

Chapter 4

Complaint Handling Section

4.1 OVERVIEW OF THE WORK OF THE COMPLAINT HANDLING SECTION

The President of HREOC is responsible for the investigation and conciliation of complaints lodged under federal anti-discrimination and human rights law. Staff of HREOC's Complaint Handling Section (CHS) assist the President to investigate and resolve complaints. The CHS also provides information to the public about the law and the complaint process through the Complaint Information Service and a range of community education and training activities.

Complaint Information Officers within the CHS deal with telephone, TTY, post, e-mail and in-person enquiries from around Australia. Enquirers are often seeking information about whether they can lodge a complaint in relation to a particular situation they have experienced. Where the issue raised appears to be a matter that HREOC can deal with, the enquirer is provided with a complaint form or information about how to lodge a complaint via HREOC's on-line complaint facility. Where the issue appears to be outside HREOC's jurisdiction, enquirers are provided with contact details for other organisations that may be able to assist them. In 2007-08, 18 765 enquiries were dealt with by the Complaint Information Service. This is a 32 per cent increase in comparison with the average number of enquiries received over the past four years and a 13 per cent increase in comparison with enquiries received in the previous reporting period.

Investigation/Conciliation Officers within the CHS manage complaints that have been accepted by HREOC. In 2007-08 the CHS received 2 077 complaints. This is a 28 per cent increase in comparison with the average number of complaints received over the past four years and a 17 per cent increase in comparison with the number of complaints received in the previous reporting year.

The CHS aims to provide an efficient and effective complaint service. In 2007-08, the CHS exceeded all its stated performance standards, including those relating to timeliness of service, complaint outcome and service satisfaction.

In many cases, the investigation of a complaint involves the President writing to the person or organisation being complained about in order to obtain their version of events. Where it is considered appropriate, complaints then proceed to conciliation. In some cases, when a person or organisation is advised of the complaint, either verbally or in writing, they may indicate that they wish to try to resolve the matter straight away.

In some situations HREOC may also suggest that the parties consider conciliation very early in the process, for example, where the parties are in an ongoing employment relationship. In many cases, conciliation involves

the Investigation/Conciliation Officer facilitating a face-to-face meeting of the parties. Officers travel to various locations throughout Australia, including regional and remote areas, to hold these meetings.

Conciliation may also be conducted by other means. For example, officers may have telephone discussions with the parties and convey messages between them or hold a teleconference. If a matter is satisfactorily resolved, the complaint is withdrawn and closed. In 2007-08, 48 per cent of finalised complaints were conciliated and 74 per cent of complaints, where conciliation was attempted, were successfully resolved.

Where a complaint of unlawful race, sex, disability or age discrimination cannot be resolved through conciliation, the complaint is terminated. Complaints may also be terminated where the President is satisfied that an inquiry into the complaint should not be undertaken or continued because, for example, the complaint is lacking in substance or would be better dealt with by another organisation. Both parties to a complaint are advised in writing of the President's decision regarding a complaint. After a complaint is terminated, the complainant may apply to have the matter heard and determined by the Federal Court of Australia or the Federal Magistrates Court of Australia.

Complaints which allege a breach of human rights or discrimination under the Human Rights and Equal Opportunity Commission Act cannot be taken to court for determination. Where complaints under this Act have not been declined or resolved, and the President is of the view that the subject matter of the complaint constitutes discrimination or a breach of human rights, the President will report the findings to the Attorney-General for tabling in federal Parliament. Information on reports to the Attorney-General is available on HREOC's website at www.humanrights.gov.au/legal/HREOCA_reports.html

A diagram of the complaint process is provided at Appendix 4.

In summary, in 2007-08:

- 2 077 complaints were received;
- 1 883 complaints were finalised;
- 48 per cent of finalised complaints were conciliated;
- 93 per cent of complaints were finalised within 12 months of lodgement; and
- the average time from lodgement to finalisation of a complaint was 6 months.

4.1.1 Key performance indicators and standards

The CHS has developed key performance indicators and standards which form the basis for ongoing assessment of the complaint service. These indicators, and CHS performance in 2007-08 in relation to these indicators, are summarised below.

- *Timeliness* – the section's stated performance standard is for 80 per cent of complaints to be finalised within 12 months of receipt. In 2007-08, the CHS finalised 93 per cent of matters within 12 months. This is similar to figures for the previous four reporting periods. A detailed breakdown of timeliness statistics by jurisdiction is provided in Table 15.
- *Conciliation rate* – the section's stated performance standard is for 30 per cent of finalised complaints to be conciliated. In 2007-08, the CHS achieved a 48 per cent conciliation rate which is 10 per cent higher than the conciliation rate for the previous reporting period.

- *Customer satisfaction* – the section's stated performance standard is for 80 per cent of parties to complaints to be satisfied with the service they receive. In 2007-08, 93 per cent of surveyed parties reported that they were satisfied with the service and 64 per cent rated the service as 'very good' or 'excellent'. Further details of survey results for this reporting period are provided below.

4.1.2 Customer satisfaction survey

The CHS asks for feedback on aspects of the service from people lodging complaints (complainants) and people responding to complaints (respondents). This feedback is obtained by means of a customer satisfaction survey which is usually conducted by telephone interview. In 2007-08, 56 per cent of those who could be contacted (173 complainants and 216 respondents) agreed to participate in the survey. Survey results for this reporting year are summarised below:

- 93 per cent of complainants and 96 per cent of respondents felt that staff explained things in a way that was easy for them to understand;
- 92 per cent of complainants and 94 per cent of respondents felt that forms and correspondence from HREOC were easy to understand;
- 94 per cent of complainants and 82 per cent of respondents felt that HREOC dealt with the complaint in a timely manner; and
- 91 per cent of complainants and 94 per cent of respondents did not consider staff to be biased.

These results are generally equal to or above average results obtained over the past four years.

4.1.3 Service Charter

The CHS Charter of Service provides a clear and accountable commitment to service. It also provides an avenue through which complainants and respondents can understand the nature and standard of service they can expect and contribute to service improvement. All complainants are provided with a copy of the charter when their complaint is accepted by HREOC. Respondents receive a copy when notified of a complaint. The Charter of Service can also be downloaded from the CHS page of HREOC's website at www.humanrights.gov.au/complaints_information/charter_of_services/index.html

In 2007-08, HREOC received one complaint about its service under the formal complaint process provided in the Charter.

4.1.4 Access to complaint services

HREOC aims to facilitate broad community access to complaint information and services through the following measures:

- **Complaint Information Service.** The Complaint Info line (1300 656 419 – local call charge), which is open Monday to Friday between 9.00 am and 5.00 pm, allows people from all areas of Australia to call and obtain information about the law and the complaint process. They can also send an e-mail to complaintsinfo@humanrights.gov.au

