimination Act. A draft poster design was prepared and consultations undertaken with people representing Aboriginal and Torres Strait Islander community and government organisations in several States.

These consultation also identified a need for suitable written material about the Racial Discrimination Act to accompany the poster. Consequently, a pamphlet on the Act for Aboriginal and Islander people is also being developed.

## **Community Relations Strategy**

The Race Discrimination Commissioner is a member of the Inter-agency Working Party responsible for devising and coordinating the Community Relations Strategy under the National Agenda for a Multicultural Australia. Also on the Working Party are representatives of the Aboriginal and Torres Strait Islander Commission; the Department of Immigration, Local Government and Ethnic Affairs; and the Office of Multicultural Affairs. The Strategy was launched by the Prime Minister on 12 April 1991.

The Strategy is designed to promote tolerance and respect within the Australian community. In particular its objectives include the reduction of systemic, as well as direct, discrimination against people of different race, ethnicity, religion, culture or language.

The Commission established a Community Relations Strategy Unit of three staff on a temporary basis in January 1991 to implement the Commission's program. The Unit will discharge the Commission's responsibility for a program of seven national projects. The major thrust of the Commission's program is to promote awareness of community relations issues, particularly in terms of access to human rights protection for Aborigines and Torres Strait Islanders and for people of non-English speaking background. Projects are also directed at countering racist violence and discrimination in a number of key areas.

The initial focus of the Unit has been on the first three of the seven programs which are described below.

### **1 & 2. Community Education Packages for Aborigines and Torres Strait Islanders and for People of Non English Speaking Background**

These projects involve the development of community information resource packages with a problem solving-centred approach. The objective is to enable community workers to give advice on strategies for resolving human rights problems at a local level. Each package will cover relevant State and Federal legislation (criminal and civil) and will describe the strategies and mechanisms available through government and non-government agencies for the protection or redress of human rights and other community relations issues. The packages will be designed as a series of units, each focusing on a particular issue area, such as education, health, employment, housing or the law.

Although both projects are being developed from a similar base model, the development process and final products will be quite separate. The needs and appropriate strategies identified for people of non-English Speaking Background are anticipated to be quite different from those which will emerge for Aboriginal people and Torres Strait Islanders.

The packages will be developed in consultation with the relevant communities in a selected State and subsequently modified to suit the different conditions in each of the other States and Territories. Queensland has been selected as the site for the initial development of the package for Aboriginal and Torres Strait Islander communities, while the package for people of non-English Speaking Background will be developed in Victoria.

Consultants have been appointed to research, write and produce the packages on behalf of the Commission. Both packages are scheduled for completion and distribution by March 1992. The process of modifying and adapting the two packages for use in other States and Territories will commence after an evaluation period in the originating States.

### **3. Data Collection on Incidents of Racist Violence**

This project will attempt to establish uniform national procedures for the collection, analysis and reporting of statistics on racist violence, intimidation and harassment. The strategy is to develop procedures to require police to consider racist motivation as a factor in all reports on incidents and allegations. The long term objective is for this data to be collected and analysed as part of the normal process of crime statistics collection.

Other agencies ranging from community organisations to State Ombudsmen and police internal review units will also be asked to systematically consider racist motivation in all incident reports and inquiries.

### **4. Workplace Project**

A program providing training and information on managing cultural diversity in the workplace is to be implemented as a demonstration in fifteen workplaces, selected from around

Australia to represent a range of organisations and industrial sectors. The objective is to demonstrate how employers can improve their ability to effectively manage culturally diverse workplaces to the benefit of industrial relations and productivity. The program was developed by the Commission through its Race Relations in the Workplace program of 1989-91, which is discussed below.

## 5. Youth Project

This program aims to make racism an issue of concern for all young people through the use of popular youth culture. An important feature of the project will be to encourage the development of resources and strategies to assist youth workers and others to counteract racist harassment and violence amongst young people.

## 6. Training Package for Counsellors

The training package is being designed for people who work with the victims of racist violence. The package will be aimed at two levels. The first will be for community workers, hospital staff, teachers, police or others who happen to be the first point of contact for victims of racist violence and need to be able to give them immediate advice and support. The second level is for professional counsellors who need to appreciate the emotional and cultural issues in order to be able to provide an effective counselling service.

## 7. Housing Project

This project will develop a code of practice for real estate agents and landlords in the private housing and rental market. The aim is to reduce the incidence of discrimination experienced by people of non-English speaking and Aboriginal

and Torres Strait Islander backgrounds. The Commission will develop and promote the code of practice in consultation with the industry and tenancy advocacy groups.

## Research

### **The Experience of Overseas Trained Medical Practitioners in Australia**

During 1989 and 1990 the Commission received representations from overseas trained medical practitioners now resident in Australia who alleged that the system of accreditation and recognition of overseas qualifications was discriminatory. They alleged that the current system of accreditation, assessment and registration contravenes the *Racial Discrimination Act 1975*. There was also concern that the Australian community is being deprived of the skills which overseas trained doctors can offer.

The Race Discrimination Commissioner assessed the concerns raised and subsequently decided to undertake a research project to review the present system and then make appropriate recommendations, rather than to hold a narrow complaint-based inquiry into the circumstances of particular persons.

Early in May 1991, the Commissioner released her report, *The Experience of Overseas Trained Medical Practitioners in Australia: An Analysis in the Light of the Racial Discrimination Act*. In the report the Commissioner concluded that: 'Many overseas trained doctors have been the unwilling and undeserving victims of Australia's rigid medical registration system' and that 'There is compelling evidence that it is also discriminatory in terms of the Federal *Racial Discrimination Act 1975*'.

The report made twelve recommendations relating to reform of the medical registration system. Most importantly, it asked the

Australian Medical Boards to give serious consideration to other avenues of evaluating the skills and competence of overseas trained doctors, including the introduction of a system of assessment while undertaking a limited form of practice under appropriate supervision.

The report has been the subject of vigorous debate. The Commissioner is continuing to consult with the Australian Medical Association, the Australian Medical Council, the State and Territory Registration Boards and other interested bodies in an effort to achieve major advances in this important area.

### **Mornington Island**

During 1990 the National Inquiry into Racist Violence received representations from members of the Aboriginal community on Mornington Island about policing practices. Following preliminary investigations, the Commission decided that the issue was not covered by the terms of reference of the Inquiry and commenced a research project to determine the basis of the community's concerns. An initial visit to the Island took place in April 1991 and a preliminary report to the Race Discrimination Commissioner is being prepared.

At this stage it appears that the most effective way to improve Aboriginal—police relations on the Island may be by establishing appropriate community policing and cross-cultural training programs for police officers. The findings of the project will be reported on in 1991-92.

### **Other Research Projects**

During the year the Commission has provided advice to State and Federal government agencies on a range of race related policy matters. Submissions included a paper on the New South Wales Department of School Education's draft Anti-Racism Policy, input into the Federal Attorney-General's Department's review of access to interpreters and a submission to the Queensland Department of Housing's Policy Review.

## International Instruments

### Convention on the Elimination of All Forms of Racial Discrimination

Australia has committed itself to specific human rights instruments, including the Convention on the Elimination of All Forms of Racial Discrimination (CERD). This treaty imposes obligations on parties to take effective measures to protect the rights recognised in the Convention.

CERD specifically requires legislative prohibition of discrimination on the basis of race, colour, descent, or national or ethnic origin and this is given effect to in the *Racial Discrimination Act 1975* (RDA). The research, advisory and promotional functions vested in the Commission under the Act are also in direct compliance with obligations under the Convention.

#### **Under Article 2 of CERD:**

*States parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races...*

#### **Under Article 2(d), States parties shall:**

*...prohibit and bring to an end by all appropriate means, including legislation as required by the circumstances, racial discrimination by any persons, group or organisation.*

Australia's obligations as a party to CERD require the provision of periodic reports to the United Nations Committee on the Elimination of Racial Discrimination on the legislative, judicial, administrative and other measures which have been undertaken by Australia to give effect to the Convention.

The Committee is the fundamental international consultative mechanism for issues of racial discrimination. In its reports to the CERD Committee, the Australian Government refers extensively to the functions and activities of the Human Rights and Equal Opportunity Commission. The Commission assists the Government in the preparation of documents and written reports to the CERD Committee.

During the last year the Commission has researched and compiled its contribution to the Australian Government's sixth and seventh periodic reports to the Committee. The document included an overview of the activities that have been undertaken in the racial discrimination area, particularly the completion of the National Inquiry into Racist Violence, and the conciliation of complaints under the RDA.

## **Complaint Investigation/ Resolution and Enquiries**

Table 7 shows that in 1990-91 352 complaints were accepted as within jurisdiction under the Racial Discrimination Act. This represents an 18.5% increase over last year's figure of 297 complaints. There was an increase of 26.4% in relation to employment-related complaints.

There was a significant increase (57.1%) in the number of complaints relating to provision of goods and services, with 132 being received. Public hearings relating to a number of complaints lodged in Queensland relating to the denial of goods and services on racial grounds were heard before the Commission this year. The Queensland regional office is attempting to deal with some of these issues through community development initiatives and training programs in specific communities.

On 22 December 1990, the RDA was amended to remove the provision of **dominant reason** from the legislation and to include provisions for **indirect discrimination and vicarious liability**. The removal of dominant reason will no doubt facilitate investigation and resolution of complaints under the RDA, as there is no longer a requirement to show that race, colour or national or ethnic origin is the **dominant** reason for alleged discriminatory acts or practices.

The amendment relating to vicarious liability means that employers can be held liable for the discriminatory acts of their employees unless they can show that they have taken all reasonable steps to prevent the acts occurring.

As stated earlier, the Race Discrimination Commissioner last year received several complaints from a number of overseas-trained medical practitioners. The complaints were withdrawn when the Commissioner informed the complainants that she had decided to conduct a general review of the issue of the assessment of the qualifications of overseas-trained doctors and their admission to practice in Australia in the context of the RDA. Her report was released in May 1991.

Statistics currently maintained by the Commission do not always indicate the ethnicity of complainants, although Table 8 shows the known information. 121 complaints were received from Aboriginal complainants compared with 68 last year. The majority of complaints received under the RDA continue to be lodged by males, with 182 complaints having been received from men, compared with 153 from women (see Table 9).

## **Case Studies**

The following case studies illustrate the different types of complaints received under the Racial Discrimination Act.

### **Case Study 1 .Racial Harassment in Employment**

A man of Burmese origin claimed that he had been subjected to continual verbal and physical abuse in employment because of his racial origin. He alleged that these actions were mainly

carried out by two co-workers. Subsequently, the complainant suffered a nervous breakdown and was sent by his employer for psychiatric treatment. After prolonged treatment he was declared fit for work but advised not to return to his former workplace.

Investigation of the complaint proved difficult due to the period of time that had elapsed since the alleged incidents and changes in personnel at the work site. The majority of individuals involved were located and interviewed and, although a number of those who worked with the complainant denied the alleged incidents, there was significant evidence from some witnesses which supported the claims. Medical evidence supporting the traumatising effect the period of employment had on the complainant was also obtained.

After lengthy investigation, the matter was conciliated when the employer agreed to pay the complainant the sum of \$10,000 in settlement.

## **Case Study 2 Discrimination in Provision of Services**

The Commission accepted a complaint of race discrimination from a large number of Aboriginal people who objected to a poster which appeared in the front office of a police station. The poster insinuated that the office was the headquarters of a 'whites only' organisation. When some of the complainants objected to the poster, it was removed and they were told that it related to an 'internal joke'. The complainants did not consider this explanation adequate, especially given the large number of Aboriginal people resident in the area.

The Commission withheld action on the complaint while the department concerned undertook an internal investigation of the matter. The department held a meeting with a large number of the complainants at which the department apologised for the poster having been exhibited and outlined proposals for improved police and Aboriginal community liaison. A direction was given to all police stations in the region forbidding the display of such material and the department

initiated a service-wide review of its policy on discriminatory practices. In view of the results of the internal investigation the complainants did not seek further action from the Commission.

### **Case Study 3 - Accommodation**

A woman rang a refuge centre on behalf of her friend and requested accommodation for a mother with two children. After a brief conversation the refuge officer asked her whether the mother was 'part-Aboriginal'. The women confirmed that this was so. The officer then said: 'We have just got rid of one of them, we'll let you know.'

Five minutes later the officer rang back and informed the woman that the only available accommodation had been booked by someone else.

At a subsequent conciliation meeting the officer-in-charge of the refuge advised that the original refuge officer who had taken the call had been counselled, that the policy of the refuge as non-racist was reaffirmed and a letter of apology for the misunderstanding would be sent to the original enquirer.

### **Case Study 4 .Refusal of Service**

A complaint of race discrimination was received from an Aboriginal woman who was refused service in a Queensland country motel.

The matter was conciliated when the respondent agreed to provide a written apology to the complainant and pay \$2,300 in compensation.

### **Case Study 5 Employment**

An Aboriginal man employed by a Federal Government department alleged that he had been given lower performance assessments than his two peers by two of his supervisors who,

he alleged, had made racist comments about Aborigines. He claimed that as a consequence, he had missed promotion opportunities.

During investigation, it could not be clearly established that the low performance assessments and the failure to be promoted were racially based. However, there was evidence to suggest that incidents of racist name calling and circulation of insulting material may have occurred. The matter was settled when the department agreed to transfer the complainant to an area where he believed his prospects for promotion would be enhanced; arrange counselling for the complainant regarding his performance with specific reference to areas that might be improved to enhance his promotion prospects; amend previous performance reports to include only those which were not disputed; and publish guidelines and provide training courses for management on racial discrimination awareness.

## **Referred Matters**

### ***The Mareeba Hotel Cases***

In October 1990 the Commission conducted an inquiry in Mareeba, North Queensland into complaints brought by four Aborigines that they had been refused service at the Graham Hotel and by four other Aborigines that they had been refused service at the Royal Hotel. The complainants alleged that the refusal to serve them was in contravention of s.13 of the RDA. The respondents were the licensees and the owners of the hotels. Conciliation had been attempted but was unsuccessful.

The Commission found seven of the complaints to be substantiated and made declarations that damages be paid to the complainants (\$1000 each to six of the complainants and \$1200 to the other). The Commission also ordered that apologies be made to the successful complainants including the publication of notices of apology in the local newspaper.

### ***Mitchell v. Castrissios***

The complainant, an Aboriginal woman, booked the respondent's reception centre in Echuca, Victoria for a function in honour of her son's twenty-first birthday. When the complainant sought to pay the deposit to the respondent some weeks later, he advised her that he had no record of her booking and that another function was confirmed for that evening.

The complainant lodged a complaint with the Commission alleging that the respondent had cancelled her booking on the ground of her race in breach of s.13 of the Act. Evidence was given at the inquiry that the then manager had made a number of mistakes in relation to bookings including making a double booking for the night in question and recording the complainant's booking under the wrong name. The respondent cancelled the booking after his attempts to confirm it were unsuccessful. The Commission found the complaint not substantiated and it was dismissed.

## **Promotional Activities**

### **Race Relations in the Workplace Program**

The Race Relations in the Workplace Program, discussed in last year's annual report, continued in 1990-91. An industry-based project, it was undertaken with the cooperation of private enterprise at two sites in Brisbane and Sydney. The program's operating assumption was that racial discrimination impairs the efficiency and effectiveness of the organisation and the individual.

The evaluation of the completed program pointed to increases in productivity and profitability, decreased accident liability rates, improvements in personnel policies and practices, and an increase in the diversity of employees. In general, there was a greater recognition of the skills of people of non-English speaking background, especially women, and a growing

awareness of the opportunities provided by sensitive management of a multicultural workforce. A report of the project will be available in early 1991-92.

A training package, *Diversity Makes Good Business - Managing a Multicultural Workforce*, is nearing completion. This package is based on the program and aims to train managers in how to better manage a culturally diverse workforce. It will address human resource and personnel management within a multicultural workplace. Industry-based trials are planned to test and fine-tune the package.

## **Continuing Education Program**

A video is being produced to accompany the above training package, with funding from the NSW Education and Training Foundation (ETF) as part of the Commission's Continuing Education Program. SBS Television has commenced work on the production of the video which is expected to be available in December 1991. This video also forms part of the SBS *English at Work* series and will be screened at the end of 1991 or early in 1992.

While the Race Relations in the Workplace Program targets trainers in large companies, the need to undertake training programs for small business has also been clearly demonstrated. Consequently, the Continuing Education Program includes a special program for small business, called *Diversity Makes Good Business: A Small Business Strategy for a Multicultural Workforce*. The program, which is also funded by the NSW ETF, will research appropriate management training and presentation strategies for small business in dealing with a culturally diverse workforce and develop appropriate training materials.

**Race  
Discrimination  
Commissioner's  
Speaking  
Engagements  
1990-91**

4 Jul 90	<i>Race Relations in the Workplace</i> Bradford Insulations, Sydney
7 Jul 90	<i>Justice Issues, Multiculturalism and the Law</i> Federation of Ethnic Communities' Councils of Australia (FECCA) Seminar, Sydney
30 Aug 90	<i>The Role of Police in Strategies to Combat Racist Violence</i> Policing in a Multicultural Society Conference, Melbourne
1 Sep 90	Launch of <i>Our Traditional Crafts</i> , Fairfield School of Arts, Sydney
5 Sep 90	<i>Multiculturalism: Challenges for the 1990s</i> Carnivale Seminar, Newcastle
10 Oct 90	Address on the National Inquiry into Racist Violence (NIRV), Sydney Institute, Sydney
3 Nov 90	Address on NIRV to the Chinese Academics Group
15 Nov 90	Opening Comments and Chair of Session <i>Immigration: International Aspects</i> , BIR Conference, Melbourne
26 Nov 90	Annual General Meeting of the Canterbury/Bankstown Migrant Resource Centre, Sydney

- 5-8 Dec 90      *Anti-discrimination Law and its Relevance for Aboriginal People*, Aboriginal Law and Spirituality Conference, Foundation for Aboriginal and Islander Research Action, Brisbane
- 7-9 Dec 90      *A Time for Celebration and Reflection*, Second National Conference of the Chinese Australian Community
- 14 Dec 90              Launch of *The Ethnic Services Directory*, St George Migrant Resource Centre, Sydney
- 13 Apr 91      Launch of the *Real Useful Media Kit*, Cabramatta Community Centre, Sydney
- 18 Apr 91      Launch of the Report of the National Inquiry into Racist Violence at the Human Rights and Equal Opportunity Commission, Sydney
- 15 May 91      Launch of NIRV Findings Research Project: *The Needs of People of Non-English Speaking Background*, Blue Mountains Community Resource Network, Lawson
- 20 May 91      *An Overview of the NIRV Report* University of Sydney Students' Representative Council, Sydney
- 14 Jun 91      *Media Reporting of Aboriginal and Ethnic Issues*, Australian Centre for Independent Journalism, Sydney
- 18 Jun 91      *The Legislative Response to Racist Violence* Jewish Board of Deputies, Sydney
- 24 Jun 91      *Racist Violence and Community Relations in Australia*, Seminar on the Future of Multiculturalism, Canberra

28 June 91

*Community Awareness of Legal and Human  
Rights* Ethnic Communities' Council,  
Hobart

**Sex  
Discrimination  
Commissioner**

Quentin Bryce AO, as the Sex Discrimination Commissioner, advises the Commission concerning its responsibilities and functions under the Sex Discrimination Act, and carries out many of those functions on the Commission's behalf. Ms Bryce graduated in Arts and Law from Queensland University.

