

Chapter 1: *The Commission*

VISION

An Australian society in which the human rights of all are respected, protected and promoted.

1.1 MISSION

To provide leadership on human rights through:

- building partnerships with others
- having a constructive relationship with government
- being responsive to the community
- promoting community ownership of human rights.

To ensure that Australians:

- have access to independent human rights complaint handling and public inquiries processes
- benefit from human rights education, promotion and monitoring and compliance activities.

As an effective organisation, we are committed to:

- unity of purpose
- valuing our diversity and creativity
- the pursuit of best practice.

1.2 STRUCTURE

HREOC is a national independent statutory body established under the *Human Rights and Equal Opportunity Commission Act 1986*. It has a President and five Commissioners. The five positions are currently held by three persons. Please refer to the organisational chart on page 12 for further information.

1.2.1 President – The Hon. John von Doussa, QC

The Hon. John von Doussa was appointed President of the Human Rights and Equal Opportunity Commission (HREOC) on 1 May 2003 for a five-year term.

At the time of his appointment he was a Judge of the Federal Court of Australia, an appointment he had held since 1988. He was also the President of the Australia Competition Tribunal, a Presidential Member of the Administrative Appeals Tribunal and an Additional Judge of the Supreme Court of the Australian Capital Territory. From 1992 until shortly before his appointment he was also a part-time Commissioner of the Australian Law Reform Commission. From 1986 to 1988 he was a Judge of the Supreme Court of South Australia.

Before his appointment as a Judge he was a Queen’s Counsel practising mainly in South Australia, and had served terms as the President of the Law Society of South Australia, and Vice-President of the Law Council of Australia.

In 1996 he was awarded an Honorary Doctorate of the University of South Australia in recognition of his close involvement in the organisation and provision of practical legal training for newly qualified graduates in law in South Australia.

Since 1997 he has been a member of the Court of Appeal of Vanuatu. In 2003 he was appointed a non-resident member of the Supreme Court of Fiji.

On 26 July 2004 Mr von Doussa was appointed Chancellor of the University of Adelaide.

Mr von Doussa presently represents HREOC as a member of the International Coordinating Committee of National Human Rights Institutions based in Geneva, and is Deputy Chair of the Asia Pacific Forum of National Human Rights Institutions.

Mr von Doussa was appointed Acting Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination on 4 November 2006; an appointment extended until 10 September 2007.

1.2.2 Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination – Ms Pru Goward (until – November 2006)

The Hon. John von Doussa, QC (November 2006 – June 2007)

Journalist, broadcaster and commentator Pru Goward was appointed Federal Sex Discrimination Commissioner for a five-year term from 30 July 2001, and her term was extended a further three years in 2006. However, in November 2006 she took leave of absence, and in March 2007 resigned following her election as a member of the New South Wales Parliament.

Ms Goward has worked closely on issues of women’s rights for several years, heading the Federal women’s policy advisory unit, the Office of the Status of Women, from 1997 to 1999. She was appointed First Assistant Secretary of the Office, which reports directly to the Office of Prime Minister and Cabinet, after working as a national affairs journalist and political commentator for 19 years.

At the Office of the Status of Women, Ms Goward presided over the introduction of the first national program for the prevention of domestic violence, the largest program run by OSW, with a budget of \$50 million. She also oversaw the introduction of reform to superannuation laws for divorced couples.

Ms Goward completed an Economics degree with Honours from the University of Adelaide while teaching high school in Adelaide during the 1970s. She later tutored at the University while conducting Masters research. Over the past 10 years she has also run her own media management company, was a freelance newspaper and magazine columnist and a part-time lecturer in Broadcast Journalism at the University of Canberra.

Just prior to taking up the role of Sex Discrimination Commissioner, she was National Director of the Australian Property Institute. Ms Goward is also on the board of the John Curtin School of Medical Research and the Neuroscience Institute for Schizophrenia and Allied Disorders. She is Official Patron of the ANU Australian Rules Football Club.

The Sex Discrimination Commissioner has been nominated by HREOC as the Commissioner responsible for Age Discrimination.

The President, the Hon John von Doussa QC, was appointed Acting Sex Discrimination Commissioner when Ms Goward took leave of absence.