- **CHS webpage:** www.humanrights.gov.au/complaints_information/index.html. The webpage provides a range of information about HREOC's complaint service including detailed information about the complaint process and how to lodge a complaint. The Complaints webpage received 299 631 page views during this reporting year.
- **Publications in community languages.** *The Complaint Guide* and an information poster are available in 14 community languages. These publications can be ordered from the Complaint Information Service or downloaded from the HREOC website www.humanrights.gov.au/about/languages/index.html
- **Interpreter and translation services.** In this reporting year the CHS utilised a range of interpretation and translation services. The main language groups assisted in 2007-08 were Mandarin, Turkish, Vietnamese and Macedonian. Auslan interpreters were used on 16 occasions.
- **Service provision in states and territories.** HREOC has formal arrangements with the Victorian Equal Opportunity and Human Rights Commission, the Queensland Anti-Discrimination Commission, the South Australian Equal Opportunity Commission, the Northern Territory Anti-Discrimination Commission and the Western Australia Equal Opportunity Commission whereby CHS publications are displayed by these agencies and CHS staff use agency facilities for conciliation conferences. HREOC has similar informal arrangements with the Tasmanian Anti-Discrimination Commission and the Australian Capital Territory Human Rights Commission.
- **Conciliation DVD.** The captioned audio-visual resource, *Pathways to Resolution* provides information about conciliation for the general public and those involved in the complaint process. The DVD explains the conciliation process, outlines how to prepare for conciliation and demonstrates positive approaches to discussing issues and negotiating resolution outcomes. This resource can be obtained from the Complaint Information Service. Clips from the DVD can also be viewed on HREOC's webpage at www.humanrights.gov.au/complaints_information/pathways_to_resolution/index.html
- **Conciliation circuits.** Conciliation officers travel throughout Australia to conduct conciliation conferences. In 2007-08, along with conferences conducted in the greater Sydney area, CHS officers conducted: 22 conferences in regional NSW (including Taree, Coffs Harbour, Ballina, Griffith, Grafton, Mudgee, Wagga Wagga, Dubbo, Albury, Lismore, Port Macquarie, Armidale and Newcastle); 120 in Victoria (including Melbourne and Mildura); 93 in Adelaide; 42 in Queensland (including Brisbane, Rockhampton, Cairns, Gold Coast and Townsville); 24 in Western Australia (including Perth and Port Hedland); three in the Northern Territory (including Alice Springs and Darwin) and 12 in Canberra.

4.1.5 Community education

Through its community education activities, the CHS contributes to HREOC's function of promoting awareness, knowledge and understanding of human rights and responsibilities.

During the reporting period, over 59 organisations throughout all states and territories either attended information sessions on the law and the complaint process that were run by CHS staff or were visited by CHS staff. These organisations included: community legal centres; professional associations and unions; Aboriginal legal centres; multicultural organisations; youth organisations; legal centres; neighbourhood centres and disability groups. Locations visited included Darwin, Alice Springs, Perth, Kalgoorlie, Melbourne, Launceston, Adelaide, Brisbane, Townsville, Sydney, Lismore, Ballina, Mudgee, Coffs Harbour and Port Macquarie.

Information kits about the law and the complaint process were also sent to more than 3 000 organisations around Australia.

4.1.6 Staff training and training as provider

HREOC has two specialised training programs which provide knowledge and skills in statutory investigation and conciliation. All CHS staff are required to undertake these courses.

During 2007-08, three investigation training courses were run for HREOC staff. In September 2007 and May 2008, statutory conciliation training courses were run in Sydney for HREOC staff and staff from anti-discrimination agencies in New South Wales, South Australia, Tasmania, the Australian Capital Territory, Queensland and the Northern Territory. Additionally, a series of 'refresher' conciliation skill workshops were run for CHS staff during the year.

In 2007-08, CHS staff participated in management skills training run by the Australian Public Service Commission and attended in-house workshops on culturally sensitive service delivery, case/time management and plain English writing skills. Five CHS staff undertook studies to obtain the Certificate IV in Training and Assessment qualification and two staff participated in the *Mawul Rom Cross Cultural Mediation and Leadership Training Program* held in Arnhem Land, Northern Territory.

The CHS also provides investigation and conciliation training for other organisations on a fee for service basis. In July 2007, the CHS conducted a three-day investigation and conciliation training course for staff of the Office of the Privacy Commissioner and in June 2008, conducted a two-day complaint investigation workshop for staff of a private education authority.

4.1.7 Research and conference presentations

The CHS regularly undertakes research with a view to better understand and improve HREOC's complaint service. In 2007, the CHS commenced a research project to obtain information about the level to which: involvement in the complaint process may increase knowledge and understanding of the law; conciliation agreements include elements which are likely to have impact beyond an individual complainant; and respondents may implement changes to policies and practices as a result of involvement in the complaint process. This project is due to be finalised in the second half of 2008. Information on previous research conducted by the CHS is available on HREOC's webpage at www.humanrights.gov.au/complaints_information/papers.html.

In 2007-08 CHS staff attended and/or presented papers at the following conferences: the National Legal, Conciliation and Education Officer Conference held in Hobart in November 2007; the NSW Community Legal Centre State Conference held in Sydney in April 2008; and the Human Rights Law and Policy Conference held in Melbourne in June 2008.

4.1.8 International conference presentations, training and consultation

In 2007-08, CHS staff presented papers at the following international conferences: the All China Women's Federation – Women's Labour Rights Workshop held in Fuzhou, China in November 2007; and the Asia Pacific Mediation Forum Conference held in Kuala Lumpur, Malaysia in June 2008.

In July 2007, CHS staff developed and presented two training programs in Hong Kong for staff of the Hong Kong Equal Opportunities Commission. The first course provided basic training in investigation and conciliation for new employees. The second course dealt with the implementation of race discrimination legislation including knowledge and skills relating to the investigation and resolution of race discrimination complaints.

During the reporting period, HREOC was contracted by the Asia Pacific Forum of National Human Rights Institutions to provide training for staff of the National Human Rights Commission of Korea. This project involved CHS staff developing and presenting two three-day training courses in human rights investigation. The training took place in Seoul on 31 October – 2 November 2007 and 5 November – 7 November 2007. 47 staff from the National Human Rights Commission of Korea completed the training.

The CHS is often asked to provide information about HREOC's complaint work to visiting delegations. During 2007-08, CHS staff provided information to representatives of human rights institutions and government departments visiting from Bangladesh, China, Malaysia, Iraq, Ireland and New Zealand.

4.2 CONCILIATION CASE STUDIES¹

4.2.1 Racial Discrimination Act

In 2007-08, HREOC received 376 complaints under the Racial Discrimination Act. The majority of these complaints related to employment (50 per cent). The CHS finalised 366 complaints under this Act and 54 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Racial Discrimination Act are provided later in this chapter.

Alleged racial hatred and racial discrimination in employment

The complainant, who is Maori, said he commenced employment with the respondent building company as a casual labourer and then became a permanent employee. The complainant claimed that during the 10 months he worked with the company, co-workers used offensive race-based terms in his presence such as '*blacks*', '*niggers*', and '*coons*'. He also alleged that co-workers spoke to him aggressively and called him a '*f***** abo*'. The complainant said that after he complained to the company

1 Complaints are generally resolved at conciliation on the basis of 'no admission of liability' by the respondent.

director, his co-workers refused to work with him, he reverted back to being a casual employee and was eventually not offered any more work.

The complainant's co-workers admitted making some of the alleged race-based comments, but claimed that these were jokes and not directed at the complainant. The company director said that when he became aware of the complainant's concerns, he spoke to the complainant's co-workers and advised that such behaviour was unacceptable. The company denied that the complainant's employment status changed from permanent to casual after his internal complaint. The company claimed that it had attempted to contact the complainant to offer him additional work, but the complainant did not respond.

The complaint was resolved through a conciliation process. The parties agreed that the company would pay the complainant \$7 000 compensation, provide him with a written reference and arrange anti-discrimination training for staff.

Complaint of race discrimination in the provision of accommodation

The complainant, who is Indigenous, alleged that the operators of a boarding house refused to provide him with accommodation because of his race. The complainant claimed that the terms of the rental agreement had been pre-arranged; however, when he arrived at the boarding house the caretaker said, *'We don't take anyone who is Aboriginal because there have been problems in the past. This is a management policy'*.

In response to the complaint, the owners of the boarding house confirmed that they were reluctant to provide accommodation to Aboriginal people because of previous bad experiences with some Aboriginal tenants. However, they denied there was an 'official policy' not to accept Aboriginal tenants and agreed that the caretaker's remark to the complainant was unacceptable.