Before her appointment to the Commission in 1988 she was the Commission's Regional Director for Queensland. Prior to that, she had established the Queensland Women's Information Service and served as its Foundation Director, as well as being the women's representative on the National Committee on Discrimination in Employment and Occupation. She was a member and convener of the National Womens Advisory Council.

**Statement  
from the Sex  
Discrimination  
Commissioner**

*In June 1990 we launched the Shout (Sexual Harassment is out) campaign to inform young women about their rights under the Sex Discrimination Act and to encourage them to 'do something' about sexual harassment in the workplace. The message of the campaign was straight forward 'Know your rights - Don't Sh... Shout'.*

*The Shout kit, an eight page booklet including posters and stickers was distributed to young women through their networks of every kind including Cleo Magazine. It explains what constitutes sexual harassment, that sexual harassment is against the law and it suggests strategies to help young women handle sexual harassment. It stresses the importance of letting*

*harassers know straight away that their behaviour is unwanted and unacceptable.*

*We were pleased by the response to the campaign. Young women from all parts of Australia called or wrote for further information to make complaints or simply to say that they welcomed a project directed specifically to them. We appreciated the support for the campaign from business, industry, unions and the education sector. The media throughout Australia gave 'Shout' positive and constructive publicity.*

*The Australian community is starting to understand and recognise that sexual harassment is a serious workplace issue, that it is demeaning and often frightening particularly for young women, and that it is against the law.*

*I hope that the Shout campaign will continue to work to give young women the information and the confidence they need to be able to speak up about this insidious form of sex discrimination.*

*When I came into this job I was anxious to see whether the Sex Discrimination Act could be used to make a contribution to the complex problem of pay equity. Women continue to earn significantly less than men in all categories of earnings, all components of earnings, all major occupational groupings and nearly all categories of benefits and allowances.*

*There are many reasons for the continuing disparity between men's wages and women's wages, cultural and historical. The fact that women have traditionally borne the major responsibility for child rearing clearly limits their ability to participate fully in the paid labour force, but other factors such as cultural notions about 'women's work' and 'men's work' and discrimination about how their perceived differences should be valued also play their part in pay inequities.*

*It pleases me therefore to report that I have commenced an inquiry into sex discrimination in over award payments. The main industries involved in the Inquiry will be the retail and*

*manufacturing sectors, as these industries show the biggest disparity in over-award payments on a gender basis according to Australian Bureau of Statistics surveys. However, other areas such as clerical work will also be investigated.*

*Over-award payments are payments over and above the award and as such they are outside the jurisdiction of the Industry Commission. They are payments negotiated at enterprise level sometimes between union representatives and employers.*

*The Inquiry will be both timely and important, as there is increasing dependence on enterprise-based agreements to negotiate wage increases. Women's lack of access to over-award payments means that the wages gap can only become greater, unless changes are made in the way they are allocated.*

*In its first few weeks of operation the Inquiry has attracted a great deal of interest, attention and support from the key players and in particular from women's organisations.*

*I look forward to the challenge that it presents in the next year.*

*My other major activity during the year was the Review of Permanent Exemptions under the Sex Discrimination Act. More details of this and other activities in my area appear on the following pages.*

## **Public Inquiries**

### **Inquiry into Over Award Payments**

On International Women's Day in 1991, the Prime Minister announced that the Sex Discrimination Commissioner would hold an Inquiry into sex discrimination in over-award payments. The impetus for this Inquiry was a 1990 publication by the National Women's Consultative Council entitled *Pay Equity , for Women in Australia*, which showed that women continued to earn less than men in all occupations and areas of

work. One significant area of concern was women's lack of access to over-award payments. In general, women earn only half the over-award payments of men and this contributes significantly to the 17% gap in ordinary time earnings between men and women. This led the paper to suggest that a test case be mounted under the Sex Discrimination Act.

After extensive consultation with the Federal Government, the Australian Council of Trade Unions, the Confederation of Australian Industry and women's groups, the Sex Discrimination Commissioner decided that, because of the systemic nature of this form of inequality, a broadly-based Inquiry was needed, rather than a complaint-based approach. Terms of reference for the Inquiry were drawn up and an advisory committee of government, union, business, academic and community representatives was established.

The terms of reference of the Inquiry are:

- to examine the differences which exist in both the incidence and amount of over-award payments made to men and women;
- to assess whether these differences are due to discrimination against women in employment; and
- to make recommendations about measures which can be taken to eliminate such discrimination.

Submissions have been called for, and the Commission is collecting statistical and other material.

The issue of sex discrimination in over-award payments is seen as an important human rights issue not simply for women but also for their families. The Inquiry will be the main focus of the Sex Discrimination Commissioner's work in 1991-92. A report is expected at the end of that year.

## **Research**

Increasingly, the research and policy role of the Sex Discrimination Commissioner is focused on addressing inequities faced by women in their working lives. It is clear that

until women receive greater equality in a range of work-related issues, such as pay, promotion, training opportunities and superannuation, as well as the basic right to work - which is still being denied in some industries - little progress towards equality will be made. The role of the Sex Discrimination Commissioner is to highlight those areas of inequality in working life which can be addressed by the Act.

## **Discrimination Against Women in the Lead Industry**

The lead industry has historically excluded women from employment on the grounds that lead, which is hazardous to all workers, is particularly dangerous to the foetus. After the introduction of the *Sex Discrimination Act 1984* and the *Human Rights and Equal Opportunity Commission Act 1986*, as well as various State Equal Opportunity Acts, this historical exclusion has been subjected to more intense scrutiny and debate.

In March 1990, the National Occupational Health and Safety Commission (NOHSC) released *Lead: A Public Discussion Paper* and called for submissions to assist in developing a Revised Standard for employment, occupational health and safety in the use of lead at work.

The aim of the Discussion Paper was to formulate a new national occupational health and safety standard designed to protect the health and safety of all workers exposed to lead at work and to redress the historical exclusion of women from employment in the lead industry. However, the Commission was particularly concerned that the Discussion Paper asserted that it was impossible to reconcile occupational health and safety with equal employment opportunity, because of potential risk to foetal health.

A major research effort was undertaken by the Commission in 1990 in preparing a submission to NOHSC on the basis that the Discussion Paper had failed to meet the challenge of designing a Revised Standard fulfilling the criteria specified. The two

proposals put forward in the Commission's submission were based on two fundamental principles:

- All workers, men and women, have the right to a safe working environment; and
- All workers, men and women, have the right to equal employment opportunities free from discrimination.

The Commission's submission stated that, not only are these principles able to be reconciled, but they are intertwined. Only by providing a workplace which is safe for both men and women will any potential foetus be protected.

The submission was subsequently reprinted in an Occasional Paper by the Sex Discrimination Commissioner entitled *Discrimination Against Women in the Lead Industry*, in order for this important issue for women's employment and women's rights to reach a wider audience.

## **Exemptions**

### **Section 44 of the Sex Discrimination Act 1984**

Two exemptions were granted under s.44 of the Sex Discrimination Act during 1990-91. Both exemptions were granted to Broken Hill Associated Smelters Pty Ltd (BHAS).

On 11 September 1991, BHAS applied for a further three-year exemption from the operation of sections 14 and 16 of the Sex Discrimination Act. It also applied for an exemption from the operation of the equivalent provisions under the South Australian Equal Opportunity Act.

The Commission conducted a joint hearing with the South Australian Equal Opportunity Tribunal on 12 December 1990.

The Commission granted an interim exemption on 4 February to expire on 31 May 1991 pending the handing down of the Commission's decision in respect of the application.

On 14 May 1991 the Commission granted a further conditional exemption to expire on 31 December 1992. This exemption was restricted to the employment of women at the lead smelting plant at Port Pine (SA) in areas which were identified as lead hazard and lead exposure areas. The previous exemptions granted were not confined to these areas.

## **Legislative Review**

### **Review of Permanent Exemptions**

The Sex Discrimination Act aims to prohibit discrimination in most areas of public life on the grounds of sex, marital status and pregnancy. However, there are a number of exemptions from this prohibition. In December 1990, the Commission commenced a review of these as the Act had been operating for more than six years and it was considered timely and appropriate to review exemptions under the following sections:

- Section 13 - instrumentality of a State;
- Section 38 - educational institutions established for religious purposes;
- Section 39 - voluntary bodies;
- Section 40 - acts done under statutory authority;
- Section 42 - sport.

The purpose of the Review will be to assess whether these exemptions are still appropriate so many years after the commencement of the Act. Submissions have been invited from interested parties and the Sex Discrimination Commissioner plans to consult extensively with community groups before reporting to the Attorney-General in late 1991-92.

At the time of writing, 69 submissions had been received, with the largest number being in relation to section 38. Section 40 represents the next most significant area of interest in terms of submissions, particularly s. 40(2)(b) which is the exemption covering the Social Security Act. Because of the complexity of this area of exemption, it will be treated separately from the rest of the review.

## **Superannuation**

Legislation to amend the Sex Discrimination Act in accordance with a 1986 review of the exemption relating to superannuation in that Act received Royal Assent on 25 June 1991. The main effect of the amendments is to replace the former blanket exemption with a more limited exemption which will make superannuation coverage more accessible to women working part time, and improve the superannuation arrangements for women in the paid workforce.

On current figures, 63% of men compared with 47% of women in the full-time workforce have superannuation. Thirty-seven per cent of women work part time and only 19% of that group have superannuation. The lower representation of women in superannuation coverage will, in some part, be addressed by the amendments to the Sex Discrimination Act. However, the large number of women in the paid workforce need more information about changes to superannuation as it affects women's work patterns so that women's participation in the new scheme increases.

The Commission is preparing guidelines for the implementation of the superannuation provisions to assist the superannuation industry in complying with the amendments. The guidelines will also aim to encourage women to pursue superannuation coverage.

The Sex Discrimination Commissioner will help to organise a major conference in 1991 on women and superannuation in conjunction with the Older Women's Network, in order to promote the need for women to have financial protection and independence.

The House of Representatives Standing Committee on Legal and Constitutional Affairs Inquiry into Equal Opportunity and Equal Status for Australian Women has highlighted inequality in sport. The Commissioner has produced draft guidelines on how to tackle sex discrimination in sport. After circulating the draft guidelines and consulting with sporting groups, the Commissioner intends to produce official guidelines in 1991-92 on Sport and the Sex Discrimination Act to explain how the Sex Discrimination Act can be used to promote equality in sport.

## Intervention

The Commission sought and obtained leave to intervene pursuant to section 11 (1)(o) of the HREOC Act in the matter of the *Municipal Officers' Association (MOA)* case.

The *MOA* matter involved consideration of the meaning of section 33 of the Sex Discrimination Act in light of Boulton J's 1987 decision in the *Australian Journalists Association* case (the *AJA* case). The Commission resolved to file written submissions concerning the operation of the Sex Discrimination Act, in particular sections 19 and 33, and the suggested interpretation of those sections in light of evidence presented by the *MOA* to the Industrial Relations Commission.

Section 19 of the Sex Discrimination Act provides that it is unlawful for a registered organisation, the committee of management or a member of that committee to discriminate against a person on the ground of that person's sex, marital status or pregnancy by refusing to accept the person's application for membership or in the terms and conditions on which the organisation is prepared to admit a person to membership. Section 33 provides an exemption from the operation of the Act for measures which are designed to ensure persons of a particular sex, marital status or who are pregnant have equal opportunities with others (known as special measures).

The *MOA* decision was significant as it was the first matter following the decision of Boulton J in the *AJA* case in which the issue of affirmative action rule changes in unions was considered. In summary, Boulton J had held that the affirmative action rule change proposed by the Australian Journalists Association was contrary to law as the rule contravened section 19 of the Sex Discrimination Act. His Honour further held that section 33 of the Act did not save the provision as women already had equal opportunity to participate in the affairs of the union by standing for election as Federal Council delegates.

In substance his Honour equated formal equality with substantive equality.

In the *MOA* case Deputy President Moore was required to consider whether the proposed affirmative action rule change of the Municipal Officers Association and the two unions with which it was amalgamating was contrary to law. His Honour held that the rule change did breach section 19 of the Sex Discrimination Act. He then considered section 33 and the decision of Boulton J. He held that in his view the approach adopted by Boulton J was too restrictive and that section 33 of the Act protected the measures taken by the union.

## **Complaint Investigation/ Resolution and Enquiries**

Table 10 shows that 803 complaints within jurisdiction were lodged under the Sex Discrimination Act (SDA) during 1990-91. This represents a 35% increase over last year.

Of the 803 complaints received and investigated the largest proportion, 292 (36.3%) were lodged on the ground of sexual harassment in employment. In comparison with last year's figures this represents a 109% increase in complaints of this type. Complaints on the grounds of sex constituted 239 (29.7%) of the total figure, a 70.7% increase on last year's figure.

The increase in complaints on the ground of sexual harassment would seem to be in response to the SHOUT campaign conducted this year. This campaign promoted awareness about sexual harassment and the provisions of the Sex Discrimination Act and was directed at young women in, or about to enter, employment.

Complaints on the ground of pregnancy represented 19.4% of all complaints lodged under the Sex Discrimination Act. There were 156 complaints received, a significant increase over last year's figure of 83.

Table 11 outlines the areas in which complaints under this Act were lodged. Some 85% of all complaints were in the area of employment. This follows the trend of previous years with employment being the area where most sex discrimination occurs. The - provision of goods, services and facilities represented 9.4% of all complaints, with 76 complaints received in this area compared with 49 last year.

Table 12 sets out the categories of complainants and respondents. A total of 90.6% of complaints received under this Act were lodged by women. This reflects the basis of the Act - the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. Men are not precluded from using this Act, however, and 70 complaints were received from men in 1990-91.

## **Case Studies**

The following case studies illustrate typical examples of complaints lodged under the Sex Discrimination Act and their outcomes.

### **Case Study 1 .Sexual Harassment**

A woman employed by a statutory authority as a word processing operator complained of sexual harassment in employment. She had been dismissed from her position for poor

work performance, but she alleged that the real reason was her rejection of the advances of the head of her section.

The authority carried out an internal investigation and concluded that there was no evidence of sexual harassment, although they did conclude that the dismissal may have been unfair as the appropriate counselling procedures had not been followed. The authority agreed to pay the complainant the equivalent of four weeks' pay in settlement of the complaint.

### **Case Study 2 .Pregnancy, Indirect Discrimination**

A trade union lodged a complaint of indirect discrimination on behalf of a female member alleging that she had been discriminated against on the ground of pregnancy. The woman's employer operated a performance-based bonus scheme, payments for which fell due on a fixed annual date in respect of a fixed period of twelve months service. The union alleged that there was an unstated policy that employees who commenced maternity leave prior to the payment date had to return to work to make up the difference between the date they commenced leave and the payout date before becoming eligible for the bonus payout.

The woman had worked through the relevant twelve-month period but had commenced maternity leave just prior to the 'pay out date'. The complaint was settled when the respondent agreed to pay the entitlement to the complainant and amended its letter of advice concerning the scheme to make clear the requirements of the scheme to any employees intending to take maternity leave. The respondent also agreed to consider the merits of any similar cases the union brought to its attention in respect of the scheme.

### **Case Study 3 .Sex Discrimination in Employment**

A man complained that he had been discriminated against on the ground of his sex when he enquired over the telephone about two job vacancies that he had seen advertised in a

newspaper. He alleged that he was told by the job agency involved that the agency's clients had specifically requested that both positions be filled by women. The agency then declined to refer the man to the potential employer. The man claimed to be well qualified for the positions.

The complaint was settled when the agency agreed to provide a formal apology to the complainant and to pay him a sum of money in compensation. The agency also undertook to raise the issue with its relevant national professional association, pointing out the ramifications for such agencies accepting job assignments that constitute discrimination.

#### **Case Study 4 .Sex Discrimination in Employment**

A woman employed by a Federal Government statutory authority complained that she was being discriminated against on the ground of her sex. She claimed to be the only female employee in her area of work and alleged that she had been continually overlooked for higher duties vacancies, including occasions when men who were clearly less qualified were selected. She also claimed that in general she was not given the same calibre of work as male employees.

The findings and recommendations of an internal review committee supported the view that the woman had been discriminated against. The complainant did not wish to continue in employment with the respondent and the matter was settled when the respondent agreed to pay the complainant a considerable sum including all entitlements due and the equivalent of a year's salary.

#### **Case Study 5 .Sex Discrimination in Employment**

A female accountant was employed for ten months by an industrial firm. At the end of that period she was informed that she had four weeks to find another position as the company wished to employ a male accountant. The company was satisfied with her performance but she was told that the

manager did not like working with a woman and that the men in the workshop did not like it when she entered those premises.

Although she was extremely upset by these attitudes, the complainant felt that it was pointless continuing to work in such an environment. She agreed to leave if she was paid \$12,000 in compensation. The respondent agreed to this.

### **Case Study 6 - Pregnancy**

A **young** woman was employed full time at a video rental store as a library attendant. She worked there for two months. Towards the end of the second month she advised the store manager that she was pregnant and informally enquired about the possibility of working part time. The store manager informed the owner of the firm.

The following week the complainant was dismissed - the reason given being that the company did not employ part-time staff.

The young woman agreed that she would have been happy to work part time and would probably have worked only three or four more months. The store owner agreed to pay the complainant \$2,250 as compensation for loss of wages as a result of wrongful dismissal.

## **Referred Matters**

### *Gibbs v. The Australian Wool Corporation*

On the complainant's return to work from maternity leave her employer (the respondent) placed her in a newly created position. The complainant lodged a complaint alleging that the respondent had, by failing to restore her to her original position, discriminated against her in contravention of s.14(2) of the SDA. The Commission found that the arbitrary transfer of the complainant on her return from maternity leave constituted a detriment under s.14(2) of the SDA and was

therefore unlawful. The Commission determined that the respondent should pay the complainant \$5000 by way of compensation.

*Larsen v. RSPCA Northern Division (Tasmania)*

The complainant lodged a complaint with the Commission alleging that she was dismissed from her employment by the respondent because of her pregnancy in contravention of s.14(2) of the S DA. The respondent countered that pregnancy was not a factor in the complainant's dismissal, but that the reason given for the dismissal had been couched in terms of her pregnancy so as to make the decision more palatable.

The Commission found that although the respondent had been becoming increasingly dissatisfied with the standard of the complainant's work, pregnancy did play a part in the respondent's decision to dismiss her. The Commission declared that the respondent should pay the complainant \$1000 by way of compensation.

*Chilcott v. JPH Investments*

The complainant, a curtain seamstress, lodged a complaint with the Commission after she had been dismissed by her employer (the respondent). The complainant alleged that she had been dismissed because of her pregnancy in contravention of s.14(2) of the SDA.

The Commission found that pregnancy was not a factor in the dismissal but that the respondent, after having received a number of complaints from customers about the quality of the complainant's sewing, had dismissed her because of dissatisfaction with the standard of her work. The complaint was dismissed.

## **Promotional Activities**

The Commission recognises that public awareness of the provisions of the Sex Discrimination Act is of central importance if the Act is going to bring about substantial improvement in the status and position of Australian women. For this reason, much of the work involves the promotion of aspects of the Act which can further the position of women. For example, an important education campaign currently being undertaken concerns the superannuation issue mentioned above.

## **Young Women and Sexual Harassment**

In 1989 and 1990, the Commission undertook research into young women's awareness about sexual harassment and their rights under the Sex Discrimination Act. The research revealed that while there was a high level of concern about sexual harassment, there was a fairly low level of understanding of the remedies provided in the Act and a lack of preparedness to use the Act among young women.

