



Equal Opportunity Tasmania

Annual Report 2018–19



Gratitude

Respect

Kindness

The Honourable Elise Archer, MP
Attorney-General
Minister for Justice
Parliament House, Hobart

Dear Attorney-General

As required by section 10 of the *Anti-Discrimination Act 1998* (Tas), it is my pleasure to present the 20th Annual Report on the operation of the *Anti-Discrimination Act 1998*.

This report covers my activities and those of my office from 1 July 2018 to 30 June 2019.

I commend the report to you.



Sarah Bolt
Anti-Discrimination Commissioner

30 September 2019

This Annual Report outlines the activities of the Anti-Discrimination Commissioner and Equal Opportunity Tasmania in 2018–19.

It is also available on the Equal Opportunity Tasmania website:

www.equalopportunity.tas.gov.au

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From the Commissioner



An issue I have thought a lot about is why locally and globally, discrimination and harassment, incitement of hatred and other antisocial behaviours continue to negatively impact on, and touch the lives of so many people.

As previously commented, it is increasingly clear to me that no matter how noble and encompassing Anti-Discrimination legislation might be it will not drive itself. It takes each and every one of us to drive the intent of the legislation. It takes each and every one of us to make our society a safe, inclusive and diverse place to live. The responsibility falls on all of us to do our bit, no matter how small a role we play, to help to change and maintain societal wellbeing for the better.

An opinion I proffer without hesitation is that if gratitude, respect and kindness were a daily practice in our lives there would be much less room for negative attitudes and antisocial behaviours. I encourage anybody who may read this report to discover and reflect on the power of these three words.

The irony is that all too often those who are disrespectful, unkind, or resentful towards other people are invariably affronted, hurt or angered if they are treated poorly.

It has been a busy year for Equal Opportunity Tasmania and next year promises to be the same. In my last annual report I wrote of the desire to spread our reach and influence by forming collaborative partnerships. It is pleasing to report that we now provide outreach clinics to the Migrant Resource Centre Tasmania and The Link Youth Health Service. Over the next reporting period it is our intention to expand our reach into more rural and remote areas of the State.

Outreach clinics are designed to improve community awareness of the role and functions of Equal Opportunity Tasmania, and to encourage people to speak up if they have been subjected to discrimination, harassment or prohibited conduct. Outreach clinics also provide an opportunity to promote the importance of bystander intervention.

Last year marked the 20th anniversary of the Tasmanian *Anti-Discrimination Act 1998*. It is worthy to note that this legislation is hailed as the most protective and comprehensive in the country. This view is something that all Tasmanians should applaud, protect and hold with pride.

On behalf of Equal Opportunity Tasmania I again thank all government and non-government stakeholders with whom we have worked over the reporting period. Like-minded collaborations are an invaluable tool in the quest to improve community wellbeing and the lives of individuals who may, for any variety of reasons, find themselves disadvantaged or marginalised.

Special words of thanks and appreciation must be attributed to the Department of Justice for providing my office with administrative and technical support as and when required.

To conclude, as I have concluded before, we must not lose sight of the primary role of Equal Opportunity Tasmania, which is to advocate for the legislation, to the highest standard. Our reputation must be founded on the basis that we act impartially, fairly and independently.

I thank the staff for their professionalism, commitment and belief in the work undertaken by my office.



Sarah Bolt
Anti-Discrimination Commissioner

Our work at a glance

**208 training, education
and development
sessions delivered**

**475 enquiries
answered from
members of the public**

**179 complaints
received**

**31 *Report it!* reports
received**

**33 days average
assessment timeframe
of a complaint**

**13 exemption
applications granted**

**58% complaints
finalised through
conciliation or
negotiation**

**7 formal policy
submissions**

1 Aims and principles

Equal Opportunity Tasmania aims to foster a society free of discrimination, prejudice, bias and prohibited conduct by administering the *Anti-Discrimination Act 1998* (Tas) (the Act):

- with integrity and impartially;
- effectively and efficiently;
- professionally; and
- in accordance with our legal obligations.

To achieve public confidence in our role and functions, we strive to:

- deliver high standards of professional service;
- operate in a collaborative manner;
- build and foster relationships with key stakeholders;
- ensure transparency, fairness, and confidentiality in complaint-handling processes; and
- engage community and key stakeholder participation through our training, education and development programs.

**Gratitude is not only
the greatest of virtues,
but the parent of all
others.**

Marcus Tullius Cicero

2 Training, education and development

Providing education and training programs to the public and private sectors is an important function of Equal Opportunity Tasmania and is key to changing discriminatory cultures and behaviours in our communities and workplaces.