To resolve the complaint, the respondent agreed to provide the complainant with accommodation and also provide him with an apology and \$3 000 compensation. The respondent also agreed to develop an anti-discrimination policy.

Alleged race and disability discrimination in employment

The complainant advised that he is an international student from India and had been employed by the respondent fast food company. He claimed that one night at work, he was injured when his arms were hit by a machine. He alleged that, following the accident, his manager discriminated against him on the ground of his race and disability. In particular, he claimed that the manager: abused him and said he would send him back to India; failed to call a company doctor to attend to his injury; and refused to pay his medical allowances. He alleged that his employment was finalised one week after the work accident.

HREOC contacted the company by telephone and advised of the complaint. While the company disputed some of the complainant's allegations, they advised that they were willing to participate in a conciliation conference prior to providing any written response to the allegations.

The complaint was resolved at the conciliation conference with an agreement that the company would reinstate the complainant to a comparable position at a different location; provide him with assistance to lodge a worker's compensation claim and pay him \$3 100 in lost wages. The complainant's previous manager also agreed to provide a letter of apology to the complainant.

Complaint of race discrimination and sexual harassment in employment

The complainant is Indigenous and worked as a cook in a bistro. He alleged that his manager racially discriminated against him in employment by saying: *'Are all black c**** as dumb as you?'*; *'Can you pass me the Abocado?'*; and *'Abo's want everything for nothing'*. He also claimed that his manager sexually harassed him by making comments such as: *'Whilst you're down there.'*; *'Do you want me to f*** you'*; and *'I always knew you were gay'*. The complainant said he resigned from his employment because of the way the manager treated him.

The respondent, who is the owner of the company, denied that he discriminated against the complainant because of his race or that he sexually harassed him. The respondent claimed that the workplace was one where a certain level of banter between employees was tolerated and the complainant had also engaged in such banter.

A conciliation conference was held. The complaint was resolved with an agreement between the parties that the respondent would pay the complainant \$10 000 compensation and provide him with a Statement of Service.

4.2.2 Sex Discrimination Act

In 2007-08, HREOC received 438 complaints under the Sex Discrimination Act. The majority of complaints related to employment (87 per cent). 22 per cent of complaints alleged pregnancy discrimination and 18 per cent of complaints alleged sexual harassment. The CHS finalised 421 complaints under this Act and 53 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Sex Discrimination Act are provided later in this chapter.

Alleged sex and pregnancy discrimination in employment

The complainant was employed as a driver with a large private transport company. After taking maternity leave, the complainant sought to return to work on a part-time basis to accommodate her family responsibilities. The complainant alleged that her employer told her that she must return to full-time work or resign.

The respondent company did not provide a formal response to the complaint, but agreed to participate in conciliation discussions. The complaint was resolved, within six weeks of being lodged, with an agreement that the complainant would return to work on a part-time basis.

Complaint of sexual harassment

The complainant advised that she was employed as a trainee with a car dealership. The complainant claimed that a volunteer, who regularly visited the workplace, sexually harassed her. She alleged that this person kissed and hugged her, touched her backside and placed his hand up her skirt. The complainant said she complained to management about the behaviour and was dissatisfied with management's response, so resigned.

The volunteer denied sexually harassing the complainant. He claimed that he kissed female colleagues when greeting them and also hugged male colleagues to be friendly. The company advised that it commenced an investigation into the complainant's allegations and asked the volunteer not to come to the workplace. The company said the complainant resigned prior to the completion of their investigation.

The complaint was resolved at conciliation with an agreement between the parties that the company would pay the complainant \$20 000 compensation and also reimburse legal costs she had incurred in pursuing the complaint.

Alleged sex discrimination in employment

The complainant was employed as a factory worker and worked the night shift with the respondent manufacturing company. The complainant said she applied for a day shift position which was a promotion but was also similar to her current role. The complainant's application was unsuccessful. She alleged that this was because of her sex. The complainant claimed there were very few women in management positions in the factory.

The respondent company denied the complainant had been discriminated against on the basis of her sex. The company confirmed that a male employee had been appointed to the position the complainant applied for. The company claimed that in comparison with the complainant, this male employee was considered more suitable for the position as: he was already working at a comparable level; had more experience with the company and had rated higher on some of the selection criteria. The company acknowledged that there was a predominance of males in supervisory positions in the factory and indicated they were taking steps to address this.

The complaint was resolved by means of a conciliation teleconference. The terms of agreement included undertakings by the company that: selection committees for positions would always include a human resources representative and a female officer; they would expand their EEO statement on job vacancy notices; they would refer to their EEO policies in their next newsletter; and they would provide internal applicants with a contact point and an opportunity to debrief after interviews.

Complaint of sexual harassment, age and disability discrimination in employment

The complainant advised that she is 65 years old and had been employed at a local recreation club doing reception and other general duties. The complainant alleged that a manager at the club sexually harassed her by making comments such as *'You have not got very big tits have you'* and *'It would be a lot better if you came over here and sat on my face'*. The complainant said she injured her back in a work related incident and undertook light duties for approximately 12 months. The complainant claimed she was treated less favourably than other workers because of her age and her disability and that her supervisor made comments such as *'I don't know what you're doing back at your age – it's not going to get any better'*. She said her employment was eventually terminated.

The respondent club said the complainant's employment was finalised because her back injury prevented her from performing the inherent requirements of her job. The club advised that the complainant had not made any complaints about sexual harassment during her employment. The manager accused of sexual harassment claimed that he always treated the complainant with respect and said the complainant had never told him that she found anything he said offensive.

The complaint was resolved between the parties with an agreement that the club would pay the complainant \$40 000 compensation.

Alleged sex and pregnancy discrimination in employment

The complainant was employed as a project manager with a company that provided education services. She claimed that while on maternity leave, her position had been restructured in a manner which reduced her responsibilities and increased her requirement to travel. She also claimed that her request to return to work on a part-time basis had been refused. The complainant lodged her complaint only weeks prior to the date she was to return to work and, in the complaint, advised that she no longer wanted to work with the company.

The company did not provide a formal response to the complaint, but agreed to participate in conciliation discussions. The complaint was resolved, within a month of being lodged, with an agreement that the company would pay the complainant her outstanding entitlements, four weeks pay in lieu of notice and provide her with a \$9 000 ex gratia payment.

4.2.3 Disability Discrimination Act

In 2007-08, HREOC received 988 complaints under the Disability Discrimination Act. The majority of these complaints concerned employment (46 per cent) and the provision of goods, services and facilities (31 per cent). The CHS finalised 815 complaints under this Act and 48 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Disability Discrimination Act are provided later in this chapter.

Complaint of disability discrimination in the provision of goods, services and facilities

The complainants, a husband and wife, both have hearing impairments. The complainants said they wanted to attend a film festival awards night and in order to follow the proceedings, they would have required real time captioning and a hearing loop or use of an infra red hearing system at the venue. They claimed they contacted the film festival office to inquire about provision of these adjustments and were told that they could not be provided at the venue.

The company organising the event confirmed that the adjustments the complainants requested were not provided. The company claimed that the adjustments were too expensive and too difficult to arrange at the particular venue.

The complaint was resolved with an agreement that the company would: provide real time captioning at all live events; ensure future events are in venues equipped with an induction hearing loop and other facilities for people with hearing impairments; and advertise facilities and features for people with hearing impairments on its website.