A major public awareness campaign specifically targeted at young women between the ages of fifteen and twenty-five years was conducted by the Commission between July and September 1990. The campaign, known as the SHOUT! (for Sexual Harassment is OUT!) campaign, included advertisements in major national young womens' magazines, a series of radio announcements, a toll free telephone service (the SHOUT hotline); and a highly successful SHOUT kit - an information kit for young women about sexual harassment.

As well as young women, organisations were targeted in the this campaign, as managers within these organisations have a significant role (as well as legislative responsibility) in combating sexual harassment in their workplaces.

The campaign, which was highly successful as an awareness raising exercise, was nominated as a finalist in the highly prestigious New York Advertising Awards held in June 1991.

The hotline attracted a large number of calls during the campaign, with individuals making 50.4% of the calls, and organisations 49.6%. Of the individual callers, 34.7% said they had experienced some form of sexual harassment, with the most common location for this being the workplace. A significant increase in complaints of sexual harassment appears to have been generated by the SHOUT campaign.

## **Indirect Discrimination**

Indirect discrimination has been identified by the Commission as one of the major obstacles to achieving full equality for women in the workforce. This is because it involves treatment which appears to be neutral or simply 'common practice' but which may be discriminatory because it has an impact which is borne unequally by a particular group. This form of discrimination is 'facially neutral' and usually unintended and is therefore often overlooked.

The Commission recognises that the sex discrimination legislation has not been used effectively to combat indirect discrimination because it is a relatively new and misunderstood concept. Because of this, the Sex Discrimination Commissioner initiated a series of seminars on indirect discrimination in Sydney, Melbourne and Brisbane to inform legal practitioners, advocates, EEO officers and trade union representatives about this important area of discrimination.

The seminars have focused on explaining how Section 5(2) of the Sex Discrimination Act can be used to combat indirect discrimination against women in employment. Further seminars will be conducted in 1991-92. Papers from the 1990-91 seminars will be released in the near future as part of the Sex Discrimination Commissioner's *Occasional Papers* series.

## **Continuing Education Program**

In view of the response from organisations requiring information and materials about sexual harassment in the

workplace and the Commission's own assessment of an identified a need within industry for training in this area, the Commission is developing a training package for managers on sexual harassment in the workplace, as part of its Continuing Education Program funded by the NSW Education and Training Foundation.

A video is being produced to accompany the training package and which may also serve as a 'stand alone' video for distance learning. The video will also form part of SBS Television's *English at Work* series and will be screened at the end of 1991.

**Sex  
Discrimination  
Commissioner's  
Speaking  
Engagements  
1990-91**

- 5 Jul 90            *Launch of SHOUT! Sexual Harassment is Out Campaign*
- 10 Jul 90           *The Convention on the Rights of the Child, Children and the Law Seminar, Greek Community Centre, Brisbane*
- 30 Jul 90           *Race and Sex Discrimination: Issues in the 90s* Aboriginal Women's Resource Centre, Northern Territory
- 31 Jul 90           *Entering the Workforce* Northern Territory University, Casuarina Campus, Darwin
- Your Rights, Sexual Harassment and the SDA* Tardis Youth Drop-in Centre and Women's Information Centre, Northern Territory
- 1 Aug 90           *Australia's Obsession: Sport and Sex Discrimination* Address to mark Sixth Anniversary of the SDA, Darwin
- 2 Aug 90           *Women, Sport and the SDA* Northern Territory Women's Advisory Council, Alice Springs
- The Recognition of Women's Achievements* 1990 ZONTA Woman of Achievement Award, Alice Springs

- 3 Aug 90            *Sex and Race Discrimination: The role of HREOC* Migrant Resource Centre, Alice Springs
- 9 Aug 90            *Equal Employment Opportunity and Occupational Health and Safety Worksafe* Australia National Lead Forum, Sydney
- 10 Aug 90           *Union of Australian Women 40th Anniversary Conference*, Sydney
- 16 Aug 90           *Literacy: a Human Rights Perspective* Opening Address to Literacy Year Conference, Burnside
- 24 Aug 90           *Keynote Address to Civil Service Association Annual Conference*, Perth
- 16 Sep 90           *Speaking Out*, Warana Writers' Week, Amnesty International, Brisbane
- 5-7 Oct 90          *Adoption and Human Rights* Keynote Address at Fourth National Conference on Adoption, Canberra
- 8 Oct 90            *The Recognition of Women's Contribution to Society* Brisbane Boy's College Women's Association Meeting, Brisbane
- 10 Oct 90           *The SDA: Issues for Women Workers in 1990* Portfolio 6th Anniversary Breakfast, Melbourne
- 11 Oct 90           *Pornography and Sex Discrimination: Issues for the 90s* Australian Censorship Conference, Sydney
- 15 Oct 90           ILO Regional Seminars, Canberra and Sydney

- 23 Oct 90      *The Sex Discrimination Act at Work in the 90s* University of NSW Law School Speakers' Forum, Sydney
- 24 Oct 90      *Womens Health: Some Sex Discrimination Issues* Annual General Meeting, Family Planning Association, Queensland
- 24 Oct 90      Union of Australian Women 40th Anniversary Dinner, Brisbane
- 17 Nov 90      *Women, Sport and Sex Discrimination 1990* Convention of the NSW Basketball Association, Sydney
- 29 Nov 90      *The Federal Sex Discrimination Act: An Update for the 90s* UNAA Luncheon, Adelaide
- 30 Nov 90      *Medical Women & Sex Discrimination: An Historical and Political Perspective* Annual General Meeting, Medical Women's Society, Sydney
- 4 Dec 90      Multicap Dinner, Brisbane
- 11 Dec 90      Launch of *A Pastoral Report to the Churches on Sexual Violence against Women and Children of the Church Community* Royal Women's Hospital, Melbourne
- 14 Dec 90      *Sexual Harassment: The Shout Campaign* Zig Zag, Young Women's Organisation, Brisbane
- 15 Jan 91      *Women in the Third Millennium: Rights and Responsibilities* Keynote Address at the Triennial National Conference, Australian Federation of University Women, Launceston

- 18 Jan 91 International Women's Rights Action Watch Workshop on Leadership and Reproductive Rights, Vienna
- 25 Feb 91 Launch of *The Promise and the Price* by Clare Burton, Sydney
- 27 Feb 91 *Equality for Women in Sport* House of Representatives Standing Committee on Legal and Constitutional Affairs, Parliament House, Canberra
- 28 Feb-1 Mar Business Summit, Business Council of Australia, 1991 Sydney
- 7 Mar 91 *The Challenges of the 90s* International Women's Day, ABC Radio Luncheon, Hobart
- 8 Mar 91 *A Celebration: the Past, the Present and the Future* Business and Professional Women's Breakfast, International Women's Day, Launceston
- 5 Apr 91 *The SDA: Current Employment Issues* Annual General Meeting, Equal Opportunities Practitioners Association, Melbourne
- 18 Apr 91 *Women in Management* Technology Training Corporation, Melbourne
- 18 Apr 91 *Sex Discrimination and Sexual Harassment* Ericsson Seminar, Melbourne
- 24 Apr 91 *Discrimination in Employment against People with Mental Illness* Mindcare, The Queensland Mental Health Foundation, Brisbane

- 27-28 Apr 91      *Women in Decision Making* Monitor Money Symposium, Coolum, Queensland
- 6 May 91          *Equity Issues in Sport* Ministry of Sport and Recreation Seminar, Perth
- 8-10 May 91      *Women Sharing Together* North West Women's Association, Derby, WA
- 22-23 May 91     *Women and Employment: The Sex Discrimination Act* House of Representatives Standing Committee on Legal and Constitutional Affairs, Canberra
- 23 May 91        Occasional Address Deakin University Graduation, Warrnambool, Vic.
- 25 May 91        Opening Address Women's Health Expo, Nambour, Queensland
- 29 May 91        Occasional Address at Graduation Ceremony University of Western Sydney, Nepean
- 7 Jun 91          National Women's Consultative Council NGO Consultation re Australia's Second Report to CEDAW, Parliament House, Canberra
- 8 Jun 91          *International Links* Delivered at Triennial Conference of the National Council of Jewish Women, Queensland
- 19 Jun 91        *The Way Forward Using the Action* Keynote Address at evening seminar, Western Metropolitan Region, Melbourne
- 6 Jun 91          *Sex Discrimination and the Ethnic Communities* Delivered by proxy to the Ethnic Communities' Council of NSW, Sydney

## **Privacy Commissioner**

Kevin O'Connor, Australia's first Privacy Commissioner, was appointed on 1 January 1989 for a five-year term. He is a member of the Human Rights and Equal Opportunity Commission and is assisted by the Commission's staff in administering the Privacy Act 1988.

Before his appointment, Mr O'Connor had been Deputy Secretary in the Victorian Attorney-General's Department and Secretary to the Standing Committee of Attorneys-General. His background is in law and government, with particular emphasis on law reform and human rights issues. He graduated in Law from Melbourne University and holds Masters' degrees in Law from the Universities of Melbourne and Illinois.

## **Statement from the Privacy Commissioner**

*In 1990-91 the two original jurisdictions of the Privacy Commissioner (covering Commonwealth agencies and the use of tax file numbers) were joined by three more, relating to:*

- *the use of old convictions information (Crimes Act, 1914 Part WIC)*
- *the collection, use and disclosure of credit report information (Privacy Amendment Act 1990)*
- *responsibility for monitoring the increased use of tax file numbers for data-matching (Data-matching Program (Assistance and Tax) Act 1990.)*

*The privacy jurisdiction is on its face a procedural and technical one. The jurisdiction's complexity reflects the difficulty of setting the balance between individual claims to privacy and the reasonable information needs of the public and private sectors. The intensity of community interest in privacy issues was reflected during 1990-91 in the extent of parliamentary debate both in the chamber and in committees, as well as in media coverage and the strong response to advertising campaigns.*

*The link between information privacy protection and the wider field of human rights is sometimes overlooked, possibly because the information privacy claim is not expressed in the traditional language of anti-discrimination and equal opportunity. Yet there is a cogent case for the view that the right of privacy is the most basic of the human rights concerned with civil and political expression. Without respect for individual privacy, the personal and social circumstances needed to enable people to enjoy freedom of belief freedom of religion, freedom of speech and freedom of association may not develop. The strength of this view is reflected in the recent, vivid images of popular revolt against repression in Eastern Europe, where often the scene depicted was one of people wrecking the databanks and files of secret police agencies. While Australia is fortunate in having largely been free from oppressive forms of official surveillance, those images reinforce the view that the right to privacy is the platform for many other human rights.*

Much of the support for the Privacy Commissioner's function is provided by the Privacy Branch of the Commission. The work of the Commissioner and of the Branch are reviewed in greater detail in the Commissioner's separate annual report. The following report notes briefly some aspects of the work of the Privacy Branch; but tends to concentrate on the support provided by the other, more general branches of the Commission, in particular the Conciliation section (which handles complaints) and the Community Education and Promotion section. The sections of this report dealing with human resource issues, financial reporting and other annual reporting requirements complement the Privacy Commissioner's annual report.

## Policy Activities

### Information Privacy Principles (IPPs)

The Privacy Branch gives regular advice to a wide range of Commonwealth agencies concerning compliance with the IPPs, both in relation to existing practices and new policy proposals and legislation. In 1990-91 issues included:

- proposed administrative changes to the Pharmaceutical Benefits Scheme;
- re-issue of an enhanced Medicare card; and
- development and testing of a proposed Law Enforcement Access Network.

A further four applications from agencies for Public Interest Determinations (to grant waivers from one or more of the IPPs) were processed during the year. Three of these were determined and tabled in Parliament: two relating to disclosures by the Australian Federal Police, and one concerning disclosures by the Director of Public Prosecutions. Two Determinations, allowing disclosures which arose from applications by the DPP and the Department of Immigration, Local Government and Ethnic Affairs in the previous year, were also tabled and took effect in 1990-91.

The Commissioner published the 1989 *Personal Information Digest* for the Australian Capital Territory in September 1990 and prepared the second (1990) editions of the Commonwealth and ACT *Personal Information Digests*, as required by IPP 5, for publication in July 1991. The Commissioner also prepared advisory guidelines interpreting the IPPs and a Privacy Handbook containing all relevant reference material for issue later in 1991.

### Data-matching

The Privacy Commissioner released in October 1990 a discussion paper on *Data matching in Commonwealth Administration*, including a survey of current data-matching activity. An analysis of the responses was still in hand at the

year's end, with a view to forwarding recommendations to the Government later in 1991.

There was significant staff involvement in the development of 1990 budget proposals for data-matching, including five appearances before a Senate committee, and participation in the inter-agency steering group both before and after passage of the legislation.

A new section of the Privacy Branch based in Canberra was established to monitor the data-matching activity under the new Act and supervised the first data-matching cycle which took place in April and May 1991.

### **Medical Research Guidelines**

Further consultation took place on the interim guidelines issued by the National Health and Medical Research Council for the conduct of medical research, leading in June 1991 to approval by the Commissioner (under s.95 of the Privacy Act) of Guidelines to have effect until 30 June 1994.

### **HIV/AIDS and Privacy**

The Privacy Commissioner chaired further meetings of a working party under the National HIV/AIDS Strategy with a view to issuing a discussion paper later in 1991.

### **Tax File Number Guidelines**

The Privacy Branch continued its participation in the working parties sponsored by the Australian Tax Office on the implementation of Stage 2 of the TFN system relating to investment income. It also gave advice to numerous investment bodies and employers concerning the TFN guidelines.

The Commissioner published two Compliance Notes (1/90 & 2/90) explaining the privacy requirements in relation to collection of tax file numbers by investment bodies under Stage 2. Revised TFN Guidelines were drafted to take account of the extended use of the TFN authorised by the Data-matching Program (Assistance & Tax) Act and associated legislative amendments and consultation with relevant agencies. The revised Guidelines will be issued later in 1991.

## **Spent Convictions**

The Privacy Branch promoted the new protection available to people with old minor criminal convictions under Part VIIC of the Crimes Act. Promotional activities included the publication of a community leaflet and a Compliance Note (1/91) advising Commonwealth agencies of their responsibilities. Detailed discussions were also held with those agencies responsible for policy on public service recruitment and security checking to ensure future compliance with the spent convictions requirements.

## **Credit Reporting**

Following the passage of the Privacy Amendment Act at the end of 1990, intensive consultations were held with industry and consumer representatives concerning a Code of Conduct under s.18A(1) of the Act and related Determinations. A consultation paper containing a draft code was published in June 1991. The final code and other provisions of the Act will take effect in September 1991.

## **Compliance Activities**

During the year, a *Privacy Audit Manual* in two volumes, covering IPP and TFN auditing respectively, was finalised and published. It is now in use in internal audit departments in a number of agencies and offices of tax file number users.

The Commissioner's own audit program commenced in early 1991 and by the end of the year two audits of Commonwealth agencies and four of tax file number users in the private sector had either been completed or commenced.

A number of investigations were carried out during the year into allegations of interferences with privacy involving both tax file numbers and Commonwealth agency records, and appropriate action was taken.

Further details of compliance activities are contained in the Annual Report of the Privacy Commissioner.

All Privacy complaints are handled in the Commission's central office. During 1990-91, 66 formal complaints within jurisdiction were received under the Privacy Act. This represents a slight increase in comparison to last year when 59 complaints were received. There were 94 complaints which were judged to be outside jurisdiction of the Privacy Act and some 5,000 enquiries relating to the Act.

The majority of complaints continue to be lodged in relation to alleged infringements of the Information Privacy Principles, and the majority of those related to IPPs 10 and 11.

Sixty-one complaints (92%) concerned alleged breaches of the Information Privacy Principles, while seven related to alleged breaches of Tax File Number Guidelines. Three complaints concerned both an alleged breach of IPPs and of the TFN Guidelines.

Following amendments to the Crimes Act there has been provision under the legislation to accept complaints relating to Spent Convictions since July 1990, but to date no complaints have been received in this area. It is anticipated that there will

## **Investigations**

## **Complaint Investigation/ Resolution and Enquiries**

be a significant increase in the number of complaints received under the Privacy Act when provisions relating to credit reporting come into effect in September 1991.

Most privacy complaints have been resolved by conciliation or have been withdrawn during the investigation phase. To date only one complaint has been referred to the Privacy Commissioner to exercise his powers of determination. Conciliators in central office have successfully resolved 22 complaints during the year (37%). A number of these have resulted in changes of policy or practices by Federal agencies in relation to the handling of personal information.

## **Case Studies**

The following case studies indicate the different types of cases received under the Privacy Act and the types of outcomes achieved.

### **Case Study 1 - IPP 11 - Disclosure**

**A woman alleged that incorrect information** was disclosed by a Federal authority which provided a police record check as part of the recruitment process for the Australian Public Service.

During investigation, the authority acknowledged that incorrect information had been provided to the employing department as a staff member had misinterpreted the computer entry and had not checked this information with the relevant file. The matter was resolved with the respondent altering its procedures for supplying information to prevent a recurrence. The respondent wrote to the complainant explaining the situation and apologising for any inconvenience the incident had caused her.

## **Case Study 2 - IPPs 10, 11 - Use and Disclosure**

A man alleged that a Federal department had disclosed numerous details concerning his personal life to another person who had dealings with the department, without his knowledge or consent. The department was responsible for determining eligibility for certain illness related benefits and had included details from the man's file in correspondence sent to the other person, as the circumstances surrounding the benefit being claimed were perceived to involve similar issues.

When the matter was raised with the department, it acknowledged that there had been a breach of the Privacy Act. The department indicated that it had taken action to ensure that such a breach would not occur again. This included training sessions run by the department's privacy contact officer, and additional training for officers working in the area responsible for the breach. A circular alerting staff to the matter was issued throughout the department and a written apology handed personally to the complainant who was satisfied that the matter had been satisfactorily resolved.

## **Case Study 3 IPPs 8, 9, 10 Use and Accuracy**

A woman lodged a complaint against a Federal authority raising a number of issues concerning the use and accuracy of personal information relating to her. This included concerns that some reports made by the authority contained irrelevant information.

Following investigation, a conciliation conference was held and a lengthy agreement was reached which resolved the matter. The agreement included an acknowledgment of difficulties and delays that the complainant had experienced in dealing with the authority; an agreement to annotate various documents containing personal information to the satisfaction of the complainant; agreement that requests for further amendments would be processed quickly and copies of all corrected documents sent to the complainant; and the referral of a number of policy issues arising out of the complaint for further consultation between the authority and the Privacy

Commissioner. A commitment was also given by the authority to sympathetically review a decision it had made which may result in a substantial monetary payment to the complainant.

#### **Case Study 4 .IPP 11 .Disclosure**

A couple lodged a complaint against a Federal department concerning the release by the department of personnel and medical files under subpoena in relation to a court case. Intimate personal details were consequently released before a public court hearing.

Throughout the conciliation process the department maintained that it did not have the power to refuse to release the information which was the subject of the subpoena. A conciliation conference was held and the matter was resolved when the department agreed that in future it would advise persons whose records were the subject of a subpoena of that fact; that it would take steps to clarify the scope of 'crown privilege' with respect to certain records; and that it would examine the possibility of deleting certain classes of personal information from its records.

#### **Case Study 5 .TFN**

The Commission received a number of complaints from employees of a local government authority concerning the sorting and distribution of employees' group certificates. This included claims that in some instances group certificates were left on a desk in a bundle for employees to sort through and find their own with the potential for tax file number abuses. The complaints were about inadequate security of employees' tax file numbers.