1.2.3 Aboriginal and Torres Strait Islander Social Justice Commissioner and acting Race Discrimination Commissioner – Mr Tom Calma

Mr Tom Calma was appointed as the Aboriginal and Torres Strait Islander Social Justice Commissioner for a five-year term on 12 July 2004. He has been appointed Acting Race Discrimination Commissioner on an annual basis since this time.

Mr Calma is an Aboriginal elder from the Kungarakan tribal group and the Iwaidja tribal group whose traditional lands are south west of Darwin and on the Coburg Peninsula in the Northern Territory, respectively. He has been involved in Indigenous affairs at a local, community, state, national and international level and worked in the public sector for over 30 years.

Mr Calma has broad experience in public administration, particularly in Indigenous education programs and in developing employment and training programs for Indigenous people from both a national policy and program perspective.

He served three terms as a Director of Aboriginal Hostels Ltd and as a Company Director for a private tourism and hospitality venture in the Northern Territory.

Until his appointment as Commissioner, Mr Calma managed the Community Development and Education Branch at Aboriginal and Torres Strait Islander Services (ATSIS) where he worked with remote Indigenous communities to implement community-based and driven empowerment and participation programs. In 2003, he was Senior Adviser Indigenous Affairs to the Minister of Immigration, Multicultural and Indigenous Affairs.

From 1995–2002, he worked as a senior Australian diplomat in India and Vietnam representing Australia’s interests in education and training. During his time in India, he also oversaw the management of the Australian international education offices in Pakistan, Nepal and Sri Lanka.

He moved to Canberra in 1992 and undertook various assignments, including Executive Director to the Secretary and Senior Executive of the Department of Employment, Education, Training and Youth Affairs.

In the early 1980s, Mr Calma and Indigenous colleagues established the Aboriginal Task Force (ATF) at the Darwin Community College (which later became the Darwin Institute of Technology), which provided second chance education programs for Indigenous people. He became a senior lecturer and head of the ATF for six years.

Mr Calma is a White Ribbon Ambassador for 2005–07 and National Patron of Wakakirri, the National Story Festival, which is Australia’s largest multi arts event.

1.2.4 Human Rights Commissioner and acting Disability Discrimination Commissioner – Mr Graeme Innes, AM

Lawyer, mediator and company director Graeme Innes was appointed as Human Rights Commissioner on 15 December 2005 for a five-year term. He has been appointed Acting Disability Discrimination Commissioner on an annual basis since this time.

A human rights practitioner for over 25 years, Mr Innes has worked in equal opportunity in NSW, WA, and nationally. He was Deputy Disability Discrimination Commissioner with the Commonwealth Human Rights and Equal Opportunity Commission from 1999 to 2005.

He has been a Member of the NSW Administrative Decisions Tribunal; the NSW Consumer, Trader and Tenancy Tribunal; the Social Security Appeals Tribunal; and a Hearing Commissioner with the Human Rights and Equal Opportunity Commission.

Mr Innes has been active in the disability field for 30 years. He was Chair of the Disability Advisory Council of Australia for four-and-a-half years. He was the first blind President of the Royal Blind Society of NSW, and the first Chair of Vision Australia, Australia’s largest national blindness agency.

Mr Innes has been one of Australia’s delegates to the World Blind Union, and the President of that Union’s Asia-Pacific region. He was also a member of the Australian delegation to the UN which developed the Convention on the Rights of Persons with Disabilities.

Mr Innes has been a consultant on disability issues to organisations such as Westpac, Qantas, and Sydney Water, and was a Councillor on Ku-ring-gai local Council.

In 1995 Mr Innes was admitted as a Member of the Order of Australia (AM) for his contribution to the development of Commonwealth disability discrimination legislation. He was a finalist for Australian of the Year in 2003.

1.3 LEGISLATION

HREOC is responsible for administering the following Acts:

- *Human Rights and Equal Opportunity Commission Act 1986*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Disability Discrimination Act 1992*
- *Age Discrimination Act 2004.*

Functions performed under these Acts are vested in HREOC as a collegiate body, in the President or individual members of HREOC or in the federal Attorney-General.

Other legislation administered through HREOC includes functions under the *Native Title Act 1993* performed by the Aboriginal and Torres Strait Islander Social Justice Commissioner. The Sex Discrimination Commissioner has functions in relation to federal awards and equal pay under the *Workplace Relations Act 1996*.