Alleged disability discrimination in employment

The complainant, who has an intellectual disability, was employed by the respondent food production company. The complainant claimed that his supervisors and co-workers harassed him over a number of years. Specifically, he alleged that: his co-workers called him derogatory names relating to his intellectual disability, such as 'stupid' and 'f***** dickhead'; pinched his arms and stomach and kicked his legs; deflated the tyres of his pushbike; and tied up his bike so he could not access it. The complainant said that he asked his co-workers to stop the behaviour and reported the incidents to a supervisor, but the behaviour continued. The complainant claimed that he could not continue to work because of stress arising from the harassment.

Following lodgement of the complaint with HREOC, the complainant's disability discrimination claim and another work-related claim were resolved with an agreement that the company would pay the complainant \$57 000 and provide him with an expression of regret.

Complaint of disability discrimination in education

The complaint was lodged by a support person on behalf of a high school student who is legally blind. The complaint claimed that reasonable adjustments, such as extra lighting in corridors and stairwells, white or yellow marking on the stairs, zoom text on computers and extra classroom support had been requested prior to the student commencing at the state government school in 2006. It was alleged that these adjustments had not been provided within a reasonable time, not adequately provided or not provided at all. It was also alleged that the school did not adequately consult the student and her associate about required adjustments.

The education department denied disability discrimination. The department claimed that a range of appropriate adjustments had been provided for the student since she commenced at the school. The department also said that there had been adequate consultation with the student and her associate regarding the required adjustments.

The complaint was resolved with an agreement that the department would: conduct a site inspection of the school with the complainant and an advocacy group; provide any necessary additional lighting; install zoom text on every level of the school where computer rooms were available to students; provide a new teacher's aide for the student; provide ongoing reasonable adjustments; and arrange specific people who the complainant and her associate can contact if they have any future concerns.

Alleged disability discrimination in the provision of airlines services

The complainant advised that her adult sister has Down Syndrome and has undertaken air travel on her own on a number of occasions. The complainant alleged that when she was assisting her sister to check into a flight with the respondent airline, a staff member said that her sister could not travel alone because children cannot fly unattended. The complainant further alleged that the staff member openly stared at her sister.

On being advised of the complaint, the airline confirmed its willingness to participate in conciliation. The parties agreed to resolve the complaint on the basis that the company would provide the complainant's sister with verbal and written apologies and provide the complainant and her sister with four return flights to various locations in Australia.

Complaint of discrimination in access to premises and provision of goods and services

The complainant has a physical disability and uses a wheelchair. She alleged that her local council office was not accessible to her or other people with mobility disabilities. Specifically, she claimed that the toilets and the ramp into the building did not comply with Australian Standards.

The respondent council agreed that there were accessibility issues with the premises and confirmed its willingness to rectify the problems. During the complaint process, the council advised that it had completed work to ensure accessibility of the toilets and that work on the ramp to the building had also commenced.

The complainant advised HREOC that the action taken by the council resolved her complaint.

Alleged disability discrimination by restaurant

The complainant, who has vision impairment and uses a guide dog to assist with mobility, attended the respondent restaurant with his family. He alleged that he was discriminated against because of his disability in that he and his family were advised that they could not enter the restaurant with the guide dog, but could eat at an outside table if they wanted to. The complainant said that he and his family left without eating at the restaurant.

The respondent restaurant denied that the complainant and his family were excluded because of the guide dog. Rather, the restaurant claimed that no tables were available inside the restaurant at the time the complainant and his family arrived.

The complaint was resolved through conciliation with an agreement that the restaurant would: review its anti-discrimination policy, particularly in relation to guide dogs; provide the complainant with a copy of the policy; and display a copy of the policy in the restaurant. The respondent also: invited the complainant to the restaurant for a meal; provided the complainant with a personal apology; and made an undertaking to host a guide dog collection box to raise money for the Guide Dog Association.

4.2.4 Age Discrimination Act

In 2007-08, HREOC received 126 complaints under the Age Discrimination Act. The majority of these complaints concerned employment (76 per cent). The CHS finalised 114 complaints under this Act and 45 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Age Discrimination Act are provided later in this chapter.

Complaint of age discrimination in employment

The complainant advised that she is 16 years old and currently employed by a recreational centre on a casual basis as a customer service attendant. The complainant claimed she had not been given shifts for approximately 4 months and alleged this was because she had been replaced by younger workers.

The respondent company confirmed that it had employed new workers, but claimed they were the same age as the complainant and were not employed to replace her. The company also confirmed that the complainant had not been given shifts for a period of time, but denied that this was because of her age. The company claimed that there were concerns about the complainant's work performance. The company was of the view that the complainant was not interested in ongoing work as she had not contacted her employer to inquire about future shifts.

The complaint was resolved through a conciliation process with an agreement that the complainant would be transferred to work in a different branch of the company.

Alleged age and sex discrimination in employment

The complainant is 56 years of age and worked as an Office Manager with the respondent livestock company. She alleged that, during her employment, a director of the company discriminated against her because of her age and sex by making comments such as: *'You would not be suitable for the position due to your age and gender'*; *'Women and men should be treated differently'*; and *'You are not suitable for work as you are approaching menopause'*. The complainant also claimed that the director undermined her role within the organisation by sending an e-mail to other directors which included, among other things, a comment that she was an untrained *'office girl'*. The complainant alleged that she resigned because the company did not adequately address her concerns about the treatment she received.

The company denied age and sex discrimination, but agreed to participate in a conciliation process.

The complaint was resolved on the basis that the company and the named director would provide the complainant with apologies and the company would pay her \$20 000 compensation.

Complaint of age discrimination in the provision of a traineeship

The complainant is 42 years of age and had applied for a traineeship with a federal government training institution. The complainant was not shortlisted for interview and claimed that, when he telephoned to seek feedback on why he was not shortlisted, one of the selection panel members told him that the main reason was his age.

The respondent institution denied that the complainant's age was the reason why he was not shortlisted. The panel member agreed that the complainant's age was referred to in the telephone conversation, but said this was in the context of a discussion about the complainant's current career experience and the post traineeship employment level and salary. The respondent institution also claimed that the application process was highly competitive and the complainant's application did not satisfy all the essential criteria.

The complaint was resolved at a conciliation conference. The institution agreed to arrange for the complainant to undertake up to three of their training courses to the value of \$5 000. The institution also agreed to provide the complainant with a statement of regret.

Complaints of age discrimination in employment

Four employees brought complaints of age discrimination against a large retail company. The complainants, who were all over 21 years of age, alleged that when the store underwent a staffing restructure, management changed the status of its older workers from permanent part-time to casual, reduced their working hours and hired more junior staff.

The respondent company denied that it had discriminated against the complainants on the basis of their age. While the company agreed that the complainants' hours had been reduced, the company advised that this was due to an overestimation of staffing requirements in the particular service area where the complainants worked.

All of the complaints were resolved through conciliation. The company agreed to pay compensation to the complainants ranging from \$6 000 – \$1 000, with reference to their specific circumstances. The company also undertook to review its anti-discrimination policy and conduct staff training on anti-discrimination.

4.2.5 Human Rights and Equal Opportunity Commission Act

In 2007-08, HREOC received 149 complaints under the Human Rights and Equal Opportunity Commission Act. The majority of these complaints concerned discrimination in employment based on criminal record (46 per cent) and alleged breaches of the International Covenant on Civil and Political Rights (21 per cent). The CHS finalised 167 complaints under this Act and 24 per cent of these finalised complaints were conciliated. Detailed statistics regarding complaints under the Human Rights and Equal Opportunity Commission Act are provided later in this chapter.

Alleged discrimination in vocational training on the ground of criminal record

The complainant had enrolled in an aged care training course with a government vocational training provider and then, three months later, was convicted of fraud. He said the conviction related to incidents that had occurred in his employment a few years before. The complainant claimed that the training provider advised him that, because of his criminal record, his application for enrolment may not be accepted.