The matter was raised with the authority and it agreed that in future all group certificates would be forwarded to various work locations in sealed, personally addressed envelopes and would

be distributed to the appropriate person by selected staff.

#### Case Study 6 .TFN

A woman lodged a complaint alleging that her tax file number had been duplicated by a Federal authority. The woman alleged that she had never received an anticipated refund cheque, although the authority claimed it had sent one and provided her with details of the payment. These details clearly related to someone else.

The authority conducted its own investigation of the matter and acknowledged that there had been an error resulting in the issuing of the same tax file number to two people with similar names. It allocated a new number to the complainant and indicated that the situation would not arise again because a new computer system was in place. The complainant advised that no further action was necessary.

## **Promotional Activities**

The Education and Promotion Section of the Commission again assisted the Privacy Commissioner in his promotional, education and training initiatives this year.

The Privacy Commissioner has a responsibility to promote the legislation for which he has responsibility and educate the community about aspects of it. Accordingly, considerable resources have continued to be devoted to these activities.

## **Public Awareness Campaign**

This year, the Commissioner focused his attention on increasing the general public's awareness about the Privacy Act. A national public awareness campaign - with special attention to women, the business sector, people of NESB and young people - to raise general public awareness of the Privacy Act, with

emphasis on the responsibilities of Commonwealth agencies and of individuals' rights, was conducted from June to September 1991. The campaign used four different newspaper advertisements which directed people to the toll-free Privacy Hotline number for more information. One advertisement was translated into ten different languages and placed in the ethnic press. Over 4,000 calls were received over the duration of the campaign.

The Commissioner decided to repeat the campaign in June 1991 in view of the commencement of the Tax File Number system in relation to interest income and the related public education campaign by the Australian Tax Office.

Newspaper advertisements featuring the toll-free Privacy Hotline number were placed in national newspapers commencing 29 June (and continuing into July). Three hundred and forty-four calls were received in the first week. In addition, posters were produced for display in the new 'Citylites' and 'Metrolites' (rear-lit billboards). Seventy-two sites in Sydney, fifty sites in Melbourne and twenty sites in Brisbane commenced displaying the posters at the end of June for a five-week period.

As part of this campaign, a five-minute infommercial on privacy laws was produced for distribution at the end of June through the Doctors' Television Network (DTV). DTV targets people in doctors' waiting rooms around Australia. The network has video machines operating in over 1,200 outlets and claims an audited audience of 4.2 million people monthly. Twenty thousand privacy pamphlets were also distributed through their outlets.

## **Community Awareness and Public Attitude Surveys**

In order to measure the effectiveness of the education and promotion strategies being employed, annual attitudinal surveys are conducted.

A follow-up survey was conducted in May this year to establish community awareness and knowledge of the Privacy Act and attitudes to related issues, and to report how they had changed since 1990. The research revealed that 'confidentiality of information held by organisations' is perceived as slightly more important now than it was a year ago. Ninety percent of those surveyed were quite concerned or very concerned about 'privacy of personal information'. Results showed that people were now more aware of the existence of privacy laws than they were twelve months earlier, while there was also an increase (4%) in the numbers of respondents aware of the Privacy Act.

While these results are heartening, work still needs to continue to further increase the public's awareness about the legislation and the functions of the Commissioner.

## **Publications**

The publications program continues to expand with the introduction of two new publications. *Can you Po/get Your Old Convictions?* and *New Protection for Consumer Credit Information* are plain English pamphlets explaining the new laws regarding old criminal convictions and credit reporting. Over 250,000 pamphlets were distributed this year to people inquiring about privacy laws.

## **Privacy Seminars**

To further inform the community about the new privacy laws, seminars for non-government organisations were conducted in

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Sydney, Melbourne and Brisbane in June 1991. These seminars aimed to provide community workers with sufficient knowledge about the privacy laws so they could better advise clients about basic rights under the legislation.

A seminar about the spent convictions and credit reporting legislation provided an opportunity for lawyers to gain information to assist them in advocating clients' rights.

## **Privacy Videos**

Production work continued on two new videos one targeting the general public about their rights and the other informing the business sector about their responsibilities. To ensure the relevance of these videos to each target group, special screenings were held for each sector to provide feedback. Comments gained from these consultations are now being incorporated into the final versions.

## **Continuing Education Program**

In addition to raising general public awareness about privacy legislation, the Commissioner is aware of the need to train industry generally about its responsibilities. To this end, the Commission was successful in receiving funding from the New South Wales Education and Training Foundation for the development of the *Privacy Principles: Protecting Your Business and Your Clients - Information Privacy Management* training package.

This program aims to update the existing Federal Privacy Act Training Package to include an industry component. It will feature rights and obligations under the Privacy Act as well as setting out a rationale for the voluntary adoption of information privacy principles as the basis for improved personnel management and customer service. This program, supported by key industry and union groups, is set within an award restructuring and Structural Efficiency Principle context and will commence early 1992.

## Privacy Commissioner's Speaking Engagements 1990-91

- 27 Jul 90      *Privacy in Medicine: Issues Old and New*  
Seminar, Melbourne University
- 1 Aug 90      *The Privacy Act: New Dimensions for*  
Public Administration Royal Australian  
Institute of Public Administration, ACT  
Division, Canberra
- 15 Aug 90      *Tax File Numbers: the Privacy Act and*  
Privacy Guidelines Institute of Chartered  
Accountants, Adelaide
- 16 Aug 90      *Privacy and Telecommunications* Telecom  
Privacy Seminar, Sydney
- 21 & 24 Aug 90 *The Relationship between the Cash*  
*Transaction Report Act and the Privacy Act*  
Cash Transactions Seminars, Sydney and  
Melbourne
- 6 Sep 90      *The Role of the Privacy Commissioner*  
Royal Australian Institute of Public  
Administration, Queensland Division,  
Brisbane
- 11-13 Sep 90      The Australian Audit Model Privacy Laws  
and Business Conference, Cambridge UK
- 17-19 Sep 90      *How to Perform the Supervisory Role of the*  
*Data Protection Commissioner* Data  
Protection Commissioners' Conference,  
Paris

- 20 Oct 90            *Newspapers and Privacy* Library Society Seminar, Sydney
- 1-2 Nov 90           *Identification Issues and Privacy: Recent Debate in Australia* Centre for Immigration Studies, Washington DC
- 19 Feb 91            *Privacy Act in Operation: Some Issues Relevant to Fraud Control* Australian Institute of Criminology, Canberra
- 6 Mar 91             *Credit Reporting Update* Credit Union Lawyers' Network, Melbourne
- 12 Mar 91            *Privacy Update* Records Management Association, Queensland Branch, Brisbane
- 18 Mar 91            *Privacy Amendment Act 1990: The Role and Responsibilities of the Privacy Commissioner* Current Affairs Study Centre, Sydney
- 19 Mar 91            *Privacy Laws and the Role of the Privacy Commissioner* Practical Anti-Discrimination Law Conference, Sydney
- 20 Mar 91            *Privacy Update* Records Management Association, ACT Branch, Canberra
- 21 Mar 91            *Privacy Amendment Act 1990: Role and Responsibilities of the Privacy Commissioner* Institute of Mercantile Agents, Melbourne
- 22 Mar 91            Same speech as above delivered to the Institute of Credit Management, Victorian Division, Melbourne
- 15 Apr and  
1 May 91            *Privacy: Recent Developments in the Law and Technology* Victorian and NSW

Societies for Computers and the Law,  
Melbourne and Sydney

- 22 and 24  
M a y 9 1      *Privacy Amendment Act 1990: Role and  
Responsibilities of the Privacy  
Commissioner* Australian Institute of Credit  
Management, South Australian Division and  
Northern Territory Branch, Adelaide and  
Darwin
- 13 and 19  
J u n e 9 0      Also to Queensland Branch and ACT  
Branch, Brisbane and Canberra
- 31 M a y 9 0      *Privacy in an Information Society* Monash  
University, Melbourne
- 14 J u n 9 0      *Ends and Means: Reconciling Privacy  
Protection with Government Objectives*  
Victorian Council for Civil Liberties  
Seminar, Melbourne

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## OTHER ACTIVITIES

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### Cooperative Arrangements with the States

During 1990-91 the Commission continued its cooperative arrangements with New South Wales, Victoria, South Australia and Western Australia for the performance on a joint basis of functions relating to human rights.

The main purpose of the cooperative arrangements is to minimise duplication in the provision of services by the Federal Commission and relevant State Government agencies (where such agencies exist). This concept has been referred to as 'one-stop shopping'.

As recorded in other parts of this report, the Commission has had discussions during the year with the Governments of Queensland, Tasmania, the Northern Territory and the ACT with regard to the joint administration of Federal and State/Territory anti-discrimination legislation when the relevant State/Territory legislation is passed.

An agreement was reached during the year between the Federal and New South Wales Attorneys-General for the ending of cooperative arrangements with New South Wales on 30 June 1991. The decision was based on the fact that, because HREOC's central office was located in Sydney, the concept of 'one-stop shopping' did not really exist in fact and the Commonwealth could achieve considerable cost savings by terminating the existing agreement.

Payments to the participating States under cooperative arrangements in 1990-91 were as follows:

- New South Wales  
(Anti-Discrimination Board) \$460,000

- Victoria  
(Commissioner for Equal Opportunity) \$324,000
- South Australia  
(Commissioner for Equal Opportunity) \$
- Western Australia  
(Commissioner for Equal Opportunity) 252,000

Total: \$1,262,000

Details of the State agencies' activities under the cooperative arrangements are contained in the annual reports of those agencies.

## **Non -Government Organisations**

The Commission continues to maintain strong links with non-government organisations (NGOs) with an interest in anti-discrimination or human rights. This includes groups who are the focus of access and equity initiatives under the Federal Government's Social Justice Strategy. By working in a cooperative manner with NGOs, the Commission endeavours to minimise the duplication of effort and resources, and share its skills and resources with the community sector.

Individual programs undertaken in cooperation with NGOs are reported under the separate portfolio headings in different sections of this report.

## **semilmin=smmossu Joint Projects**

With the adoption of program reporting under the four different Acts, discussions of joint projects undertaken by HREOC and various agencies or organisations throughout the year are contained in the different portfolio sections of this report. For example, the Commission's joint project with the Centre for Appropriate Technology (Alice Springs) is reported under the section on Race Discrimination and its joint projects with

NGOs in relation to disability and children's rights in the section on Human Rights.

## **Promotional Activities**

### **Human Rights Awards**

As mentioned earlier in this report, one of the major highlights of the Commission's year is Human Rights Week, celebrated in early December to commemorate the adoption by the UN General Assembly of the Universal Declaration of Human Rights on 10 December 1948. The annual Human Rights Awards which commenced in 1987 are now firmly established and in 1990 attracted a great deal of public interest.

The number of entries for both the Medal and Awards was quite overwhelming compared with the previous year. The eventual Human Rights Medallist, Professor Fred Hollows AC, was an extremely popular choice as his selfless devotion to basic human rights both in Australia and overseas is well known and widely respected. He was subsequently named Australian of the Year for 1990.

A total of thirty-six entries were received for the Human Rights Medal, which is given in recognition of a substantial contribution to the promotion and advancement of the rights of all people to live in a fair and just society. The other Awards for film, literature and other writing, and media, are given to those whose works are best considered to promote an understanding and public discussion of human rights issues in Australia. The table below lists the number of entries in each award category in bold with the 1989 figures in brackets.

MEDIA	LITERATURE AND OTHER WRITING	FILM
TV drama 9(2)	Prose 44 (23)	Feature/ documentary <b>11</b> (4)
TV doc/current affairs 29 (16)	Drama 12 (0)	
Radio doc/current affairs 30 (10)	Poetry 6 (0)	
Print newspapers (major metro) 22 (8)	Song writing* 29	
Print newspapers (regional)* 9		
Print magazines 17 ( <sup>3</sup> )		

\* New award categories in 1990

In view of the high standard of nominations, it was decided to issue, for the first time, Certificates of Commendation in recognition of outstanding nominees' achievement. The judges awarded 23 certificates over 11 categories and these are listed with the award winners below.

Eight judging panels were established to decide the winners of this year's Medal and Awards; a most difficult task in view of the very high standard of entries. The Commission was cognisant of the need to have a spread of human rights expertise across the judging panels to ensure that the diversity of interests and backgrounds of the entrants were represented. Aboriginal people, people of non-English speaking background, women and people with a disability participated on the judging panels.

The judges made the following awards:

### **1990 Human Rights Medal**

Winner: Frederick Cossum Hollows, AC

### **Poetry**

Winner: Lee Cataldi, *The Women Who Live on the Ground*

Highly Commended: Graeme Dixon, *Holocaust Island*

CATEGORY	JUDGES
Medal	Sir Laurence Street AC KCMG KST Pat O'Shane AM Stepan Kerkyarsharian Graham limes
Prose	Don Anderson Deborah Mills Rhoda Roberts
Drama and Poetry	Sue Beale Anne Cranny-Frances Chris Westwood Rosalind Richards Chris Puplick
Song Writing	Tim Finn Jonno Hawkes Annette Shun Wah
TV Drama & Documentary / Current Affairs	Dr David Milliken Bronwyn Ridgeway Voja Rajic
Radio Documentary / Current Affairs	Lester Bostock Janet Braithwaite Richard Palfreyman
Film	Phillip Adams AM Bill Bennett Margaret Pomeranz Sophia Turkiewicz

### **Drama**

Winner: Alex Harding, *Blood and Honour*

Highly Commended:

The Women's Theatre Group, *Is This Seat Taken?*

Sidetrack Theatre, *The Refugee*

### Prose

Winner: Mark Aarons, *Sanctuary! Nazi Fugitives in Australia*

Highly Commended:

(eds) Jack Davis, Steven Muecke, Mudrooroo Narogin and  
Adam Shoemaker, *Paperbark:*

*A Collection of Black Australian Writings*

Pealie O'Neill, *One of the Family*

**Film**

Winner: Trevor Farrant and Terry Charatsis,  
*Struck by Lightning*

**Songwriting**

Winner: Archie Roach, *Took the Children Away*  
Highly Commended:  
Jimmy Chi and Kuckles, *Bran Nue Dae* (song)  
Building Bridges project

**Television Drama**

Winner: Lynne Hegarty, *How Wonderful* (Film Australia)  
Highly Commended:  
Australian Children's Television Foundation, *Boy Soldier*

**Television Documentary**

Winner: Richard Mason, *Breaking Through* (Alfred Road Films)  
Highly Commended:  
Nicholas Adler and Caroline Sherwood, *Savage Indictment*  
Four Corners, *Hurting Inside* (ABC TV)

**Radio Documentary/Current Affairs**

Winner: Michael Mullins, *Disabled Lovers* (ABC Radio)  
Highly Commended:  
Alan Austin, *Spirituality, Dignity and Human Rights* (ABC Radio)  
Claudio Taranto, *Grandpa, Your Left Foot is Missing* (Radio National)

**Print Metropolitan**

Winner: Marion Frith, 'A Lifetime of Terror' (*Canberra Times*)  
Highly Commended:  
Rosemary West, 'Organ Donation: When a gift of life goes wrong' and subsequent articles in a series (*The Age*)  
Prue Innes, Series of articles (*The Age*)  
*The Independent Monthly*, for the commissioning of the series 'Aboriginalities'  
Commended:  
Four individual articles from the above series  
Christopher Anderson, 'Poor Billy Lost Among the Lawyers'

Mudrooroo Narogin, 'Welfare's Child'  
Steve Hawke, 'They of the Never Never'  
Steve Hawke, 'Diary of a Personal Note'

**Print . Regional**

Winner: Barry Levy, Collection of Articles (*Queensland Times*)

Highly Commended:

Paul Maguire, 'Human Rights Activities Battle for Mentally Ill'  
(*Newcastle Herald*)

Clare Morgan, 'Unveiling Islam' (*Newcastle Herald*)

**Print . Magazines**

Winner: Duncan Graham, 'Terror Australis' (*SMH Good Weekend*)

Highly Commended:

Anne Musgrave, 'Getting to Know the Women of Vietnam and Islam, Come and Get to Know Us' (*Ita Magazine*)

Lyndal Crisp, 'The Underclass' (*The Bulletin*)

## Database

In order to maintain good communication with the range of interest groups with which the Commission has contact, and to ensure an effective distribution of its publications, a comprehensive database is important. As such, the Commission has commenced a review of its database and mailing list to make it more flexible and accessible. The review will also ensure that the Commission's publications reach a wide cross-section of the Australian community.

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**Program  
Structure and  
Corporate  
Management**

The commission appears as a program component in the Attorney-General's portfolio program structure.

In 1990-91 the Commission sub-divided its own program activities into the following program elements:

- Human Rights
- Race Discrimination
- Sex Discrimination
- Privacy
- Corporate Services
- Cooperative Arrangements with the States

Program activity and reporting (including financial reporting) for 1990-91 is based on this structure.

During the year, due to improvements in financial accounting systems, the Commission was able to partly disaggregate expenditure in the Corporate Services and Cooperative Arrangements programs to more accurately reflect the real cost of the other programs. In 1991-92 it will be possible to fully disaggregate these costs and consequently the program structure will be simplified as follows:

- Human Rights
- Race Discrimination
- Sex Discrimination
- Privacy

In this way, the full costs of administering the separate pieces of legislation will be revealed. It should, of course, be noted that administering the four separate pieces of legislation through a

single corporate entity provides considerable economies of scale and greater administrative efficiency. Save for the role of the Commission in corporate decision making and legislative requirements which give the Commission a specific role, no diminution of the independence of individual Commissioners in administering the legislation for which they are responsible results from this arrangement.

## **Impmas=n=mam Legislation**

The major legislation and regulations applicable to the Corporate Services Program include:

- *Public Service Act 1922*
- Personnel Management Manuals and Streamlining Guidelines
- Audit Act and Finance Regulations
- Freedom of Information Act

## **Objective**

The objective of the Corporate Services Program is the timely and efficient provision of corporate services to areas within the Commission. These services include:

- Financial Management
- Human Resource Management
- Accommodation and Services
- Purchasing and Travel
- Library Services
- Records Management
- Computer Support

## **Management Issues**

### **Corporate Management**

The Commission's corporate goals and direction are set by the members of the Commission meeting as a corporate body. The Commission's program structure is organised so that each Commissioner is responsible for the management of a specific program of activities and budget in his or her area of responsibility. Individual Commissioners report regularly to the Commission on their plans, strategies and program outcomes.

Integrated services such as complaint handling, legal services, library services, media and promotions services, and management services are grouped together under a single corporate services program, of which the Human Rights Commissioner, as executive head of the organisation, is the program manager. Commissioners are assisted by the Senior Executives in managing their programs.

The Commission's corporate plan is being revised and will be issued in early 1991-92.

### **Human Resources Management**

The *Public Service Act 1922* governs the Commission's staffing arrangements. The Commission's average staffing level for 1990-91 was 97.

During the financial year 1990-91:

- 18 new staff were permanently appointed to the Commission
- 14 new staff were promoted or transferred in from other APS departments
- 26 new staff were engaged as short-term temporary staff

- two employee-initiated permanent part-time proposals were approved
- 16 new positions were created
- 19 staff resigned/promoted/transferred out
- approximately 56 positions were advertised in the *Gazette* and the press.

The Commission's staffing profile within classification levels appears at Table 13; the staffing profile with regard to permanent or temporary employment appears at Table 14.

## **Post-separation Employment**

There were no cases of post-separation employment during 1990-91.