1.3.1 Human Rights and Equal Opportunity Commission Act

The *Human Rights and Equal Opportunity Commission Act 1986* established HREOC and outlines HREOC's powers and functions. Human rights are strictly defined, and only relate to the international instruments scheduled to, or declared under, the Act. They are the:

- *International Covenant on Civil and Political Rights*
- *Convention on the Rights of the Child*
- *Declaration on the Rights of the Child*
- *Declaration on the Rights of Disabled Persons*
- *Declaration on the Rights of Mentally Retarded Persons*
- *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*
- *Convention Concerning Discrimination in Respect of Employment and Occupation.*

1.3.2 Racial Discrimination Act

The *Racial Discrimination Act 1975* gives effect to Australia's obligations under the *International Convention on the Elimination of All Forms of Racial Discrimination*.

Its main aims are to:

- promote equality before the law for all persons, regardless of their race, colour or national or ethnic origin
- make discrimination on the basis of race, colour, descent or national or ethnic origin, unlawful
- provide protection against racial hatred.

1.3.3 Sex Discrimination Act

The *Sex Discrimination Act 1984* gives effect to Australia's obligations under the *Convention on the Elimination of All Forms of Discrimination Against Women* and certain aspects of the *International Labour Organisation (ILO) Convention 156*.

Its main aims are to:

- promote equality between men and women
- eliminate discrimination on the basis of sex, marital status or pregnancy, and family responsibilities
- eliminate sexual harassment at work, in educational institutions, in the provision of goods and services, accommodation and in the delivery of Commonwealth programs.

1.3.4 Disability Discrimination Act

The objectives of the *Disability Discrimination Act 1992* are to:

- eliminate discrimination against people with disabilities as far as is possible
- promote community acceptance of the principle that people with disabilities have the same fundamental rights as all members of the community
- ensure as far as practicable that people with disabilities have the same rights to equality before the law as other people in the community.

1.3.5 Age Discrimination Act

The objectives of the *Age Discrimination Act 2004* are to:

- promote equality before the law for all persons regardless of their age
- eliminate discrimination against persons on the ground of age in many areas of public life such as employment, education and the provision of services or facilities
- change negative stereotypes about older people.

1.4 FUNCTIONS AND POWERS

HREOC's responsibilities fall within four main areas:

- public awareness and education
- unlawful discrimination and human rights complaints
- human rights compliance
- policy and legislative development.

In order to fulfil its obligations, HREOC:

- Fosters public discussion, and undertakes and coordinates research and educational programs to promote human rights and eliminate discrimination in relation to all Acts.
- Investigates complaints of alleged unlawful discrimination pursuant to the Racial Discrimination Act, the Sex Discrimination Act, Disability Discrimination Act and the Age Discrimination Act, and attempts to resolve these matters through conciliation where appropriate. The President may terminate a complaint of alleged unlawful race, sex, age or disability discrimination if, for example there is no reasonable prospect of settling the complaint by conciliation or the complaint is lacking in substance. If a complainant, whose complaint has been terminated, wants the complaint heard and determined by the Courts they must lodge an application to the Federal Court of Australia or the Federal Magistrates Court within 28 days of a Notice of Termination issued by the President.
- Investigates acts or practices that may be contrary to a human right or that may be discriminatory pursuant to the Human Rights and Equal Opportunity Commission Act. If the complaint is unable to be resolved through conciliation and is not discontinued for other reasons the President may report on the case and make particular recommendations. The Report is tabled in Federal Parliament.
- May advise on legislation relating to human rights and monitor its implementation; may review 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; may examine any new international instruments relevant to human rights and advise the federal government on their consistency with other international treaties or existing Australian law; and may propose laws or suggest actions the government may take on matters relating to human rights and discrimination.

In order to carry out these functions HREOC is empowered under all Acts (unless otherwise specified) to:

1. Refer individual complaints to the President for investigation and conciliation.
2. Report to the government on any matters arising in the course of its functions.
3. Establish advisory committees.
4. Formulate guidelines to assist in the compliance by organisations and individuals of the requirements of human rights and anti-discrimination legislation and conventions.
5. Intervene in court proceedings involving human rights matters with the permission of the Court.
6. Act as *amicus curiae* (friend of the court) in alleged unlawful discrimination cases that are before the Courts
7. Grant exemptions under certain conditions (Age, Sex and Disability Discrimination Acts).