In response to the complaint, the training provider advised that the complainant was required to undertake vocational placements as part of the course. The provider said that, in its view, the complainant's criminal record would mean that he would not be able to locate vocational placements and therefore, would be unable to complete course requirements.

The complaint was resolved through conciliation with an agreement that the provider would accept the complainant's enrolment and the complainant would be responsible for locating vocational placements during the course.

Complaint of religious discrimination in employment

The complainant applied for an accountancy position with a small manufacturing company, via a recruitment agency. After interviews with both the recruitment agency and the company, the complainant was offered the position. The complainant said she advised the recruitment agency that she was Muslim and needed to arrange a room at the workplace where she could conduct daily prayers. The complainant said she explained that she would need about three 10 minute prayer breaks during the day and could undertake one set of prayers during her lunch break. The complainant claimed that the recruitment agency subsequently advised her that the company had withdrawn the offer of employment and that a reason for this was her need to pray.

The company denied that they had discriminated against the complainant on the ground of her religion. The company advised that there were two reasons why the offer of employment had been withdrawn. Firstly, the company said it had concerns about the complainant's honesty as, in the interview, she had not disclosed her need for additional breaks, despite being asked if there was anything which would impact on her working normal office hours. The company said that despite these concerns, they had attempted to find a suitable location for the complainant to conduct her prayers but, as the office was open plan and within a warehouse, the only options available were the meeting room, which had a glass wall, or a nearby park. The company said the complainant had rejected these suggestions.

The complaint was resolved at a conciliation conference. The company agreed to pay the complainant \$3 500 compensation and provide her with a statement of regret.

Alleged criminal record discrimination in employment

The complainant applied for a caretaker's position with a horticultural society. He claimed he was offered the job, subject to a police check, and was told that he could move into the caretaker's residence. The complainant said he advised the society that he had prior convictions for drugs and driving offences and was told, *'everything should be fine'*. He accepted the offer of employment and moved into the residence. The complainant claimed that his employment was terminated five weeks later, after the society received details of his criminal record. The complainant said there had been no complaints about his work performance during the five weeks he was employed.

When advised of the complaint by telephone, the society confirmed that the complainant's employment had been terminated after five weeks. The society said the complainant's police record check had revealed a list of offences, including 'obtaining money by deception'. The society advised that, in their view, the complainant could not continue in the position as his duties included collecting money for the society and after-hours office access. The society said the complainant had not yet vacated the caretaker's residence as he said he had been unable to locate alternative accommodation.

The complaint was resolved within two days of being lodged. The parties agreed that the society would pay the complainant the equivalent of four weeks pay (\$2 500) and assist him with relocation and accommodation costs. The complainant also agreed that he would vacate the residence by a specified date.

Complaint of discrimination on the ground of sexual preference and sexual harassment in employment

The complainant was employed as a sales representative with a private company and worked in the company's call centre. He alleged that the manager of the call centre discriminated against him on the basis of his sexual preference and sexually harassed him. Specifically he alleged that the manager would repeatedly call him '*big gay bird*' and '*poof*' and, on one occasion, said to him, '*Get away from my arse, you poof.*' He claimed that, because of the manager's behaviour, other staff also called him these names. He said that he raised his concerns directly with the manager, who replied that it was '*just a joke*'. The complainant said the company subsequently terminated his employment on the basis that he had failed to deal with a staff member's breach of policy. The complainant disputed the basis for his termination.

The individual respondent and the company agreed to participate in conciliation discussions prior to providing any formal response to the allegations. The complaint was resolved at conciliation with an agreement that the respondents would pay the complainant \$5 000 compensation.

4.3 COMPLAINT HANDLING STATISTICS

4.3.1 Preliminary comments

The following complaint statistics provide information on enquiries received, an overview of complaints received and finalised, and specific information about complaints received and finalised under each of the Acts administered by HREOC.

When comparing complaint data between different agencies and across reporting years, it is important to consider that there may be variations in the way the data is counted and collected. Some additional information explaining HREOC's approach to statistical reporting is footnoted. Further clarification about complaint statistics can be obtained by contacting the CHS.

4.3.2 Summary

Enquiries and complaints received

Over the previous four reporting periods, HREOC received an average of 14 160 enquiries per period. In 2007-08, HREOC received 18 765 enquiries, which represents a 32 per cent increase in comparison with the average and a 13 per cent increase in comparison with the number received in the previous reporting period.

Over the previous four reporting periods, HREOC received an average of 1 623 complaints per period. In 2007-08, HREOC received 2 077 complaints, which represents a 28 per cent increase in comparison with the average and a 17 per cent increase in comparison with the number received in the previous reporting period.

In 2007-08, 48 per cent of complaints received were lodged under the Disability Discrimination Act, 21 per cent under the Sex Discrimination Act, 18 per cent under the Racial Discrimination Act, 7 per cent under the Human Rights and Equal Opportunity Commission Act and 6 per cent under the Age Discrimination Act. For the past four reporting periods, the majority of complaints received have been lodged under the Disability Discrimination Act and the Sex Discrimination Act. There has been an 89 per cent increase in the number of disability discrimination complaints received over the past four reporting periods.

As in previous reporting periods, employment was the main area of complaint under all federal anti-discrimination legislation. In 2007-08, complaints regarding employment constituted: 50 per cent of complaints under the Racial Discrimination Act; 87 per cent of complaints under the Sex Discrimination Act; 46 per cent of complaints under the Disability Discrimination Act; and 76 per cent of complaints under the Age Discrimination Act.

The majority of complaints received under the Human Rights and Equal Opportunity Commission Act related to discrimination in employment on the ground of criminal record and alleged breaches of the International Covenant on Civil and Political Rights. These have been the main subject areas of complaint for the past four reporting periods. Over this period, complaints regarding criminal record discrimination have almost tripled. In 2007-08, 73 criminal record discrimination complaints were received which represents a 35 per cent increase in comparison with the number received in the previous reporting period.

Conciliation of complaints

Of the complaints finalised in 2007-08, 48 per cent were conciliated. This is 10 per cent higher than the conciliation rate for the previous reporting period. Of those matters where conciliation was attempted in 2007-08, 74 per cent were able to be resolved. The conciliation success rate has increased from 67 per cent to 74 per cent over the past four reporting periods.

Complaints under the Racial Discrimination Act had the highest conciliation rate this reporting period (54 per cent) and a high conciliation success rate (74 per cent). This high conciliation rate for race discrimination complaints, in comparison with previous periods, is partly due to the resolution of a group of complaints against the same respondent relating to the same subject matter. Complaints under the Sex Discrimination Act had the second highest conciliation rate (53 per cent) and a conciliation success rate of 72 per cent. Complaints under the Disability Discrimination Act had a conciliation rate of 48 per cent and a conciliation success rate of 73 per cent. In 2007-08, complaints under the Age Discrimination Act had a conciliation rate of 45 per cent and a high conciliation success rate of 81 per cent, while 24 per cent of finalised complaints under the Human Rights and Equal Opportunity Commission Act were successfully resolved.

Demographic data

Information on the geographical location and ethnicity of complainants is provided in Tables 10, 12 and 13.

Demographic data obtained during the complaint process indicates that 51 per cent of complaints were lodged by individual females, 42 per cent by individual males and 7 per cent by other categories, for example, multiple complainants and organisations or individuals on behalf of others.

Forty per cent of complainants reported that they knew about HREOC prior to lodging their complaint. The main identified sources of information for others were legal centres or private lawyers (12 per cent) and family members or friends (9 per cent).

The majority of complainants (66 per cent) indicated that their main source of income at the time of the alleged act was from full-time, part-time or casual employment.