## **Human Resources Development**

The Commission recognises that a planned investment in Human Resource Development (HRD) is in the interests of its future strategic direction and that training and development play an important role in maximising the potential of its staff resource. A total of 473 staff days were devoted to training and development in 1990-91, which represents an average of approximately five days per staff member.

In 1990-91 the HRD Sub-Committee developed the Commission's first HRD Business Plan, and Studies Assistance Policy and Guidelines. The BIRD Sub-Committee also developed the Commission's Performance Appraisal Program (for the Senior Executive Service, Legal Officers and Senior Officers) which has been endorsed by the Public Service Commission.

In February the Commission acquired a HRD database to record staff attendance at training courses and seminars. This database also records skills, competencies and financial matters associated with HRD.

Staff of the Commission have access to a variety of formal and informal training and development opportunities. Comprehensive details of HRD activities are provided in the Commission's report to the Public Service Commission and therefore are not duplicated here. Copies of that report are available from the Commission on request. The more significant issues covered in the report are discussed below.

### **Formal Training Courses**

Courses such as presentation skills, supervision, time management, negotiation skills etc. were attended by staff. These courses were conducted by various organisations including the Attorney-General's Department, the Public Service Commission and the NSW Joint Agency Training Committee. In addition, the Commission runs in-house training courses on such topics as legal research and negotiation skills, as well as seminars for conciliators at which experts in various fields present sessions.

### **Computer Training**

Staff are offered a variety of computer training courses conducted internally and externally. The Computer Support Officer provides training in-house for staff on a variety of computer-related matters.

Due to the conversion of the Commission's word processing system to WordPerfect, the majority of staff received training in this system. Training in keyboard skills was also provided. Staff attended other external, specialist computer skills courses, including desk top publishing and introduction to spreadsheet applications.

### **Law, Policy and Conciliation**

Several legal and para-legal organisations provide continuing legal education, often through courses which give academic accreditation for the participants. To further the aims of multiskilling, staff from the Policy/Research and Conciliation sections attend these courses as well as legal staff.

**Service-wide Training**

These courses are generally sponsored by other Commonwealth agencies and provide training in such areas as administrative law, industrial democracy, financial and staff resource management skills.

**Seminars and Conferences**

Staff also attend work-related seminars and conferences which provide them with professional and technical development opportunities.

**Studies Assistance (Studybank)**

In 1991, approved studies assistance was given to eight staff members under the Studybank scheme. This was a significant increase over the previous year.

**Overseas Staff Exchange**

The Commission supports the concept of overseas staff exchanges which give its own staff the opportunity to learn at first hand the human rights experiences of other countries and to study different methodologies being used to promote human rights. Equally, the Commission welcomes working visitors from abroad and is pleased to share its own techniques.

There were no overseas staff exchanges during 1990-91, but it is expected that there will be at least one during 1991-92.

**Middle Manager Development**

The Commission is currently providing two six-month placements to officers participating in the Staff Development Interchange Program. Both participants are undertaking their placements in the Privacy Branch where they have the opportunity of developing their skills. The Commission also provided a placement to an officer participating in the Senior Women in Management Program (SWIM).

One staff member of the Commission is participating in the Action Management Program. This program is partly funded under the Public Service Commission's Middle Manager Development Program.

### **Work Experience Placements**

A student from the New South Wales TAFE Library Practice Diploma course worked part time in the Commission's library as part of the required fieldwork for the course. Both the library and the student benefited greatly. Other shorter placements were given to library students.

## **External Consultants**

The Commission maintains a Register of Consultants to which it refers when specific expertise is needed on a short-term or project basis. The register was established initially by advertising in all major press for expressions of interest from researchers and other specialist consultants who wished to be included. Expressions of interests are sought through public advertising annually. The Register is constantly being updated and individuals or firms who wish to be included can obtain registration forms from the Commission's central office or by telephoning (02) 229 7600.

A list of external consultants engaged by the Commission during 1990-91 is set out in Appendix 2.

## **Financial Management**

### **Financial Reporting**

Financial management and reporting has been carried out through the use of computer-based financial accounting systems. Program managers receive detailed monthly financial reports to improve the quality of decision making and financial management.

### **Financial Statement**

The Commission's Financial Statement for 1990-91 appears at Appendix 3.

The Commission's running costs form a consolidated budget from which allocations are made to the various program

elements. The present arrangements allow for maximum flexibility in the management of programs and program funds.

Figures 1, 2 and 3 show the breakdown of expenditure by program element, and by classification, and a comparison of expenditure by classification between 1989-90 and 1990-91. The increase in expenditure in 1990-91 came about as a result of additional functions given to the Commission.

Although much of the expenditure in the corporate services program relates to activities in other program areas, it was not possible in many cases in 1990-91 to disaggregate the exact costs to those programs. Hence expenditure in the corporate services program seems disproportionately large compared with the other programs. As mentioned earlier, this anomaly will be overcome in future.

Figures 4 and 5 indicate estimated expenditure by both program element and classification for 1991-92. The projected increases over 1990-91 are the result of the full year effect of the additional responsibilities given to the Commission.

#### **Purchasing Reform Update**

The Commission has adopted the new Purchasing Procedures issued in April 1990 by the Attorney-General's Department. The comprehensive procedures address a wide range of purchasing situations, allowing managers to be flexible when making purchasing decisions whilst still complying with current Government policies.

#### **Performance Evaluation**

The Portfolio Program Performance Statement which is included in the *Budget Papers* series contains comprehensive information on the Commission's performance evaluation. The Commission has developed an Evaluation Plan for the three years 1990-91 to 1992-93. Evaluation of 1990-91 is currently being undertaken. The key result areas to be evaluated are:

- Public Inquiries and Research
- Public Awareness and Training Programs
- Complaint Investigation / Resolution and Enquiries

- 
- Cooperative Arrangements with State Government Agencies
  - Consultation and Cooperative Ventures with Relevant Non-Government Organisations
  - Advice, Guidance, Liaison and Training
  - Corporate Services

Evaluation techniques being employed include needs analyses, public attitude and awareness research, client surveys, statistical analysis and cost/benefit analysis. The Evaluation Plan is provided to the Department of Finance, so full details are not provided here. Copies of the plan are available from the Commission on request.

### **Evaluation**

Elliot and Shanahan Research won a tender to conduct attitude and awareness research in order to evaluate the effectiveness of the Commission's programs. The research was conducted during the period May to July 1991 and a follow up survey will be conducted in late 1991-92 and annually thereafter. Detailed results will be available early next financial year.

## **Management Information Systems**

The financial year 1989-90 saw a rapid expansion of the Commission's computer system and associated technical support services and staff training. The year under review has seen an improved utilisation of the many facilities now available, including records management, desktop publishing and financial accounting.

The Commission is currently reviewing the network capabilities of its computer system to ensure that it continues to effectively meet its needs. The review will take into account the growth in the computer system over the last few years and the future needs of the Commission in communicating internally and externally.

WordPerfect has been adopted as the standard word processing system within the Commission. The implementation of WordPerfect involved conversion of key documents and retraining of some 80 staff. The implementation has resulted in increased efficiency in the production of written material within the Commission.

## **Fraud Control**

The Commission has been assessed a low risk by the Fraud Control Committee of the Attorney-General's Department. The Commission continues to rely on internal controls to monitor and investigate fraud risk areas.

## **Industrial Democracy**

The Commission's philosophy on Industrial Democracy is that staff are more fully able to contribute to the efficient and effective operation of the Commission, and enjoy a better quality of working life if they are involved in the decision-making process, and that in this way the Commission can provide a more effective service to the public. The Commission is therefore committed to the involvement of its staff in that process through the industrial democracy procedures outlined below.

The Human Rights Commissioner is the Senior Executive responsible for Industrial Democracy matters within the Commission. The position of Director, Corporate Services has, as part of its functions, the responsibility of implementing industrial democracy principles and practices in the workplace. This responsibility is shared in a general sense by all staff of the Commission through the Consultative Council process.

### **Significant Achievements 1990/91**

The joint union/management Consultative Council (established in the previous financial year) met quarterly. The Council comprises equal numbers of union and management members, and regional office management and staff are represented.

The Industrial Democracy Plan was finalised following extensive consultation and agreement between management and the union. The plan was endorsed at the February 1991

Consultative Council meeting and at a subsequent Commission meeting. The Department of Industrial Relations has commended the Commission's plan as a model for other statutory authorities and agencies of similar size

A Policy on Union Membership was developed in conjunction with the union and distributed to all staff.

The following sub-committees and working party of the Consultative Council operated during 1990-91:

- Industrial Democracy Sub-Committee
- Work and Job Design Working Party
- Equal Employment Opportunity Sub-Committee
- Occupational Health and Safety and Accommodation Sub-Committee
- Human Resource Development Sub-Committee

In addition, the Commission has an Information Technology Advisory Committee which although not a sub-committee of the Consultative Council, includes union representatives. The achievements of these committees are described in the relevant parts of this report.

#### Consultative Mechanisms

Apart from the Consultative Council, which is the peak management/union consultative forum, there are a number of other consultative mechanisms in the Commission:

- Commission meetings, to which staff have input by way of discussion papers and whose Minutes, except for items of a confidential or sensitive nature, are made available to staff;
- senior staff meetings, where overall priorities and work programs are discussed, objectives and goals determined, and activities planned;
- Branch/Section/Regional Office meetings, where senior officers involve their staff in the process of developing individual programs, tailored to the relevant work area;

- Project/Work Group meetings, where planning, implementing and monitoring specific projects takes place;
- full staff meetings, where significant matters affecting all staff, whether union members or not, are discussed;
- Union meetings, where matters of industrial concern are discussed;
- periodical reports by senior staff, on progress within their areas as well as staffing/resource issues;
- a weekly Staff Notice, which informs staff of a wide variety of information including personnel matters and other items of interest.

### **Corporate Planning Processes**

All staff are given the opportunity to provide input to the corporate planning process. The present Corporate Plan is under review and branch and section heads and their staff are involved in the review process.

### **Special Issues Facing the Commission**

The Commission is characterised by its relatively small size (less than 100 ASL); its geographic spread, with offices in Sydney, Brisbane, Hobart, Darwin and Canberra; and a diversity of activities as can be seen from this report. These considerations require maximum flexibility in the Commission's operations to ensure that it is able to meet effectively the constantly changing environment in which it operates. Qualities of flexibility and multiskilling in its staff are of vital importance in meeting these challenges.

### **Major Priorities 1990/91**

The Commission's main industrial democracy priorities last year were the completion of the Industrial Democracy Plan, and the effective operation of the Consultative Council and its sub-committees; development of a monitoring and evaluation mechanism, and a review of the Corporate Plan. As outlined above, these objectives were met. In particular, the sub-committees reported to the Consultative Council on their progress and proposed future directions and a wide range of

matters were discussed at Consultative Council meetings. A review of information flows within the Commission was also commenced and an interim report made to the Consultative Council. A Resource Manual has also been developed, copies of which will be issued to all staff early in 1991-92. The purpose of the manual is to assist new staff to familiarise themselves with Commission policies and procedures and to provide all staff with a reference manual in which a range of useful information will be kept. Copies of the resource manual may be obtained from the Commission on request.

### **Priorities 1991/92**

The major priorities next year will be to meet the targets in the Industrial Democracy Plan, i.e. to provide ID training for staff; increase union membership; finalise the review of information flows; and review the ID Plan, Consultative Council Charter, and Union Membership Policy.

### **Monitoring, Review and Evaluation**

The Consultative Council is charged with responsibility for monitoring, review and evaluation of the progress and effectiveness of Industrial Democracy in the Commission.

Indicators include productivity, industrial relations record and staff morale.

## **Occupational Health and Safety**

The Commission continues to place a high priority on occupational health and safety issues. Some of these issues are discussed below.

### **Accommodation**

The Commission undertook a fitout of additional office space in the American Express Building Sydney to accommodate the increase in staff numbers resulting from its additional responsibilities. The fitout was designed in accordance with

Commonwealth Occupational Health and Safety standards. Office design, ambient atmosphere and the use of ergonomic furniture have all been utilised to assist in the creation of a safe and healthy workplace.

### **Occupational Health and Safety (OH&S) Sub-Committee**

An OH&S Sub-Committee of the Consultative Council was established. This sub-committee met regularly and reported its progress and proposed future directions to the Commission's Consultative Council. The sub-committee undertook/coordinated the following activities:

- An interim OH&S Policy and Agreement was developed and endorsed by the Consultative Council and adopted by the Commission. This document will be revised in light of the OH&S legislation expected in September 1991.
- A workplace safety audit of Commission offices was conducted by the Attorney-General's Department's OH&S Officer. A number of recommendations were made and subsequently addressed by the sub-committee.
- A newsletter, outlining the sub-committee's activities to date, as well as literature on posture and ergonomics, was distributed to all staff.
- OH&S sessions for staff were conducted by the Attorney-General's Department's OH&S Officer. The sessions, which covered safe work practices and techniques to avoid eye strain, were well received by staff.

Two members of the sub-committee attended OH&S training and a session on the new legislation.

### **Staff Training**

The Commission has acquired OH&S videos which will be used for staff training.

**Smoke-free Work Environment**

This policy applies throughout Commission offices to both staff and visitors.

**Fire Safety**

The Commission's fire wardens attended further training sessions and a trial evacuation was held.

The Commission recycles office consumables (paper, toner cartridges etc) wherever possible. Energy usage is monitored regularly. Energy saving equipment is installed where appropriate.

The objective of the Commission's Equal Employment Opportunity (EEO) Program is to enhance equal opportunity to the point where it may simply be incorporated within the Corporate Plan and not (except for statutory requirements) be regarded as a discrete issue to be given an identity separate from other management issues.

**EEO Resources and Consultative Mechanism**

The Secretary of the Commission is the Senior Executive responsible for EEO within the Commission. The Personnel Manager has responsibility for EEO coordination and grievance handling within the Commission. In regional offices, day-to-day responsibility for EEO falls to the Regional Directors. The consultative mechanism for EEO is part of the Industrial Democracy process.

Within its resources, the Commission assists other Federal and State agencies, professional bodies and private companies with training on race, sex and disability discrimination; on cultural discrimination in the workplace; on EEO for managers; and with training for lawyers in conflict resolution.

**Environment****Equal  
Employment  
Opportunity**

The Commission has also produced a computer based training package (CBT) which explains the legislation and provides guidance on its practical application.

### **Statistical Data**

**Table 15** shows the Commission's proportion of EEO target group members in comparison with service-wide averages prevailing at 30 December 1990. Last year's Annual Report noted that the Commission's major EEO objective for 1990-91 would be to effectively use the EEO and ID sub-committees, and that the major issue would be the further development of an integrated office structure as a tool for the advancement of EEO.

### **Major Priorities 1990-91**

Major achievements during the year included:

- Two placements through the Commonwealth Rehabilitation Service including one placement which, if successful, will result in an appointment under the Intellectual Disability Access Program.
- Development of a Staff Selection Handbook, Temporary Performance (Higher Duties) Policy and Leave Without Pay Policy and Guidelines which will ensure equitable and consistent application of the relevant legislation and EEO principles and increase the awareness of staff regarding their entitlements.
- Development of a draft manual on the recruitment of staff with disabilities which will be finalised early in 1991-92.

### **Major Priorities 1991-92**

The Commission's priority for EEO next year will be to review the EEO Plan and meet the targets identified. EEO will be taken into account in the job redesign process currently being undertaken.

## **Access and Equity**

Access and equity is one of the major components of the Federal Government's Social Justice Strategy. It requires all departments and agencies to ensure that their services are equitable and accessible to all Australians, regardless of linguistic, cultural or distance barriers that may impede service delivery.

The Commission revised its Access and Equity Policy in early 1991. The revised plan will be published in the *Second Round Access and Equity Plan* of the Attorney-General's Department. The Commission has set itself a rigorous series of objectives to be met within specified timeframes. Many of these have already been achieved.

Among major access and equity initiatives already adopted by the Commission are the acceptance of enquiries and complaints in languages other than English, the provision of interpreters as required without cost to the client, and regular consultations with community groups representing Aborigines and Torres Strait Islanders, people of non-English speaking background, and people with disabilities. Initiatives currently under consideration for implementation include greater access to the Commission's resources by target groups through work placement and traineeship opportunities and more active recruitment and training of professional staff with bilingual and bicultural skills.

## **Library**

The retrospective conversion of the monograph lending collection onto the on-line catalogue was completed. Reader education sessions were held regularly for new staff on the use of the library. A session was also held on the use of UN documents.

The library is open to the public from 10.00 am to 4.30 pm by appointment for reference use only; a coin-operated photocopier is provided.

## Regional Offices

### Queensland

Queensland is a large and decentralised State, yet the year 1990-91 saw the most extensive program of visits to all regions in the State, including to isolated areas. Forty-two separate locations were visited, often on several occasions for conciliation purposes or in response to requests from particular communities. Other visits were initiated as part of the general community education program. As a result, public awareness of the role and functions of the Commission was significantly heightened and an increasing number of complaints were received.

One of the most significant announcements of the year was the Queensland Government's intention, made public in March 1991, to introduce anti-discrimination legislation. This will have far-reaching consequences for Queensland's residents and extend their ability to overcome barriers of discrimination. It is likely that the legislation will become operative before the end of 1991. Negotiations are underway for a cooperative arrangement between Queensland and the Commonwealth for the administration of the State legislation by the Commission.

With the introduction of Regulations under ILO Convention 111, considerable educational work has been done, particularly with State Government departments and authorities, concerning employers' responsibilities. It is evident that the introduction of the Regulations has caused State Government departments which had previously not implemented equal employment opportunity policies to review their policies and procedures prior to the requirements which the State legislation will undoubtedly introduce. In addition to meetings with numerous departments, some training courses have been conducted for senior management and staff of several departments. The Commission has been making a positive contribution to the State's progress in this area.

In response to continuing concerns about racism, particularly in north Queensland, the regional office embarked on a program

of establishing a number of Community Relations Committees whose function will be to promote good race relations within the local community. The Committees provide for the local community to take control of the issues and to foster more tolerance within communities of the differences between people so that negative racial stereotyping is avoided.

The first Committee was established at Mareeba, where Aboriginal and non-Aboriginal people have given a commitment to work together. The program overall represents a significant step forward in the strategy to provide long-term redress to the very significant racial problems which present themselves in far north Queensland. A Community Relations Committee has also been established at Mt Isa.

Complaints and enquiries comprise the bulk of the work undertaken at the regional offices. With a full complement of conciliation staff for most of the year, the Queensland office dealt with a steadily increasing complaint load throughout the year.

The Commission was involved in consultation with the trade union movement, particularly with the Women's Committee of the Trades and Labour Council and the Trade Union Training Authority's education program in relation to sexual harassment, equal employment opportunity and affirmative action. There is consequently a greater understanding of discrimination legislation within the Queensland trade union movement.

### **Tasmania**

The most significant influence on the work of the Tasmanian regional office this year was the large increase in complaints and enquiries, resulting partly from the extension of the grounds for discrimination in employment under ILO Convention 111. There was, however, also a considerable increase in complaints lodged under the Sex Discrimination Act. The major factor appears to be the growing awareness in Tasmania of the work of the Commission and an increasing public understanding of discriminatory practices and human rights generally.

This awareness has developed through media publicity, such as the SHOUT campaign relating to sexual harassment, and the considerable attention given to the signing and ratification by the Australian Government of the United Nations Convention on the Rights of the Child. Additionally, the Tasmanian office has placed considerable emphasis on community education, with a large number of educational seminars and speaking engagements taking place throughout the States with a wide range of government and educational institutions, community groups, non-government organisations and private industry.