2018–19 highlights:

- On-site training for managers and staff in a wide range of organisations throughout Tasmania, such as Elphinstone Pty Ltd and Norske Skog.
- Workplace Support Contact Officer training to a number of local councils such as Burnie City Council, Central Coast Council and Devonport City Council.
- Developed a new training program for TasTAFE on LGBTI Awareness for Managers and Supervisors.
- Manager and Supervisor training for Department of Education and Tasmania Prison Service.
- Worked with the Department of Justice, Human Resources team to deliver a Workplace Support Contact Officer training program with a specific focus on family violence. The program was rolled out as part of the White Ribbon accreditation process.

The total training and education sessions delivered in 2018–19 compared to the previous year are detailed in Tables 2.1 and 2.2.

Table 2.1 Training and education delivery

	Current year 2018-19	Previous year 2017-18
Total training and community sessions delivered	208	230
Total training and community education hours	453	478
Total training and community education participants	6,426	5,116

Table 2.2 Training and education sessions by location

	Current year 2018-19	Previous year 2017-18
South	150	156
North west	35	37
North	14	18
South east	5	15
West	1	3
Other	3	2

In 2018–19 the training team delivered comprehensive training to a number of industries and specialist organisations across Tasmania. As shown in Table 2.3, the greatest number of sessions has been delivered to schools and tertiary education.

Table 2.3 Training and education by sector

	Current year 2018-19	Previous year 2017-18
Schools and tertiary education sessions	81	76
Private organisations	58	55
State Government and statutory authorities and government business enterprises	23	40
Local Government	19	22
Not-for-profit and community organisations, forums and events	16	26
Calendar training	7	11
Unions and industry bodies	4	1
Total	208	231

The most popular training programs during the reporting year were Discrimination Law: Rights and Responsibilities; Managers Awareness; and Workplace Support Contact Officer (Table 2.4).

Table 2.4 Training and education by session topic

	Current year 2018-19	Previous year 2017-18
Discrimination Law: Rights and Responsibilities	42	41
Managers' Awareness	27	6
Workplace Support Contact Officer	10	12
Workplace behaviour: Where is the line	7	39
Workplace Support Contact Officer Refresher	6	3
Workplace Support Contact Officers Networking	3	4
Recruitment and Selection	0	1
Other	6	0
Total	101	106

Community education

The delivery of community education sessions with schools, colleges, TasTAFE and a diverse range of community organisations continued to be very popular (Table 2.5).

Table 2.5 Community education by session type

	Current year 2018-19	Previous year 2017-18
Student sessions	74	63
Community awareness	19	4
Community forum	3	11
Other	11	34
Total	107	112

In September 2018, staff attended the Disability Expos in Hobart and Launceston where they engaged with many service providers and community members regarding discrimination issues in education, housing and employment.

In March 2019, staff attended the 'Hear Our Voices: Multicultural Women's Gathering 2019' forum where women from culturally and linguistically diverse backgrounds participated in a range of discussions on social justice issues.

Equal Opportunity Tasmania staff attended Agfest in May 2019 which was held over three days in the north of the state. There was a lot of interest from the public around training and community information sessions, as well as the complaint handling functions of the office.

Diversity Education: Let’s Get Together project

Equal Opportunity Tasmania partnered with ‘A Fairer World, Let’s Get Together’ program, which is designed to deliver workshops to young people in schools on discrimination. For further information, refer to: www.afairerworld.org/lgt.

UTAS Journalism, Media and Communications project

Equal Opportunity Tasmania partnered with the University of Tasmania, School of Creative Arts and Media to enable students to gain an insight into the legislation and discriminatory behaviours whilst completing an important unit of their course, Professional, Practice and Industry Engagement. The outcome of the project was the development of various media content to be utilised by Equal Opportunity Tasmania as educational resources. The final materials were presented by the students on 17 October 2018.

Evaluation and feedback

Regular evaluation of training and education content, relevance and delivery is essential to maintaining Equal Opportunity Tasmania’s professional training approach (Table 2.6). Evaluations are compiled, results are recorded and all feedback is reviewed to ensure consistency, currency and professionalism in the product and staff performance.

Table 2.6 Training evaluation ratings

	Current year 2018-19	Previous year 2017-18
For the question: Please give the training an overall rating	Total of 1,156 completed responses	Total of 1,240 completed responses
Excellent	53%	47%
Very good	42%	48%
Total	95%	95%

**The real question is:
who has the responsibility
to uphold human rights?
The answer to that is:
everyone.**

Madeleine Albright

3 Community engagement

Functions and events

During the year there were a number of external events held relevant to the work of Equal Opportunity Tasmania. Attending such events keeps us connected to the community and aware of emerging trends or issues.

NAIDOC Week – *Because of her, we can!*: 8 to 15 July 2018

Equal Opportunity Tasmania continues to acknowledge the importance of NAIDOC (National Aboriginal and Torres Strait Islander Day Observance Committee) Week with the Aboriginal community in Tasmania. Equal Opportunity Tasmania staff attended the flag-raising ceremony at piyura kitina (Risdon Cove) on 8 July 2018.