Approximately 37 per cent of complainants indicated that they were represented at the beginning of the complaint process. Of this group, 47 per cent were represented by privately funded solicitors. Other forms of representation were other advocate groups, such as working women's centres or disability advocacy services (18 per cent), community legal centres such as Indigenous or disability legal services (15 per cent), family members or friends (11 per cent) and trade unions or professional associations (9 per cent).

Data collected on respondent categories indicates that, in the last reporting period, approximately 48 per cent of complaints were against private enterprise, 14 per cent were against state departments/statutory authorities and 9 per cent were against Commonwealth departments/statutory authorities. These have been the main respondent organisation categories for the last four reporting periods. Complete information on respondent categories is provided in Table 14, below.

4.3.3 Complaint Information Service

Table 4: Website enquiries	
Complaint Handling Section webpage views	299 631

Table 5: Telephone, TTY, e-mail, in-person and written enquiries received	
Enquiry type	Total
Telephone	15 564
TTY	29
E-mail	2 254
In-person	115
Written	803
Total	18 765

Table 6: Enquiries received by issue	
Issue	Total
Race	2 162
Race – racial hatred	656
Sex – direct	885
Sexual harassment	1 050
Sex – marital status, family responsibilities, parental status, carers responsibilities, breast feeding	492
Sex – pregnancy	852
Sexual preference, transgender, homosexuality, lawful sexual activity	185
Disability – impairment	2 959
Disability – HIV/AIDS/Hepatitis	54
Disability – workers compensation	295
Disability – mental health	698
Disability – intellectual/learning disability	211
Disability – maltreatment/negligence	37
Disability – physical feature	230
Age – too young	182
Age – too old	572

Age – compulsory retirement	14
Criminal record/conviction	383
Political opinion	31
Religion/religious organisations	229
Employment – personality conflicts/favouritism	297
Employment – union/industrial activity	128
Employment – unfair dismissal/other industrial issues	6 631
Employment – workplace bullying	1 891
Human rights – children	156
Human rights – civil, political, economic, social	752
Immigration – detention centres	86
Immigration – visas	289
Prisons/prisoners	235
Police	298
Court – family court	307
Court – other law matters	454
Privacy – data protection	184
Neighbourhood disputes	118
Advertising	50
Local government – administration	94
State government – administration	492
Federal government – administration	561
Other	2 743
Total*	27 943

* One enquiry may have multiple issues.

State of origin	Total	Percentage (%)
New South Wales	7 102	38
Victoria	3 680	20
South Australia	1 382	7
Western Australia	903	5
Queensland	2 874	15
Australian Capital Territory	393	2
Tasmania	399	2
Northern Territory	303	2
Unknown/overseas	1 729	9
Total	18 765	100

4.3.4 Complaints Overview

	2004-05	2005-06	2006-07	2007-08
Received	1 241	1 397	1 779	2 077
Finalised	1 233	1 205	1 656	1 883

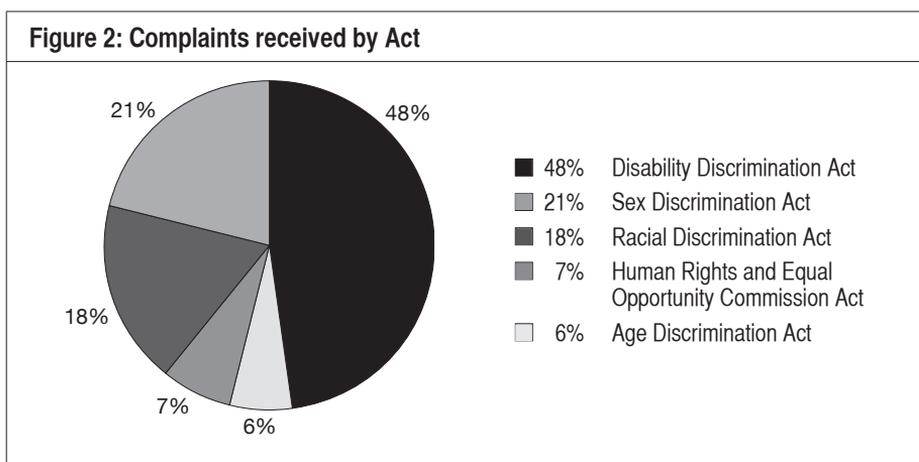
	2004-05 (%)	2005-06 (%)	2006-07 (%)	2007-08 (%)
Terminated/declined	46	44	48	39
Conciliated	38	39	38	48
Withdrawn	16	16	14	13
Reported (HREOCA only)	–	1	–	–

Table 10: State of origin of complainant at time of lodgement

State of origin	Total	Percentage (%)
New South Wales	769	37
Victoria	444	21
South Australia	219	11
Western Australia	139	7
Queensland	378	18
Australian Capital Territory	59	3
Tasmania	27	1
Northern Territory	18	1
Unknown/overseas	24	1
Total	2 077	100

Table 11: Complaints received and finalised by Act

Act	Received	Finalised
Racial Discrimination Act (RDA)	376	366
Sex Discrimination Act (SDA)	438	421
Disability Discrimination Act (DDA)	988	815
Age Discrimination Act (ADA)	126	114
Human Rights and Equal Opportunity Commission Act (HREOCA)	149	167
Total	2 077	1 883



	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Born in Australia	55	62	59	66	35	58
Born outside of Australia	41	13	14	28	30	21
Unknown/unspecified	4	25	27	6	35	21

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Aboriginal	46	4	2	1	3	11
Torres Strait Islander	–	–	–	1	–	–
None of the above	54	96	98	98	97	89

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Total (%)
Individual male	15	25	9	10	7	14
Individual female	5	5	5	4	3	5
Private enterprise	31	55	51	58	46	48
Commonwealth government department/statutory authority	7	5	9	15	20	9
State government department/statutory authority	33	2	13	4	14	14
Local government	1	1	3	1	1.5	2
Government Business Enterprise	1	1	2	1	2	1
Educational institution	2	3	5	2	3	4

Trade union/ professional association	–	1	–	–	1	–
Not for profit organisation/non government	3	1	1	1	1	1.5
Clubs/ incorporated associations	1	1	2	4	1.5	1.5
Other	1	–	–	–	–	–

	RDA (%)	SDA (%)	DDA (%)	ADA (%)	HREOCA (%)	Cumulative Total (%)
0-3 months	32	21	17	20	13	21
3-6 months	33	27	30	36	26	51
6-9 months	19	28	29	26	26	77
9-2 months	11	18	17	13	21	93
More than 12 months	4	6	6	5	11	99
More than 24 months	1	–	1	–	3	100

4.3.5 Racial Discrimination Act

	Total
Received	376
Finalised	366

Racial Discrimination Act	Total	Percentages (%)
Colour	27	4
National origin/extraction	43	6
Ethnic origin	111	17
Descent	6	1
Race	400	60
Victimisation	7	1
Racial hatred	72	11
Aids, permits or instructs	2	–
Association	1	–
Total*	669	100

* One complaint may have multiple grounds.