The Commission's high public profile locally has been augmented by visits to Tasmania by the Human Rights, Race Discrimination and Sex Discrimination Commissioners, and events such as Human Rights Week 1990 which featured a number of well-attended events. With this degree of community contact and publicity, the increased public awareness and subsequent higher level of registered complaints are not entirely unexpected.

The increased workload was acknowledged with the creation of an additional permanent position of Project Officer in the Regional Office. A further staff initiative during the year saw the position of office manager become a shared position with two officers performing the duties for half a week each.

A matter of significance during the year was the announcement by the Tasmanian Government of its intention to introduce State anti-discrimination legislation. The legislation is currently still at draft stage, with community consultations taking place, and is expected to be introduced into the State Parliament before the end of 1991. Preliminary discussions have taken place with the Tasmanian Government on the form of a cooperative arrangement with the Commission to provide a joint office to administer the State and Federal legislation, thereby reducing duplication of services and confusion for clients.

#### **Northern Territory**

The Commission's regional office in Darwin continued to be a focal point throughout 1990-91 for the promotion of human

rights and anti-discrimination activity in the Northern Territory. In the absence of local anti-discrimination legislation, such as exists in most States, the Federal legislation administered by the Commission is of vital importance to Territory residents and the office continues to receive a large number of enquiries.

The number of formally lodged complaints is relatively low due, in large part, to the fact that many people (especially those of non-English speaking background) feel intimidated by the process. Additional factors are the size of the Territory and the isolation of many residents, some living in areas of the Territory which are inaccessible for months at a time.

To address these problems, the regional office has continued a vigorous community education program designed specifically to reach people in remote and isolated areas. Visits have been made to Tennant Creek, Katherine, Nhulunbuy and Jabiru; regular contact is maintained with Alice Springs. The office acknowledges the cooperation of other government agencies across the Territory in displaying Commission literature and referring enquiries to the Darwin office.

This year has seen a focus on the rights of people with intellectual disabilities, including a forum on information and advocacy for people with disabilities during Human Rights Week in December 1990.

Other activities in Human Rights Week were art displays and theatre performances on human rights issues. Displays were coordinated with other groups such as Amnesty International, the Office of Multicultural Affairs and the Migrant Resource Centre.

In August 1990, the Northern Territory Government tabled a 'Community Discussion Paper on Proposed Equal Opportunity Legislation' which was circulated widely throughout the Territory.

Community consultations were held and a working party formed to review submissions and assist with preparation of an issues paper for consideration by the Government.

The Commission was represented on the working party by a staff member of the Northern Territory Regional Office. It is expected that an Equal Opportunity Bill will be introduced in the Northern Territory Legislative Assembly in early 1992.

During the year the Northern Territory Government sought information and comment from the Commission on a range of legislative proposals including a draft bill on prostitution, aspects of testing for HIV, and the distribution of alcohol in the Territory. The Commission appreciated the opportunity to provide comment and was pleased to have been able to assist the Northern Territory Government in this way.

## **Freedom of Information**

The Freedom of Information Act extends the right of access of the Australian community to information in the possession of Federal Government agencies.

The Act requires agencies to publish information about their operations and powers affecting members of the public as well as manuals and other documents used in making decisions or recommendations affecting the public. It also requires agencies to provide access to documents in their possession unless the documents fall within an exception or exemption specified in the legislation.

Access to all documents in the possession of government is not possible as confidentiality must be maintained where necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom the information is collected. Complaints under the Acts administered by the Commission are subject to the confidentiality provisions of these Acts.

## Categories of Documents

The Commission maintains the following categories of documents:

### Administration

- Matters including personnel and recruitment, accounts, general administration files, documents and registers, registry and library records and indices.

### Conciliation

- Matters including the investigation, clarification and resolution of complaints.

### Legal

- Matters including legal documents, opinions, advice and representation.

### Research

- Matters including research papers in relation to complaints, existing or proposed legislative practices, public education, enquiries and other relevant issues.

### Operational

- Including files on formal Inquiries.

### Reference materials

- Including press clippings, survey and research materials, documents relating to conferences, seminars and those contained in the Library.

### Policy

- Including minutes of meetings of the Commission, administrative and operational guidelines.

The printed material which is available to the public has been listed in the publications section of each portfolio report and in summary form at Appendix 1.

### **Freedom of Information Procedures**

Initial enquiries concerning access to Commission documents should be directed to the FOI Officer by either telephoning (02) 229 7600 or by writing to:

The Secretary  
Human Rights and Equal Opportunity Commission  
GPO Box 5218  
SYDNEY NSW 2001

Facilities for examining documents and obtaining copies are available at the Commission's offices as follows:

Level 24, American Express Building  
388 George Street, SYDNEY 2000  
Telephone: (02) 229 7600

Ground floor,  
187 Melbourne Street, SOUTH BRISBANE 4101  
Telephone: (07) 844 6099

First floor, Randazzo Building  
80 Mitchell Street, DARWIN 0800  
Telephone: (089) 81 9111

Suite 4, Ground floor, The City Mill  
11-13 Morrison Street, HOBART 7000  
Telephone: (002) 23 8511

## **Annual Report Enquiries**

The Contact Officer to whom enquiries or comments about this report may be made is:

Assistant Secretary, Management  
Human Rights and Equal Opportunity Commission  
GPO Box 5218  
SYDNEY NSW 2001

This officer also receives suggestions for change or complaints about the operations of the Commission.



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## APPENDICES

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## **APPENDIX1**

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### **Publications**

#### **List of Publications**

##### **Human Rights**

###### *Pamphlets*

A Guide to Our Homeless Children  
National Inquiry concerning the Human Rights of People with  
Mental Illness

###### *Reports*

*Our Homeless Children* \$26.00

*Our Homeless Children; Their Experiences* \$5.00

###### *Occasional Paper*

*No. 1 - Papers on Schizophrenia & Human Rights*

###### *Posters*

Declaration of the Rights of the Child  
Declaration on the Rights of Disabled Persons  
A Treaty for Children - Convention on the Rights of the Child  
(set of 4)

United Nations Declaration on the Elimination of All Forms of  
Intolerance & of Discrimination based on Religion or Belief

## **Race**

### *Pamphlets*

Racial Discrimination Act, 1975

### *Reports*

#### *Toomelah Report*

*Aboriginal-Police Relations in Redfern*

*Evidence of Overseas Medical Practitioners in Australia*

\$5.00

*National Inquiry into Racist Violence in Australia* \$29.95 +

P&PI

*Provision of Health & Medical Services for Aboriginal  
Communities of Cooktown, Hopevale & Wujal Wujal* \$8.00

*A Study of Aboriginal Juveniles & Police Violence* \$5.00

### *Posters*

Racial Discrimination Act, 1975

## **Sex**

### *Pamphlets*

Sex Discrimination Act No. 1 - A Guide to the Law

SDA No. 2 - Sex Discrimination in the Workplace

SDA No. 3 - Sexual Harassment in the Workplace

SDA No. 4 The Rights & Responsibilities of Pregnant  
Workers

### *Booklets*

*Sexual Harassment - SHOUT Kit*

### *Reports*

*Insurance & the Sex Discrimination Act* \$8.95

### *Guidelines*

*The Rights & Responsibilities of Pregnant Workers - A Guide  
or Employers*

### *Occasional Papers*

- No. 1 - The United Nations in Public Profile: Quentin Bryce, Evatt Memorial Lecture*
- No. 2 - Address by Sex Discrimination Commissioner on Fifth Anniversary of the Sex Discrimination Act 1984*
- No. 3 - Sex Discrimination in Employment, 1989 Human Rights Congress*
- No. 4 - Ten Years of Convention on the Elimination of All Forms of Discrimination Against Women*
- No. 5 - Discrimination Against Women in the Lead Industry*
- No. 6 - Indirect Discrimination and the Sex Discrimination Act*

### *Posters*

SHOUT - Sexual Harassment is out (30cm x 42cm)

## **Privacy**

### *Pamphlets*

- Privacy No. 1 - Guide to the Federal Privacy Act
- Privacy No. 2 - Can You Forget your Old Convictions?
- Privacy No. 3 - New Protection for Consumer Credit Information
- Privacy No. 4 - Consumer Credit Information; What are My Rights?
- Privacy No. 5 - Consumer Credit Information What Industry Needs to Know

### *Kits*

Training Pack - including videos \$50.00

### *Reports*

*Personal Information Digest  
Annual Report 1989-90*

### *Posters*

The Federal Privacy Act - Protecting Your Privacy

## **General**

### *Pamphlets*

Your Guide to the HREOC

Conciliation & Complaint Procedures

HREOC - Summary of Responsibilities & Functions

### *Report*

HREOC *Annual Report 1989-90* \$19.95

### *Photocopies*

Human Rights

Convention on the Rights of the Child - Text Only

The Rights & Responsibilities of Pregnant Workers - A Guide  
for Employers

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## APPENDIX 2

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### Consultants Engaged 1990-91

Aboriginal Law Centre	Conduct fieldwork and research on Aboriginal / Police relations, research on Aboriginal juveniles in custody
Alston, Prof P	Prepare draft principles for National Inquiry Concerning the Human Rights of People with Mental Illness
Bizwiz	Prepare submission to National Occupational Health and Safety Commission re lead code and draft standard
Blunden	Advise on Industrial Democracy Plan
Brookman Media Services Pty Ltd*	Media adviser to the Commission
Centre for Appropriate Technology	Conduct project to determine the most appropriate methods of providing reliable water and sewerage services to remote Aboriginal communities
Coopers and Lybrand*	Conduct Tax File Number audits in the private sector
Craze, L	Act as Secretary to the National Inquiry Concerning the Human Rights of People with Mental Illness

Cunneen, C	Prepare two chapters for Report on National Inquiry into Racist Violence; research in relation to situation at Morn i ngton Island
Datalex	Develop prototype of Privacy workstation
A J Dever Pty Ltd	Provide legal advice re Cooktown project
Elliot & Shanahan*	Conduct community attitude and awareness survey re Privacy Act
Fieldhouse, A	Provide legal advice to the Commission
Gallagher, M	Collect evidence from Pilbarra region of Western Australia for National Inquiry into Racist Violence
Helen Mount Consultants	Advise re discrimination in employment, specifically of disabled people
Hendricks, E	Compile report on computer matching in North America
Jocarm Pty Ltd	Advise on Commission involvement with private sector
Keywood Education Centre	Facilitate Privacy Branch seminar
Mallesons, Stephen Jacques	Advise on HIV/Aids and Privacy
Markus, Dr A	Prepare paper on history of racist violence in Australia

McDonagh, M	Prepare paper in relation to the Privacy Handbook
Oxus Public Policy	Assist in preparation of the Report on National Inquiry into Racist Violence; provide policy advice on superannuation and insurance matters; provide advice on various management issues
Pearson, B	Provide legal advice to the Commission
Pettman, J	Prepare draft chapters for Report on National Inquiry into Racist Violence
Publicity Machine	Provide media services in relation to launch of the Report on National Inquiry into Racist Violence
Ross Sz. Hunt Consultancy Pty Ltd	Prepare draft chapters for the Report on the National Inquiry into Racist Violence; conduct research and provide policy and legal advice to the National Inquiry Concerning the Human Rights of People with Mental Illness
Simmons, W	Research and administrative support to the Homeless Children Inquiry
Tahmindjis, P	Provide legal advice to the Commission
The Research Team Pty Ltd	Assist with preparation of Annual Report and advise on access and equity policy
Tillett, Dr G	Prepare report on extremist groups in Australia; research and prepare draft

chapter on racist violence against people from non-English speaking backgrounds; conduct further research into racist violence against Arabic and Moslem communities

Vicserv	Coordinate consumer representatives' attendance at National Coalition Meeting
Vonaldy Pty Limited	Assist with staff selections; advise on information technology and security matters
Waters, N	Advise Privacy Commissioner on implementation of Privacy Act.

\*Denotes consultancies which were publicly advertised

The section of the report on Corporate Services provides a description of the Commission's policy with regard to hiring external consultants.

## List of Consultants by Categories of Purpose

### Research

Aboriginal Law Centre	6,000.00
Bizwiz	7,908.40
Centre for Appropriate Technology	41,850.00
Chris Cunneen	6,500.00
Michael Gallagher	3,000.00
Evan Hendricks	4,488.62
Dr Andrew Markus	2,000.00
Maeve McDonagh	2,000.00
Jan Pettman	4,000.00
Ross and Hunt Consultancy Pty Ltd	22,625.00
The Research Team Pty Ltd	4,200.00
Dr Greg Tillett	6,500.00
Total	111,072.02

### Policy

Prof Philip Alston	10,000.00
Geoff Blunden	3,585.00
Leanne Craze	9,000.00

Helen Mount Consultants	14,000.00
Jocarni Pty Ltd	20,000.00
Mallesons Stephen Jacques	5,823.50
Oxus Public Policy	18,500.00
W a r r e n S i m m o n s	47,085.33
Vonaldy Pty Limited	21,739.00
Nigel Waters	35,334.90
Total	190,067.73

### **Media and Promotion**

Brookman Media Services Pty Ltd	55,837.97
The Publicity Machine	6,133.00
Total	61,970.97

### **Privacy Audit**

Coopers and Lybrand	19,050.00
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### **Legal**

A J Dever Pty Ltd	5,000.00
Ann Fieldhouse	24,738.97
Barbara Pearson	16,194.80
Phillip Tahmindjis	18,300.00
Total	64,233.77

**Other**

Vicserv	2,500.00
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**Market Research**

Elliott & Shanahan	12,250.00
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**Training**

Keyword Education Centre	4,750.00
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Grand Total	\$465,894.49
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**Summary of  
Reporting  
Requirements**

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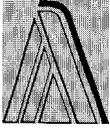
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## **APPENDIX 4**

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### **Financial Statement 1990-91**



our ref:

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
AUDIT REPORT ON FINANCIAL STATEMENT

In accordance with sub-section 50(1) of the Audit Act 1901, the Human Rights Commissioner has submitted for audit the financial statement of the Human Rights and Equal Opportunity Commission for the year ended 30 June 1991.

Sub-section 50(2) of the Act provides that the financial statement shall be prepared in accordance with financial statement guidelines issued by the Minister for Finance. Paragraphs 50(2)(a) and 50(2)(b) respectively, require the statements to set out:

- (a) particulars of the receipts and expenditures of the Consolidated Revenue Fund, the Loan Fund and the Trust Fund during the financial year in respect of the Commission, and
- (b) such other information (if any) relating to the financial year as is required by the financial statement guidelines to be included in the statement.

The parts of the financial statement prepared in accordance with paragraph 50(2)(b) of the Act are not subject to audit examination and report unless the Minister for Finance has declared that they are to be subject to full examination. At the date of this report the Minister had not made a declaration in respect of the Human Rights and Equal Opportunity Commission.

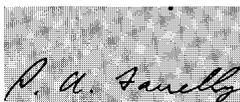
The parts of the financial statement prepared in accordance with paragraph 50(2)(a) of the Act which are subject to audit have been prepared in accordance with the policies outlined in Notes 1(a), 1(b) and 1(c). For the purposes of providing this report pursuant to sub-section 51(1), the statements have been audited in conformance with the Australian National Audit Office Auditing Standards which incorporate the Australian Auditing Standards.

In accordance with sub-section 51(1) of the Act, I now report that in my opinion:

the parts of the statement prepared in accordance with paragraph 50(2)(a) are:

in agreement with the accounts and records kept in accordance with section 40 of the Act, and

in accordance with the financial statement guidelines made by the Minister for Finance.



P. A. Farrelly  
Group Director  
Australian National Audit Office  
Canberra

5 December 1991

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

FINANCIAL STATEMENT

1990-91

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Certification of the Financial Statement	
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STATEMENT BY THE HUMAN RIGHTS COMMISSIONER

PRINCIPAL ACCOUNTING OFFICER

---

CERTIFICATION

We certify that the financial statement for the year ended 30 June 1991 in our opinion:

agrees with the Commission's accounts and records and, has been prepared in accordance with the disclosure requirements of the Financial Statements Guidelines for Departmental Secretaries issued in June 1991.

Signed Dated

Brian  
Burdek  
in  
Federal  
Human  
Rights  
Commissioner



Signed   
Dated 7 November 1991  
William Chapman  
Assistant Secretary  
Management

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
 AGGREGATE STATEMENT OF TRANSACTIONS BY FUND  
 FOR THE YEAR ENDED 30 JUNE 1991

This Statement shows aggregate cash transactions, for which the commission is responsible, for each of the three funds comprising the Commonwealth Public Account (CPA).

1989-90 ACTUAL \$		1990-91 BUDGET \$	1990-91 ACTUAL \$
CONSOLIDATED REVENUE FUND (CRF)			
<b>27,058</b>	<b>RECEIPTS</b>	<b>70,000</b>	<b>84,062</b>
Nil	Expenditure from Special Appropriations	Nil	Nil
<b>9,198,912</b>	Expenditure from Annual Appropriations	<b>10,645,000</b>	<b>10,652,773</b>
9,198,912	EXPENDITURE	10,645,000	10,652,773
LOAN			
Nil	Receipts	Nil	Nil
Nil	Expenditure	Nil	Nil
TRUST FUND			
Nil	Receipts	Nil	Nil
Nil	Expenditure	Nil	Nil

DETAILED STATEMENT OF TRANSACTIONS BY FUND  
FOR THE YEAR ENDED 30 JUNE 1991

CONSOLIDATED REVENUE FUND (CRF)

1989-90 ACTUAL \$	SUB- PROGRAM. 3.1.1	1990-91 APPROPRIATION \$	1990-91 ACTUAL \$
<hr/>			
7,692,863	EXPENDITURE FROM CRF		9,390,773
	Appropriation Act No 1	9,469,062	
	Appropriation Act No 4	416,000	
1,506,049			1,262,000
	Appropriation Act No 2	1,190,000	
	Appropriation Act No 5	<u>72,000</u>	
9,198,912		11,147,062	
	<u>Total Annual Appropriations</u>		<u>10,652,773</u>
<hr/>			
	Running Costs (177)		
2,990,858	- Salaries and Related Expenses	4,151,000	3,945,713
3,331,663	- Administrative Expenses	3,618,062	3,732,882
	Property Operating Expenses (177)	1,816,000	1,707,282
	Other Services		
	- Community Relations Strategy (177)	300,000	4,896
	Payment to or for the States and the Northern Territory		
	03 Payment under co-operative arrangements with the States (819)	<u>1,262,000</u>	<u>1,262,000</u>
<u>1,506,049</u>			
9,198,912	<b>Total Expenditure from CRF</b>	11,147,062	<u>10,652,773</u>
		BUDGET	ACTUAL
<hr/>			
OUTLAYS			
9,198,912	Total Expenditure from CRF	10,645,000	10,652,773
	Less Receipts to be Offset Within Outlays	<u>70,000</u>	<u>84,062</u>
<u>27,058</u>			
9,171,854	<b>Total Outlays From CRF</b>	<u>10,575,000</u>	<u>10,568,711</u>
<hr/>			
RECEIPTS TO CRF			
27,058	Section 35 Receipts	<u>70,000</u>	84,062
	Miscellaneous	<u>Nil</u>	<u>Nil</u>
27,058	<b>Total Receipts to CRF</b>	<u>70,000</u>	84,062

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION  
STATEMENT OF SUPPLEMENTARY FINANCIAL INFORMATION  
AS AT 30 JUNE 1991

This Statement (and related notes) has not been subject to audit.