8. Conduct inquiries into issues of major importance, either on its own initiative, or at the request of the Attorney-General.
9. Examine enactments.

1.5 SPECIFIC FUNCTIONS OF THE PRESIDENT AND COMMISSIONERS

In addition to the broad functions outlined above, the President, the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Sex Discrimination Commissioner have specific responsibilities.

1.5.1 President

The President is the Chief Executive Officer of HREOC, responsible for its financial and administrative affairs. The President is also responsible for the complaint handling function of HREOC.

1.5.2 Aboriginal and Torres Strait Islander Social Justice Commissioner

The Aboriginal and Torres Strait Islander Social Justice Commissioner, under the *Human Rights and Equal Opportunity Commission Act 1986*, prepares an annual report on behalf of HREOC on the exercise and enjoyment of human rights of Indigenous people, and undertakes social justice education and promotional activities.

The Commissioner also performs separate reporting functions under the *Native Title Act 1993*. This includes preparing an annual report on the operation of the Act and its effect on the exercise and enjoyment of human rights of Indigenous people. The Commissioner also reports, when requested by the Minister, on any other matter relating to the rights of Indigenous people under this Act.

1.5.3 Sex Discrimination Commissioner

The *Workplace Relations Act 1996* gives the Sex Discrimination Commissioner the power to initiate and refer equal pay cases to the Australian Industrial Relations Commission.

1.5.4 Amicus Curiae

Section 46PV of the Human Rights and Equal Opportunity Commission Act gives HREOC Commissioners an *amicus curiae* ('friend of the court') function. The role of an *amicus curiae* is to provide special assistance to the court in resolving issues raised by the case and to draw attention to aspects of the case that might otherwise have been overlooked.

Under this function, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Disability Discrimination Commissioner, the Human Rights Commissioner, the Race Discrimination Commissioner and the Sex Discrimination Commissioner, may seek the permission of the Federal Court or Federal Magistrates Court, to assist the court as *amicus curiae* in the hearing of unlawful discrimination applications.

1.6 THE MINISTER

The Attorney-General, the Honourable Philip Ruddock MP, is the Minister responsible in Parliament for HREOC. He has a number of powers under the *Human Rights and Equal Opportunity Commission Act 1986*.

The most significant are:

- to make, vary or revoke an arrangement with states or territories 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 HREOC in relation to the performance of its functions. HREOC will, at his request, report to him on Australia's compliance with *International Labour Organisation Convention 111* and advise him on national policies relating to equality of opportunity and treatment in employment and occupation.

1.7 OUTCOMES STRUCTURE

HREOC has one outcome:

An Australian society in which the human rights of all are respected, protected and promoted.

There is one output for HREOC's outcome:

Australians have access to independent human rights complaint handling and public inquiries processes and benefit from human rights education, promotion and monitoring and compliance activities.

1.7.1 Resources for outcomes

Outcome 1: An Australian society in which the human rights of all are respected, protected and promoted

	Budget 2006–07 \$'000	Actual Expenses 2006–07 \$'000	Budget 2007–08 \$'000
Total Administered Expenses	–	–	–
<i>Prices of Department Outputs</i>	<i>17 911</i>	<i>18 545</i>	<i>19 094</i>
Output Group 1.1 – Australians have access to independent human rights complaint handling and public inquiry processes and benefit from human rights education, promotion and monitoring and compliance activities.	17 911	18 545	19 094
<i>Subtotal Output Group 1.1</i>	<i>17 911</i>	<i>18 545</i>	<i>19 094</i>
Revenue from Government (Appropriation) for Departmental Outputs	14 820	14 820	15 500
Revenue from other sources	3 091	3 725	3 594
Total Price of Outputs	17 911	18 545	19 094
<i>Total for Outcome 1 (Total Price of Outputs and Administered Expenses)</i>	<i>17 911</i>	<i>18 545</i>	<i>19 094</i>

	Actual 2006–07	Estimated Actual 2007–08
Staff years (number)	104	114