Racial Discrimination Act	Total	Percentage (%)
Rights to equality before the law	4	1
Access to places and facilities	10	1
Land, housing, other accommodation	7	1
Provision of goods and services	88	13
Right to join trade unions	–	–
Employment	335	50
Advertisements	–	–
Education	12	2
Incitement to unlawful acts	6	1
Other – section 9	132	20
Racial hatred	75	11
Total*	669	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

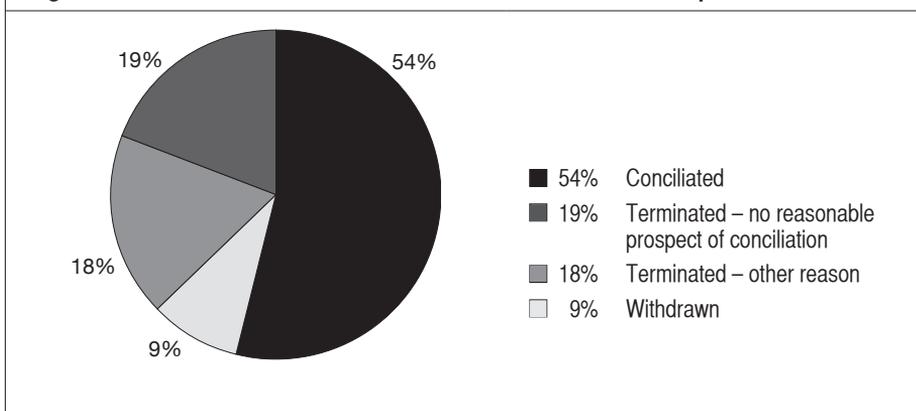
Racial Discrimination Act	Total	Percentage (%)
Media – press/TV/radio	17	30
Disputes between neighbours	5	9
Personal conflict	8	14
Employment	10	18
Racist propaganda	2	4
Internet – e-mail/webpage/chat room	5	9
Entertainment	–	–
Sport	3	5
Public debate	–	–
Provision of goods and services	6	11
Total*	56	100

* One sub-area is recorded for each racial hatred complaint received.

Racial Discrimination Act	Total
Terminated	134
At complainant's request – s.46PE	–
Not unlawful	2
More than 12 months old	3
Trivial, vexatious, frivolous, misconceived, lacking in substance	56
Adequately dealt with already	3
More appropriate remedy available	1
Subject matter of public importance	–
No reasonable prospect of conciliation	69
Withdrawn	31
Withdrawn, does not wish to pursue, advised the Commission	30
Withdrawn, does not wish to pursue, settled outside the Commission	1
Conciliated	195
Administrative closure*	6
Total	366

* Not an aggrieved party, state complaint previously lodged.

Figure 3: Racial Discrimination Act – outcomes of finalised complaints



4.3.6 Sex Discrimination Act

Table 21: Sex Discrimination Act – complaints received and finalised

Sex Discrimination Act	Total
Received	438
Finalised	421

Table 22: Sex Discrimination Act – complaints received by sex of complainant

Sex Discrimination Act	Total	Percentages (%)
Female	369	84
Male	66	15
Joint/multiple	3	1
Total	438	100

Table 23: Sex Discrimination Act – complaints received by ground		
Sex Discrimination Act	Total	Percentages (%)
Sex discrimination	399	47
Marital status	43	5
Pregnancy	185	22
Sexual harassment	157	18
Parental status/family responsibility	56	6
Victimisation	17	2
Aids, permits, instructs (s.105)	–	–
Total*	857	100

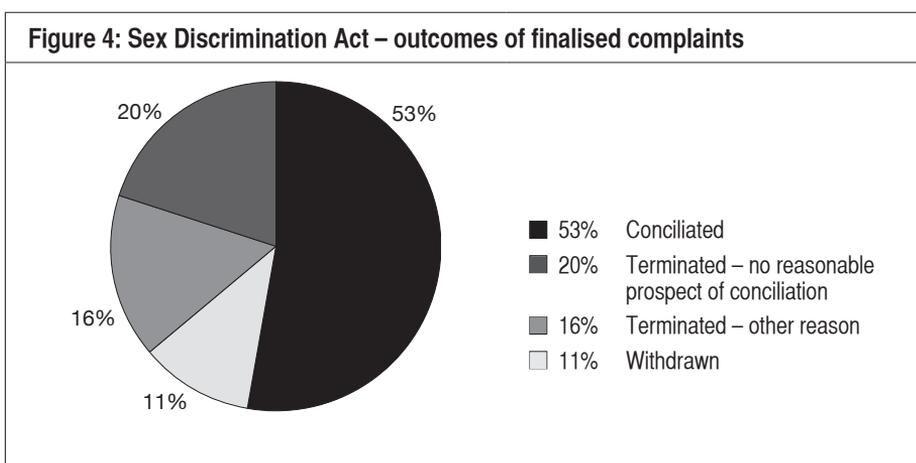
* One complaint may have multiple grounds.

Table 24: Sex Discrimination Act – complaints received by area		
Sex Discrimination Act	Total	Percentage (%)
Employment	746	87
Goods, services and facilities	75	9
Land	–	–
Accommodation	2	–
Superannuation, insurance	–	–
Education	7	1
Clubs	10	1
Administration of Commonwealth laws and programs	16	2
Application forms etc	1	–
Trade unions, accrediting bodies	–	–
Total*	857	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

Table 25: Sex Discrimination Act – outcomes of finalised complaints	
Sex Discrimination Act	Total
Terminated	142
At complainant's request – s.46PE	–
Not unlawful	2
More than 12 months old	1
Trivial, vexatious, frivolous, misconceived, lacking in substance	57
Adequately dealt with already	–
More appropriate remedy available	2
Subject matter of public importance	–
No reasonable prospect of conciliation	80
Withdrawn	46
Withdrawn, does not wish to pursue, advised the Commission	44
Withdrawn, does not wish to pursue, settled outside the Commission	2
Conciliated	209
Administrative closure*	24
Total	421

* Not an aggrieved party, state complaint previously lodged.



4.3.7 Disability Discrimination Act

Disability Discrimination Act	Total
Received	988
Finalised	815

Disability Discrimination Act	Total	Percentage (%)
Physical disability	224	21
A mobility aid is used (e.g. walking frame or wheelchair)	94	9
Physical disfigurement	18	2
Presence in the body of organisms causing disease (e.g. HIV/AIDS)	12	1
Presence in the body of organisms causing disease (other)	9	1
Psychiatric disability	179	17
Neurological disability (e.g. epilepsy)	60	6
Intellectual disability	21	2
Learning disability	25	2
Sensory disability (hearing impaired)	54	5
Sensory disability (deaf)	33	3
Sensory disability (vision impaired)	41	4
Sensory disability (blind)	15	1
Work-related injury	93	9
Medical condition (e.g. diabetes)	89	9
Other	86	8
Total*	1 053	100

* One complainant may have multiple disabilities.

Disability Discrimination Act	Total	Percentages (%)
Disability of person(s) aggrieved	1 888	92
Associate	64	3
Disability – person assisted by trained animal	43	2
Disability – accompanied by assistant	7	–
Disability – use of appliance	8	–
Harassment	9	1
Victimisation	10	1
Aids, permits or instructs	21	1
Total*	2 050	100

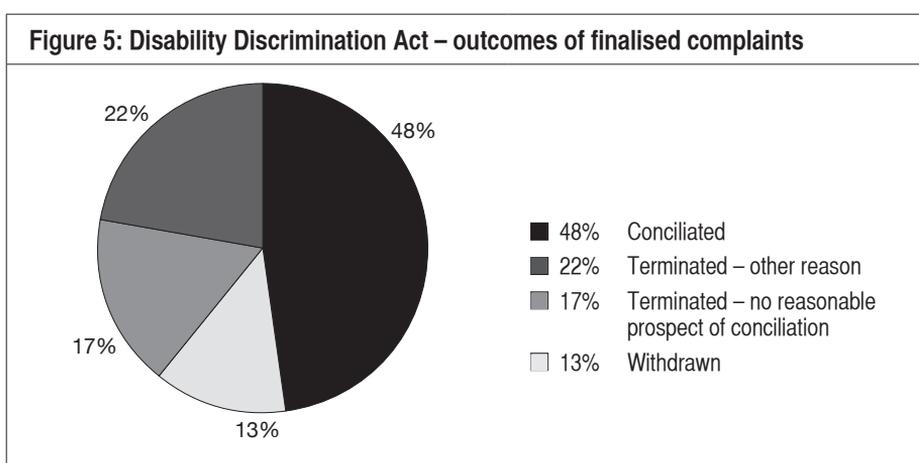
* One complainant may have multiple grounds.