1989-90 \$'000	Notes	1990-91 \$'000
CURRENT ASSETS		
Cash at Bank		
NON-CURRENT ASSETS		
233	Computer & Office Equipment	449
290	Plant c, Equipment	290
411	Furniture and Fittings	411
CURRENT LIABILITIES		
91	Creditors	339

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

NOTES TO THE FINANCIAL STATEMENT FOR THE YEAR ENDED 30 JUNE 1991

(These notes have not been subject to audit.)

NOTE 1

STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

- (a) The financial statement has been prepared in accordance with the 'Financial Statements Guidelines for Departmental Secretaries' issued by the Minister for Finance.
- (b) (i) The financial statement has been prepared on a cash basis with the exception of the Statement of Supplementary Financial Information which includes certain accrual-type information.  
 ) The financial statement has been prepared in accordance with the historical cost convention and does not take account of changing money values or, except where stated, current values of non-current assets.
- (c) Amounts shown in the Aggregate Statement of Transactions By Fund and the Detailed Statement of Transactions by Fund have been rounded to the nearest \$1; other amounts have been rounded to the nearest \$1000.
- (d) Non-current assets are valued at cost of acquisition. Minor assets having a unit cost less than \$2000 have not been accounted for in the Statement of Supplementary Information.
- (e) Inventories held as consumable stores are **brought** to account in the Statement of Supplementary Financial Information if the individual item value exceeds \$1000 and include goods and other property:  
 held for sale  
 other property or services for sale,  
 held as consumable stores.
- (f) Salaries, wages and related benefits payable to officers and employees of the Commission have not been accounted for in the balance of creditors in the Statement of Supplementary Financial Information.

NOTE 2

RUNNING COSTS (ANNOTATED APPROPRIATION 2.1)

The appropriation was annotated pursuant to Section 35 of the Audit Act 1901 to include the crediting of certain receipts.

The nature of the arrangement was that most receipts were fully retained by the COMMI71= to directly offset expenditure incurred. The total annotation for running costs in 1990-91 was 570,000. Total receipts collected were 4,062 all of which were deemed to be appropriated. \$78,000 was returned to the Commission an additional funds allocation. The annotated appropriation operated as follows:

Net ,Appropriation +	Receipts Deemed to be	Gross = Appropriation	Expenditure
\$	\$	\$	
(1)	(2)	(1) + (2)	
\$7,269,000	84,062	7,353,062	7,347,000

NOTE 3

FORWARD OBLIGATIONS

The Commission has entered into the following forward obligations as at 30 June which are payable as follows:

Item	Not later than one year	Between one and two years	Later than two years	Total
1'07 Capital	337			337
POE Current	1,677	1,677	1,677	5,031

NOTE 4

ACT OF GRACE PAYMENTS

No payments were made during the financial year 1990/91 pursuant to authorisation given under section 34A of the Audit Act 1901.

NOTE 5

WAIVER OF RIGHTS TO PAYMENT OF MONEYS

No payments were waived during the financial year 1990/91 under subsection 70C(2) of the Audit Act 1901.

NOTE 6

AMOUNTS WRITTEN OFF

No amounts were written off during the financial year 1990/91 under subsection 70C(1) of the Audit Act 1901.

NOTE 7

LOSSES AND DEFICIENCIES, ETC, IN PUBLIC MONEYS AND OTHER PROPERTY

There were no losses or deficiencies recorded during the financial year 1990/91 under Part XII of the Audit Act 1901.

NOTE 8

RESOURCES RECEIVED FREE OF CHARGE

During the 1990/91 financial year, a number of Commonwealth Departments and agencies provided services to the Office without charge. Expenditures for the services were met from those Departments' appropriations. The major services received include the following:

Attorney-General's Department

The arrangement and processing of payment of salaries and related expenses to the Commission staff including the final processing of claims for general administrative expenses.

Australian Audit Office

Auditing services as required by the Audit Act 1901 were provided to this office by the ANAO without charge. The ANAO has estimated the cost of these services to be \$35,000.

Department of Finance

The provision of accounting and budgetary services in the form of the computerised finance ledger and payroll services.

NOTE 9

NON-CURRENT ASSETS

During the period 1 July 1990 to 30 June 1991 the Human Rights and Equal Opportunity Commission expended \$181,203 on capital improvements.

APPENDIX: GLOSSARY OF TERMS

Act of Grace Payments: Section 34A of the Audit Act 1901 provides that, in special circumstances, the Commonwealth may pay an amount to a person notwithstanding that the Commonwealth is not under any legal liability to do

Administrative Expenses: Includes not just expenditure on office based activities but all operational expenditure (excluding salaries). The item includes both direct costs and overhead expenditure: it includes, inter alia, interest expenditure which is considered part of ordinary annual services; it does not include, inter alia, major capital expenditure, grants, loans or subsidies.

Annual Appropriations: Acts which appropriate moneys for expenditure in relation to the Government's activities during the financial year. Such appropriations lapse on 30 June.

Appropriation: Authorisation by Parliament to expend public moneys from the Consolidated Revenue Fund or Loan Fund for a particular purpose, or the amount of the expenditure (ie entitlements of entitlements) from the Commonwealth Public Account must be appropriated ie authorised by the Parliament. The authority for expenditure from individual trust accounts provided under the Audit Act 1901 or an individual trust account and specifying its purpose. See also 'Annual Appropriations' and 'Special Appropriations'.

Appropriation Act (No 1): An act to appropriate moneys from the Consolidated Revenue Fund for the ordinary annual services of Government.

Appropriation Act (No 2): An Act to appropriate moneys from the Consolidated Revenue Fund for other than ordinary annual services. Under existing arrangements between the two Houses of Parliament this Act includes appropriations in respect of new projects (apart from those funded under Special Appropriations), capital works and services, plant and equipment and payments to the States and the Northern Territory.

Appropriation Act (Nos 4 and 5): Where an amount provided in an Appropriation Act (No 1 or 2) is insufficient to meet approved obligations falling due in a financial year, additional appropriation may be provided in a further Appropriation Act (No 4 or No 5). Appropriations may also be provided in these Acts for new expenditure proposals.

Audit Act 1901: The principal legislation governing the collection, payment and reporting of public moneys, the audit of the Public Accounts and the protection and recovery of public property. Finance Regulations and Directions are made pursuant to the Act.

Commonwealth Public Account (CPA): The main bank account of the Commonwealth, maintained at the Reserve Bank in which are held the moneys of the Consolidated Revenue Fund, Loan Fund and Trust Fund (other than the National Debt sinking Fund).

Consolidated Revenue Fund (CRF); Loan Fund; Trust Fund: The three Funds comprise the Commonwealth Public Account (CPA):

CRF The principal working fund of the Commonwealth mainly financed by taxation, fees and other current receipts. The Constitution requires an appropriation of moneys by the Parliament before any expenditure can be made from the CRF. These follow two forms:

- (i) annual appropriations consisting of Supply Acts (nos 1 and 2), the Supply (Parliamentary Departments) Act, the Appropriation Acts (Nos 1-4) and the Appropriation (Parliamentary Departments) Acts (Nos 1 and 2) (the Supply Acts relate to the first five months of the financial year and are subsumed by the corresponding Appropriation Acts);

and

) Special or standing appropriations.

Loan Fund - Authority for its establishment comes from the Audit Act. All moneys raised by loan on the public credit of the Commonwealth are credited to the Loan Fund. Expenditures from the Loan Fund require an appropriation by Parliament and are limited to the purpose(s) for which moneys were originally raised as specified.

Trust Fund - Essentially comprises trustee funds (termed 'Heads of Trust') established under s.60 of the Audit Act (ie moneys held in trust for the benefit of persons or bodies other than the Commonwealth); trust accounts established under s.62A of the Audit Act (ie working accounts covering certain government agencies and certain other accounts in the nature of 'suspense accounts'); and trust accounts established under other Acts to meet future expenditure.

Payments into the Trust Fund may be by way of appropriation from the CRF or Loan Fund or direct credit of private moneys. Expenditure from the Trust Fund is appropriated for (and limited to) the specific purposes of each trust account, or head of trust, by the Audit Act or the Act establishing the trust account or head of trust. Unlike the used portion of annual appropriation trust account balances - as with 'special' or 'standing' appropriations - do not lapse at the end of the financial year.

Legal advice is to the effect that investments, and the liquidation of those investments, involve 'expenditure' and 'receipts' for the purposes of subsection 50(2) of the Budget Act and that the balances of the Trust, Fund should be reduced by the amount of investments outstanding at 30 June. In the interests of informative reporting, the financial statements have been designed so as to include explicit investment information. In particular, information concerning expenditure and receipts has been split as between investment and non-investment activities so as to provide 'notional' balances taking into account the value of the investments, and a 'cash balance after account is taken of investment transactions'.

Expenditure: The total or gross amount of money spent by the Government on any or all of its activities (ie the total outflow of moneys from the Commonwealth Public Account) (cf 'Outlays'). All expenditure must be appropriated ie authorised by the Parliament, (see also 'Appropriations'). Every expenditure item is classified to one of the economic concepts of outlays, revenue (ie offset within revenue) or financial transactions.

Financing Transactions: Relate to the raising and repayment of loan principal or transactions involving financial assets or liabilities (eg changes in investments or holding of cash). They represent the difference between outlays and revenue and hence involve the investment of Budget surpluses of the financing of Budget deficits. As such they are referred to as 'below the line' transactions. See also 'Appropriations classified as financing transactions'.

Forward Obligations: Obligations existing at 30 June which create or are intended to create a legal liability on the Commonwealth to provide funds in future years and which have not been exempted from the forward obligation system. In special circumstances, arrangements which do not create a legal liability, but which require forward obligations cover for effective program management, may also be included in the forward obligations system, eg memoranda of understanding with other Governments and foreign aid arrangements. The following items are exempted from the forward obligations 'systems':

all items classified in Appropriation Acts as Running Costs (ie salary administrative and operating expenses);

those items for which payment is authorised by special legislation where the amount and timing of payments are specified or clearly dictated by

eligibility criteria (ie most, but not all, Special Appropriations); and those items which have been exempted by the Minister for Finance as a result of specific case-by-case requests from departments.

Loan Fund: See 'Consolidated Revenue Fund'

Outlays: An economic concept which shows the net extent to which resources are directed through the Budget to other sectors of the economy after offsetting recoveries and repayments against relevant expenditure items. Outlays consist of expenditure net of associated receipt items. Outlays are 'above the line' transactions. The difference between outlays and revenue determines the Budget balance (ie surplus or deficit). See also 'Appropriations'; 'Appropriations classified as revenue'; 'Appropriations classified as financing transactions'; and 'Receipts offset within outlays'.

Receipts: The total or gross amount of moneys received by the Commonwealth (ie the Commonwealth Public Account). Every receipt item is classified to one of the economic concepts of revenue, outlays (ie offset within outlays) or financing transactions.

Receipts not offset within outlays: Receipts classified as 'revenue'. See also 'Revenue'.

Receipts offset within outlays: Refers to receipts which are netted against certain expenditure items because they are considered to be closely or functionally related to those items.

Revenue: Items classified as revenue are receipts which have not been offset within outlays or classified as financial transactions. The term 'revenue' is an economic concept which comprises the total net received from taxation interest, regulatory functions, investment holdings and government business undertakings. It excludes amounts received from the sale of government services or assets (these are offset within outlays) and amounts received from loan raised (these are classified as financing transactions). Some expenditure is offset within revenue eg refunds of PAYE instalments and the operating expenditure of budget sector business undertakings. See also 'Receipts'.

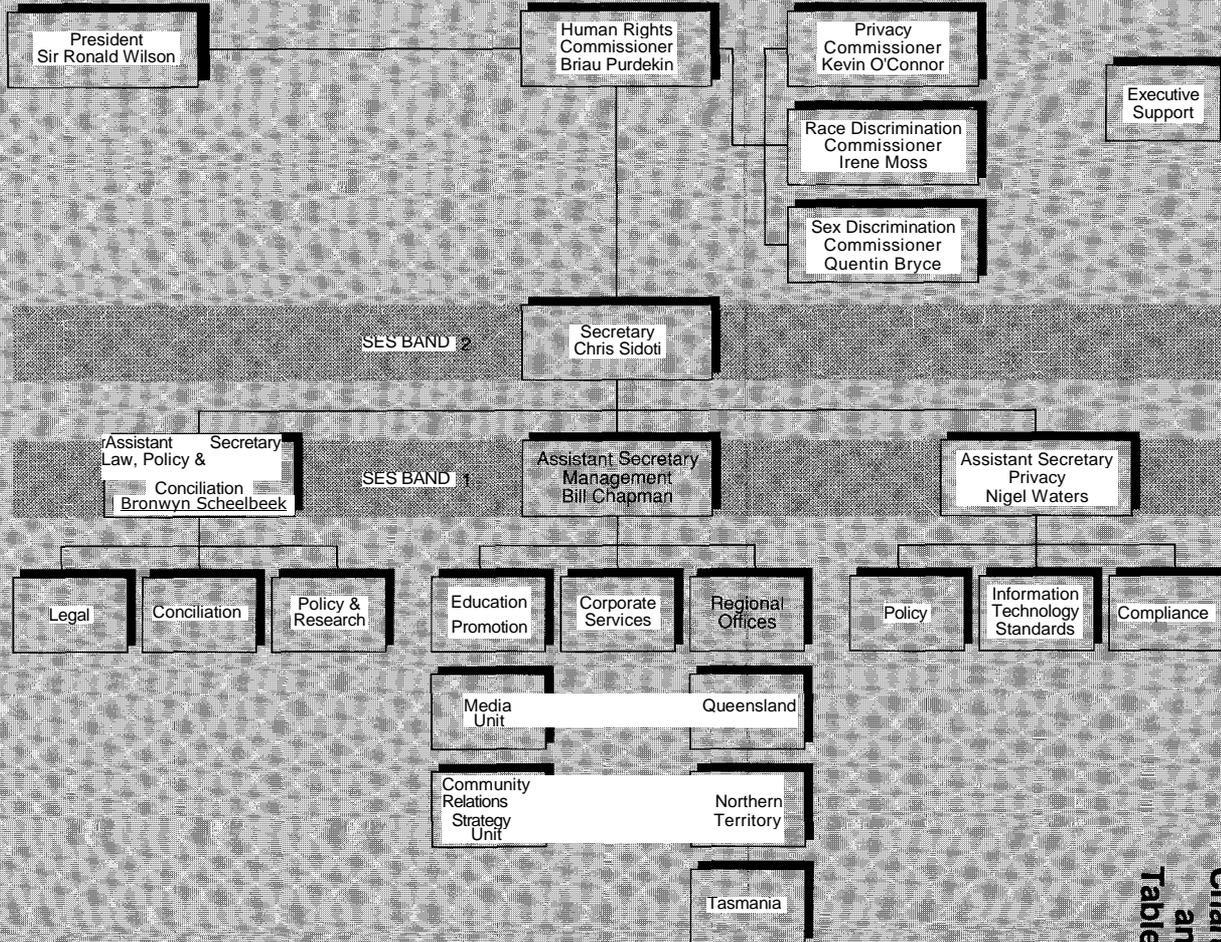
Special (Standing) Appropriation: Moneys appropriated by a specific Act of Parliament for a specific purpose (ie unemployment benefits, grants to States for schools). They may or may not be for a specific amount of money or particular period of time. Special Appropriations do not require annual spending authorisation by the parliament as they do not lapse at the end of each financial year. A distinction is something made between Standing and Special Appropriations. Standing Appropriations refer to an open-ended appropriation of the Consolidated Revenue Fund by the enabling Act of a legislatively-based program: the amount appropriated will depend on the demand for payments by claimants satisfying program eligibility criteria specified in the legislation. Special Appropriations can be regarded as somewhere between Standing and Annual Appropriations while a specified amount is provided, it is included in a Budget Bill authorising the particular program and can be specified for any number of years.

Trust Fund: See 'Consolidated Revenue Fund'.



ORGANISATION  
CHART as at 30 JUNE 1991

Human Rights and Equal  
Opportunity Commission



Charts  
and  
Tables

**Table 1****New complaints within jurisdiction received July 1, 1990 to June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tas</i>	<i>NSW</i>	<i>Vic</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
SDA	40	138	14			104	213	34	803
RDA	30	77	17		105	42	62	17	352
HREOC Act	135	58		18					216
Privacy Act	66								66
<i>Total</i>	271	273	36	-15	340	146	275	51	1437

**Table 2****Cases closed July 1, 1990 — June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tas</i>	<i>NSW</i>	<i>Vic</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
SDA	30	116	15	30	294	73	203	38	799
RDA	16	74	10	3	172	33	63	22	393
HREOC Act	95	52	7						159
Privacy Act	59								59
<i>Total</i>	200	242	32	38	466	106	266	60	1410

**Table 3****Outcomes of complaints closed July 1, 1990 to June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tas</i>	<i>NSW</i>	<i>Vic</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
Conciliated	76	105	15	32	208	47	186	17	686
Discontinued	92	92	12	1	165	18	56	16	45 <sup>7</sup>
Declined	17	1 <sup>7</sup>	2	1	47	15	13	7	114
Outside jurisdiction									13
Referred elsewhere								1	1
Referred for investigation by Commissioner									7
Referred for hearing	8	30				14		10	68
Report to Minister									
Other					44	1)			59
<i>Total</i>	200	242		38	466	106	266	60	1410

**Table 4****Breakdown of NUA complaints**

Employment	177
IREOC related	172
Misconceived	153
Sex related	141
Family law/legal system/justice	126
Race related	110
Miscellaneous	108
Privacy Act	94
Referred to other agency	93
State/Local Government	83
Immigration	53
Prisons	43
Police	16
Housing	15
Social Security	10
Disability	6
Age	5
Advertising	
Education	
Goods/services/places/facilities	
Overseas matters	
Sexual preference	
<i>Total</i>	<b>1418</b>

**Table 5****Complaints lodged under the HREOC Act July 1, 1990 to June 30, 1991**

	Central Office	Qld	NT	Tas	Total
<b>Relevant International Instrument</b>					
International Covenant on Civil and Political Rights	8	-	-	-	8
International Labour Organisation Convention 111	122	58	4	18	202
Declaration of the Rights of the Child	1	-	-	-	1
Declaration on the Rights of Disabled Persons	4	-	1	-	5
<b>Total</b>	<b>135</b>			<b>18</b>	<b>216</b>
<b>Area of Complaint</b>					
Employment	122	58			202
Immigration	4				4
Access to goods and services	3				4
Education	1				
Civil rights in general	5				
<b>Total</b>	<b>135</b>			<b>18</b>	<b>216</b>
<b>Category of Complainant</b>					
Males	91				144
Females	36	19			60
Group/organisation					4
Other					
<b>Total</b>	<b>133</b>			<b>18</b>	<b>144</b>
<b>Category of Respondent</b>					
Commonwealth authority	49	8		6	64
State		20			48
Other	59	30			102
Not recorded					
<b>Total</b>	<b>133</b>	<b>58</b>	<b>5</b>	<b>18</b>	<b>214</b>

Note 2 (Central Office complaints involved 2 international instruments and 2 areas of complaint)

**Table 6****Grounds of complaint under ILO 111**

<i>Ground</i>	<i>Central Office</i>	<i>Qld</i>	<i>Tax</i>	<i>NT</i>	<i>Total</i>
Age	57	14			
Medical record	10				16
Criminal record	15				
Impairment					21
Marital status					
Mental disability					
Psychiatric: disability					
Intellectual disability					
Nationality					
Sexual preference	5				6
Trade union activity					15
Religion					
Political opinion					
Race					
Sex		14			14
Physical disability	3	6	7		16
<i>Total</i>	131*	58	18	4	211