Disability Discrimination Act	Total	Percentage (%)
Employment	942	46
Goods, services and facilities	640	31
Access to premises	62	3
Land	–	–
Accommodation	24	1
Incitement to unlawful acts or offences	–	–
Advertisements	–	–
Superannuation, insurance	14	1
Education	149	7
Clubs, incorporated associations	27	1
Administration of Commonwealth laws and programs	48	3
Sport	4	–
Application forms, requests for information	5	–
Trade unions, registered organisations	–	–
Unlawful to contravene Disability Standard	135	7
Total*	2 050	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

Table 30: Disability Discrimination Act – outcomes of finalised complaints	
Disability Discrimination Act	Total
Terminated	310
At complainants request – s.46PE	–
Not unlawful	10
More than 12 months old	6
Trivial, vexatious, frivolous, misconceived, lacking in substance	145
Adequately dealt with already	4
More appropriate remedy available	6
Subject matter of public importance	–
No reasonable prospect of conciliation	139
Withdrawn	103
Withdrawn, does not wish to pursue, advised the Commission	100
Withdrawn, does not wish to pursue, settled outside the Commission	3
Conciliated	385
Administrative closure*	17
Total	815

* Not an aggrieved party, state complaint previously lodged.



4.3.8 Age Discrimination Act

Table 31: Age Discrimination Act – complaints received and finalised	
Age Discrimination Act	Total
Received	126
Finalised	114

Table 32: Age Discrimination Act – complaints received by age group of complainant		
Age Discrimination Act	Total	Percentages (%)
0-14 years	1	1
15-24 years	12	10
25-34 years	9	7
35-44 years	11	9
45-54 years	28	22
55-64 years	37	29
> 65 years	14	11
Unknown	14	11
Total	126	100

Table 33: Age Discrimination Act – complaints received by area		
Age Discrimination Act	Total	Percentage (%)
Employment	182	76
Goods, services and facilities	41	17
Access to premises	–	–
Land	–	–
Accommodation	1	–
Incitement to unlawful acts or offences	–	–
Advertisements	–	–
Superannuation, insurance	2	1

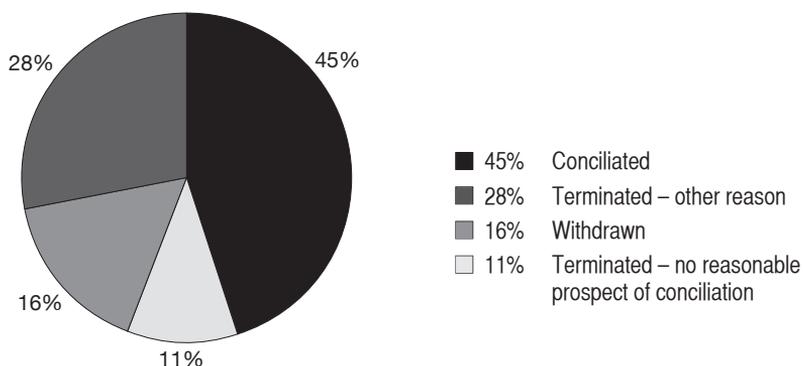
Education	9	4
Clubs, incorporated associations	–	–
Administration of Commonwealth laws and programs	4	2
Sport	–	–
Application forms, requests for information	–	–
Trade unions, registered organisations	–	–
Total*	239	100

* One complaint may have multiple and different areas.

Age Discrimination Act	Total
Terminated	44
At complainants request – s.46PE	–
Not unlawful	3
More than 12 months old	3
Trivial, vexatious, frivolous, misconceived, lacking in substance	26
Adequately dealt with already	–
More appropriate remedy available	–
Subject matter of public importance	–
No reasonable prospect of conciliation	12
Withdrawn	18
Withdrawn, does not wish to pursue, advised the Commission	17
Withdrawn, does not wish to pursue, settled outside the Commission	1
Conciliated	50
Administrative closure*	2
Total	114

* Not an aggrieved party, state complaint previously lodged.

Figure 6: Age Discrimination Act – outcomes of finalised complaints



4.3.9 Human Rights and Equal Opportunity Commission Act

Table 35: Human Rights and Equal Opportunity Commission Act – complaints received and finalised

Human Rights and Equal Opportunity Commission Act	Total
Received	149
Finalised	167

Table 36: Human Rights and Equal Opportunity Commission Act – complaints received by ground

Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Race (ILO 111)	–	–
Colour (ILO 111)	–	–
Sex (ILO 111)	–	–
Religion (ILO 111)	19	12
Political opinion (ILO 111)	3	2
National extraction (ILO 111)	–	–
Social origin (ILO 111)	–	–
Age (ILO 111)	1	0.5
Medical record (ILO 111)	1	0.5
Criminal record (ILO 111)	73	46

Table 36: Human Rights and Equal Opportunity Commission Act – complaints received by ground (cont.)		
Impairment (including HIV/AIDS status) (ILO 111)	1	0.5
Marital status (ILO 111)	–	–
Disability (ILO 111)	–	–
Nationality (ILO 111)	–	–
Sexual preference (ILO 111)	15	9
Trade union activity (ILO 111)	11	7
International Covenant on Civil and Political Rights	33	21
Declaration on the Rights of the Child	–	–
Declaration on the Rights of Mentally Retarded Persons	–	–
Declaration on the Rights of Disabled Persons	–	–
Convention on the Rights of the Child	2	1
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	1	0.5
Not a ground within jurisdiction	–	–
Not a human right as defined by the Act	–	–
Total*	160	100

* One complaint may have multiple grounds.

Table 37: Human Rights and Equal Opportunity Commission Act – complaints received by area		
Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Acts or practices of the Commonwealth	32	20
Employment	126	79
Not act or practice of the Commonwealth (not employment cases)	2	1
Total*	160	100

* An area is recorded for each ground, so one complaint may have multiple and different areas.

Table 38: Human Rights and Equal Opportunity Commission Act – non-employment complaints received by sub-area		
Human Rights and Equal Opportunity Commission Act	Total	Percentage (%)
Prisons, prisoner	2	6
Religious institutions	–	–
Family court matters	–	–
Other law court matters	1	3
Immigration	20	59
Law enforcement agency	–	–
State agency	1	3
Other service provider (private sector)	–	–
Local government	–	–
Education systems	–	–
Welfare systems	2	6
Personal or neighbourhood conflict	–	–
Health system	–	–
Other	8	23
Total	34	100

Table 39: Human Rights and Equal Opportunity Commission Act – outcomes of finalised complaints	
Human Rights and Equal Opportunity Commission Act	Total
Declined	118
Does not constitute discrimination	22
Human rights breach, not inconsistent or contrary to any human right	7
More than 12 months old	2
Trivial, vexatious, frivolous, misconceived, lacking in substance	37
Adequately dealt with already	3
More appropriate remedy available	7
Withdrawn, does not wish to pursue, advised the Commission	9

Table 39: Human Rights and Equal Opportunity Commission Act – outcomes of finalised complaints (cont.)	
Withdrawn, does not wish to pursue, settled outside the Commission	2
Withdrawn or lost contact	29
Conciliated	41
Referred for reporting*	8
Administrative closure**	-
Total	167

* Complaints in this category were not conciliable and therefore transferred from HREOC’s Complaint Handling Section to Legal Services for further Inquiry and possible report.

** Not an aggrieved party, state complaint previously lodged.