Several complaints covered more than one ground

**Table 7****Complaints lodged under the Racial Discrimination Act by area of complaint****July 1, 1990 to June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tas</i>	<i>NSW</i>	<i>Vic</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
Area of Complaint									
Land/housing/ accommodation									6
Access to goods and services, places and facilities	20	27			28	20	21		132
Employment	9	36			55	19	28	5	158
Advertising/media Incitement to unlawful acts	1				5		3		9
Education									
Other									14
<b>Total</b>	<b>35</b>	<b>75</b>	<b>15</b>		<b>98</b>	<b>49</b>	<b>54</b>	<b>17</b>	<b>357</b>

**Table 8****Complaints lodged under the Racial Discrimination Act by ethnicity of complainant****July 1, 1990 to June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tas</i>	<i>NSW</i>	<i>Vic</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
Complainant's Ethnicity									
Aboriginal	11	40	11	1	13	24	13	8	121
Non-English speaking background	1 <sup>1</sup>				49	13	33	3	135
English speaking background	4	5	3	1	43	5	13	5	79
Association	1	-			-				1
Not recorded	2	10						1	16
<b>Total</b>	<b>30</b>	<b>77</b>	<b>17</b>	<b>2</b>	<b>105</b>	<b>42</b>	<b>62</b>	<b>17</b>	<b>352</b>

**Table 9**

**Complaints lodged *under* the Racial Discrimination Act by category of complainant/respondent**

**July 1, 1990 to June 30, 1991**

	Central (Vice)	Qld	Ni'	Tar	NSW	Vie	Total		
(Category of complainant)									
Inclusive	12	27	9	2	42	31	25	5	153
Male	12	46	6	-	59	11	37	11	182
Group/organisation			2	-	4	-	-	1	8
IN, a recorded		4	-	-	-	-	-	-	9
<b>Total</b>	<b>30</b>	<b>77</b>	<b>17</b>		<b>105</b>	<b>42</b>	<b>62</b>	<b>17</b>	<b>352</b>

	Category of Respondent								
Commonwealth	14	4							11
State	3	17							
Other	13	56		31			59		
<b>Total</b>	<b>30</b>	<b>77</b>	<b>17</b>		<b>105</b>	<b>42</b>	<b>62</b>	<b>17</b>	<b>352</b>

**Table 10****Complaints lodged under the Sex Discrimination Act by category of complaint July 1, 1990 to June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tas</i>	<i>n SW</i>	<i>Vie</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
Category of Complaints									
Sex	10	37	2	10	63	39	52	26	
Sexual harassment	13	53	2	4	49	31	130		292
Sexual harassment									18
Marital status	5	9				7	16	5	69
Pregnancy	8	39	5	1	70	18	12	3	156
Other									29
<b>Total</b>	<b>40</b>	<b>138</b>	<b>14</b>	<b>25</b>	<b>235</b>	<b>104</b>	<b>213</b>	<b>34</b>	<b>803</b>

**Table 11****Complaints lodged under the Sex Discrimination Act by area of complaint July 1, 1990 to June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tas</i>	<i>NSW</i>	<i>Vie</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
Area of Complaint									
Employment	37	129	11	20	187	95	179	22	680
Accommodation/ land/housing									13
Goods/ services/facilities	2	5	3	1	28	7	19	11	76
Clubs							6		20
Commonwealth law programs									
Education									10
Other									4
<b>Total</b>	<b>40</b>	<b>138</b>	<b>14</b>		<b>235</b>	<b>104</b>	<b>213</b>	<b>34</b>	<b>803</b>

**Table 12****Complaints lodged under the Sex Discrimination Act by category of complainant/respondent****July 1, 1990 to June 30, 1991**

	<i>Central Office</i>	<i>Qld</i>	<i>NT</i>	<i>Tax</i>	<i>NSW</i>	<i>Vic</i>	<i>SA</i>	<i>WA</i>	<i>Total</i>
<i>Category of Complainant</i>									
Male	4	8			33	3	4	16	70
Female	35	129	12		102	101	209	17	728
Husband and wife									
Group/ organisation	1	1	2						5
<i>Total</i>	40	138	14	25	235	104	213	34	803
<i>Category of Respondent</i>									
Commonwealth	7	5	1	1	20	14	4	10	62
Other	33	133	13	24	215	90	209	24	741
<i>Total</i>	40	138	14	25	235	104	213	34	803

**Table 13**

**Commission's staffing profile within classification levels**

Classification NSW	61.4					107.4				
	Qld	Tas	NT	ACT	NSW	Qld	Tas	NT	ACT	Total
	MALES					FEMALES				
Commissioners	2	-	-	-	-	2	-	-	-	4
SES Band 2	1	-	-	-	-	-	-	-	-	1
SES Band 1	2	-	-	-	-	1	-	-	-	3
Legal 2	-	-	-	-	-	1	-	-	-	1
Legal 1	2	-	-	-	-	3	-	-	-	5
Senior Officer Grade B	3	-	-	-	1	2	1	-	-	7
Senior Officer Grade C	3	-	1	-	-	8	1	-	1	14
Sc iii or 'Professional' Grade C	-	-	-	-	-	1	-	-	-	1
ASOC6	3	1	-	1	-	12	2	-	-	19
AS005	2	1	-	-	-	5	-	-	-	8
ASOC4	2	-	-	-	-	6	-	1	-	9
ASOC3	3	1	-	-	-	10.4	-	1	1	16.4
ASOC2	2	1	-	-	-	9	2	-	1	16.3
ASOC1	2	-	-	-	-	1	-	-	-	

Note 1: Included: 2 Permanent part-time, ASOC3, female Tasmania

1 Permanent part-time ASOC3, female NSW

2 Temporary part-time ASOC2/AS005 female NSW

Note 2: SES Band 1 staff increased by 2 during 1991, 1 male, 1 female

Note 3: Included: 15 Temporary staff - 5 male: 4 in NSW; 1 in Old

10 female; 8 in NSW; 1 in NT; 1 in ACT

Table 14

Staffing profile with regard to permanent/temporary employment

Classification	NSW	Qld	Tas	NT	ACT	NSW	Qld	Tas	NT	ACT	Total	
	PERMANENT					TEMPORARY					M	F
Commissioners												
SES Band 2												
SES Band I												
Legal 2												
Legal I												
Senior Officer Grade B												
Senior Officer Grade C	11											10
Setriot/I Officer/ Grade C												1
ASOC6	15											14
AS005	6											5
ASOC4	7											7
ASOC3	10.4		11*									12.4
ASOC2												13
ASOC I												
<i>Total</i>	76.4					12					34	73.4

Notes: Included: 2 Permanent part-time, ASOC3 (F) =1  
 1 Permanent part-time ASOC3 (E)  
 2 Temporary part-time ASOC2/5 (F)  
 SES Band 1: Increased by 2 during 1991, 1 M, 1 F

**Table 15****Representation of EEO groups within classification levels as at June 1991**

<i>ASO CMs.vilication Equivalent</i>	<i>Total No. of Staff</i>	<i>Staff with I: 1-: 0 Data</i>	<i>Women</i>	<i>IN TSB!</i>	<i>NESB2</i>	<i>A TSI</i>	<i>PWD</i>
ASOC1-4	34	21 (62(4)	27 (90(40	3 (8.82%1	2 (a.88%)	1 (2.9(4)	(2.9(4)
AS005-6	27	18 (67%)	19 (7(44%)		2 (7.4(4)	1 (3.7%)	(7.4(4)
SOGC-SOGB including professional ST";	22	14 (64%)	15 (68.2%)	1 (4.5(s)	1 (4.5',4)	1 (4.5(4)	1 (4.5C;)
II 1.1)S 1&2	4	' (50(4)	1 (25%)		1 (25%)		
SES BAND 3 & ABOVE	4	1 (25(4 )	2 (50%)		1 (25(4)		
<i>Total</i>	91	56 (61.5%)	64 (7(1.3%)	4 (4.4g)	7 (6.6%1	3 (3.3%)	4 (4.4%)
Serv ice-wide average as at							
December 1990			45.6%	4.8%	7.5e/	1.2%	4.5%

**Table 16****Representation of EEO groups within occupational groups as at June 1991**

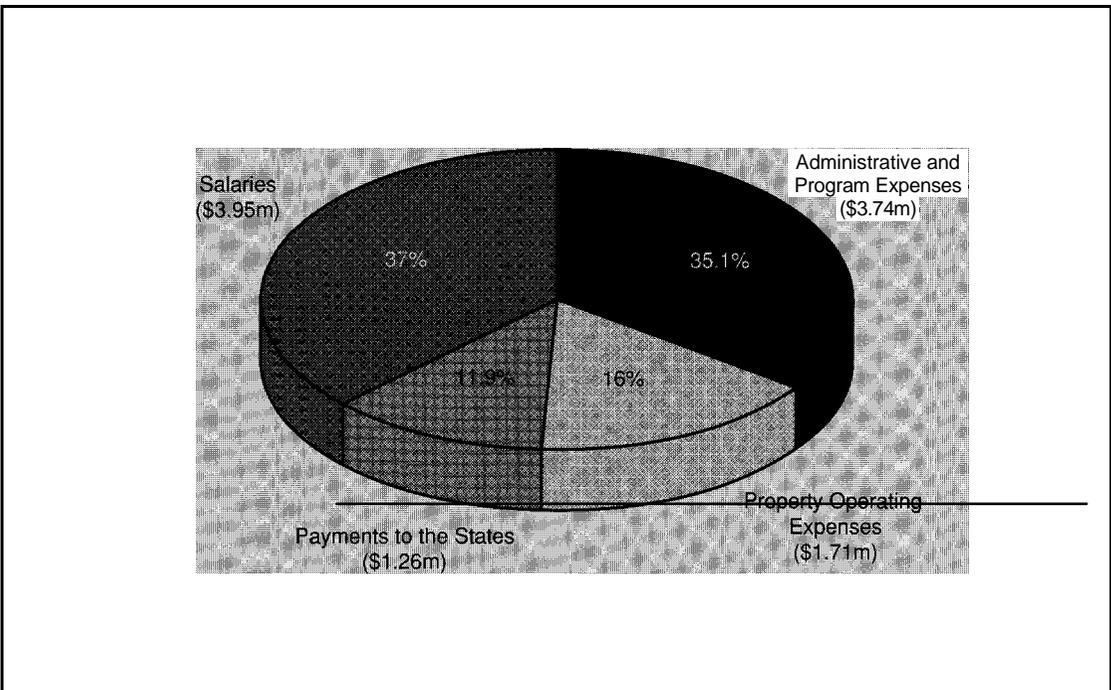
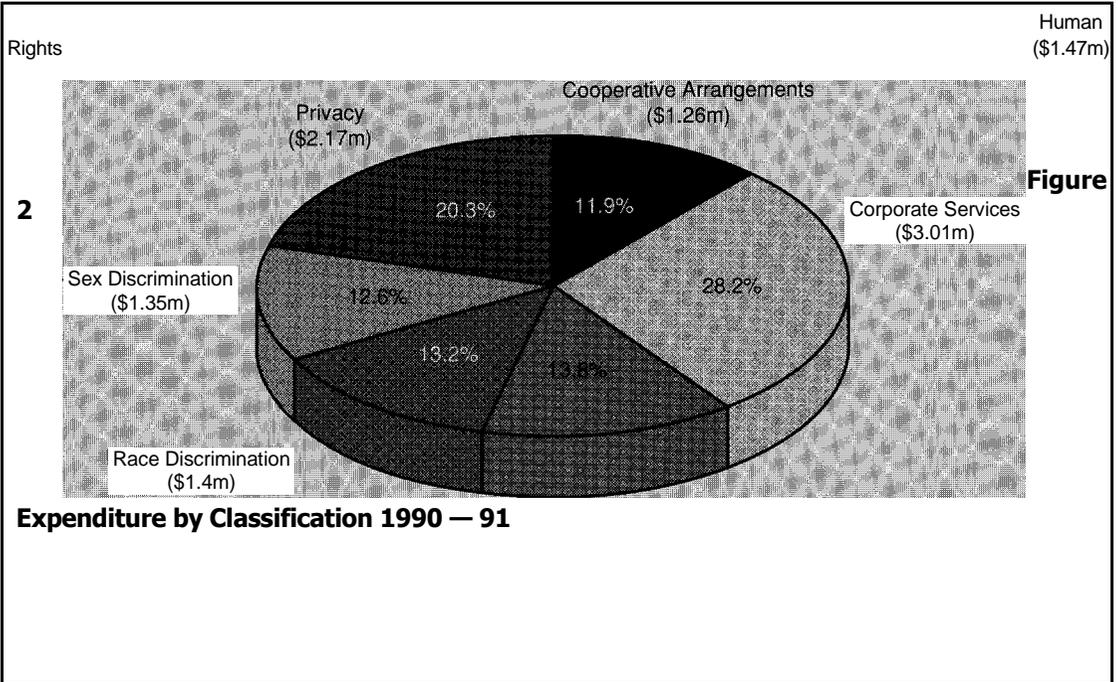
<i>Occupational Group</i>	<i>Total No. of Staff</i>	<i>Staff with EEO Data</i>	<i>Women</i>	<i>NESB1</i>	<i>NESB2</i>	<i>ATSJ</i>	<i>PWD</i>
SFS and Commissioners	8						
ASO and related	61	39	43				
Senior Officer	18	10	14				
Professional	4	4	4				
<i>Total</i>	91	56	64				

Notes: NESB1 Persons born overseas  
 NESB2 Australian born with parents born overseas  
 ATS1 Aboriginal and Torres Strait Islander  
 PWD Persons with a disability

Applies to both tables

Percentages for women based on total staff: percentages for other groups based on staff for whom 11110 data was available

**Figure 1**  
**Expenditure by Program Element 1990 —91**



**Figure 3**  
**Expenditure by Classification Comparison 1990— 91 with 1989 — 90**

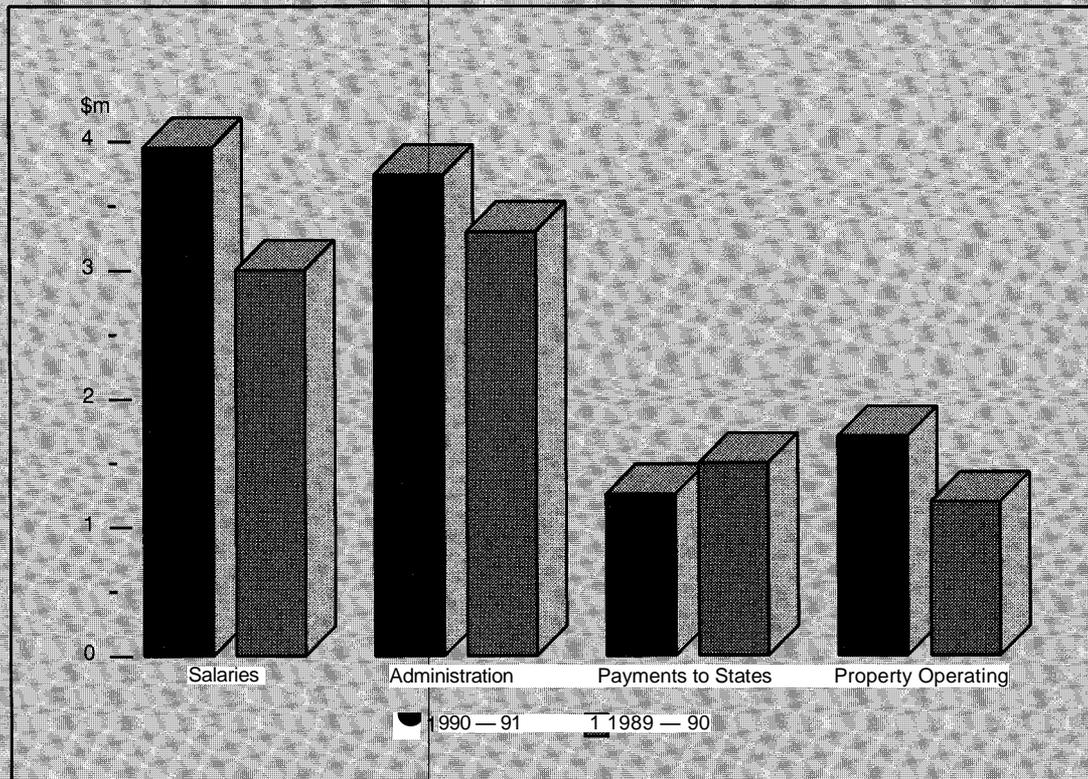


Figure 4  
 Estimate of Expenditure by Program Element 1991 —92

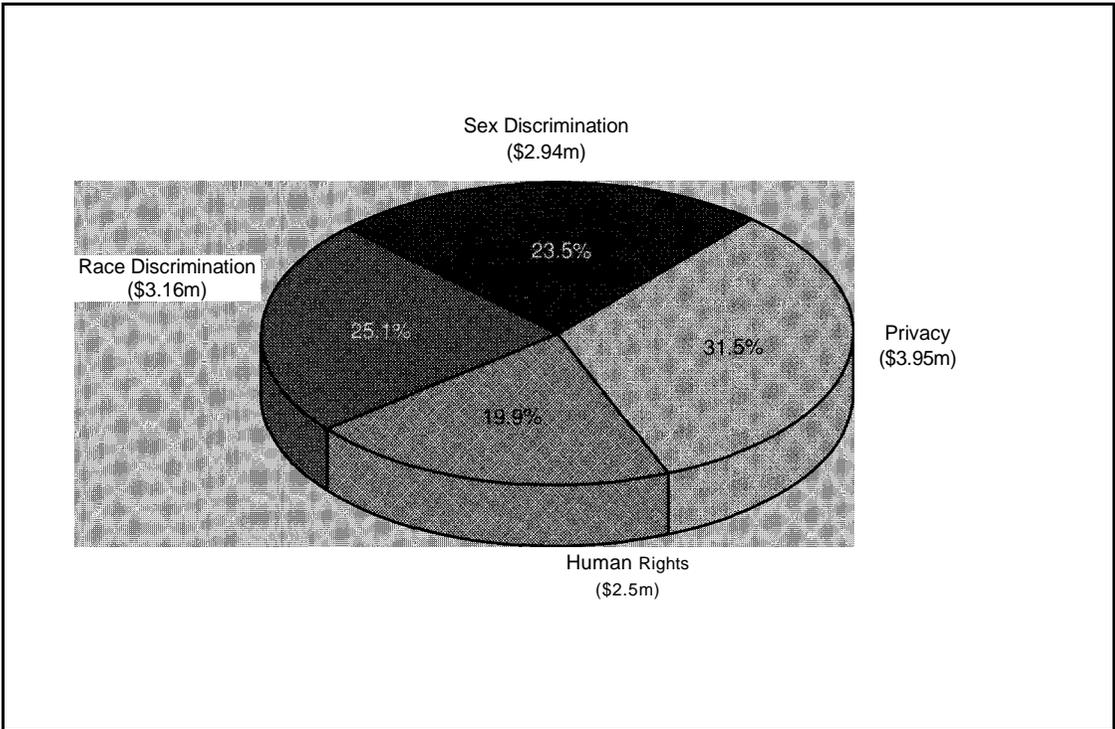


Figure 5  
 Estimate of Expenditure by Classification 1991 — 92