Human Rights Week (Tasmania): 10 to 16 December 2018

2018 marked a number of important occasions:

- 70th anniversary of the Universal Declaration of Human Rights;
- 30th anniversary of the commencement of the Tasmanian Human Rights Week Organising Committee; and
- 20th anniversary of the Tasmanian *Anti-Discrimination Act 1998*.

Equal Opportunity Tasmania initiated a kindness rally held on 7 December 2018 to celebrate the commencement of Human Rights Week. The rally was supported by over sixty government and non-government organisations. The rally celebrated the work that is being done to make Tasmania a safer, fairer, inclusive and kinder place to live and to encourage empathy and kindness in our thoughts, actions, policies and decision-making. The theme for the rally was, “Let’s make Tasmania the kind State to live, learn, work and grow old”. The rally attracted well over 1,000 participants all supporting the importance and power of kindness.

On 11 December 2018, Equal Opportunity Tasmania hosted a morning tea to celebrate the 20th anniversary of the Tasmanian *Anti-Discrimination Act 1998*. The event was a celebration of this important milestone and an opportunity to thank all those helping to drive such important legislation.

Other events

In addition to these events, Equal Opportunity Tasmania has participated in:

- Awards ceremony for the 2018 What Matters? Tasmania writing competition.
- Launch of the National Brain Injury Awareness Week and celebration of the 20th birthday of the Brain Injury Association of Tasmania.
- Gender, Identity, and Why Words Matter presentation.
- Carer's Week 2018 celebration.
- Reception to commemorate the 30th anniversary of the Tasmanian Gay and Lesbian Rights Group.
- Annual White Ribbon Walk.
- Communicating: The Heart of Literacy symposium.
- Celebration of the International Day of People with Disability.
- International Women's Day celebrations.
- Harmony Week Tasmania celebrations.
- Cheese for Change, family violence presentation.
- Launch of the Ageing My Way exhibition.
- Council of the Ageing's Walk Against Elder Abuse.

Presentations and speaking engagements

During the year, Equal Opportunity Tasmania participated in a number of events across the State to increase awareness of discrimination law and promote diversity. Highlights include:

- Presentation to Norske Skog Boyer leadership team.
- Speaker at the 36th Annual Speak Out Conference.
- Speaker at the Elder Abuse panel discussion
- Speaker at a Christ College dinner.
- Presentations to Independent Schools Tasmania.
- Presentation to the Ministers Disability Advisory Committee.
- Speaker at the Launceston celebration of the Tasmanian Human Rights Awards.
- Speaker at the 3rd Women in Leadership Tasmania Summit.
- Presentations to the Tasmania Police academy graduates.
- Speaker at the launch of Elder Specialist Services Tasmania Inc.
- Presentation to Devonport City Council councilors.
- Speaker at the 2019 Emerging Community Leaders Program.
- Member of the judging panel for the 2019 What Matters? Tasmania writing competition.

Partnerships and promotions

Community outreach

In 2019, Equal Opportunity Tasmania commenced partnerships with both the Migrant Resource Centre Tasmania and The Link Youth Health Service to provide outreach clinics in the south of the State.

The clinics are designed to give people an opportunity to meet staff in person and to ask questions about discrimination, sexual harassment and other prohibited conduct, as well as to receive assistance with filling out complaint forms.

The Link Youth Health Service clinics are held weekly on Mondays. Clinics at the Migrant Resource Centre Tasmania are held on the last Wednesday of each month. These partnerships have also resulted in Equal Opportunity Tasmania staff providing information sessions to staff members of each organisation.

Metro bus advertising campaign

Equal Opportunity Tasmania commenced a Metro bus advertising campaign which ran for the majority of 2018–19. The campaign involved large advertisements on Metro buses, one in Hobart and two in Launceston. The aim of the campaign was to increase community awareness and encourage people to report incidences of racism, disability discrimination and sexual harassment to Equal Opportunity Tasmania.

Just Time

Equal Opportunity Tasmania participated in the *Just Time* 8-week program at the Mary Hutchinson Women's Prison. The program was conducted by Chatter Matters Tasmania in liaison with the Tasmania Prison Service. The program provided women prisoners valuable information and insight in relation to parenting and the process of attaining secure, long term health attachment between parent and child.

**I believe there is
only one race –
the human race.**

Rosa Parks

4 Complaint handling

A significant function of Equal Opportunity Tasmania is to investigate and attempt to resolve complaints of discrimination and prohibited conduct.

The Act provides that a person can complain about one or more of the following:

- discrimination on the basis of one or more of 22 protected attributes;
- conduct that offends, humiliates, intimidates, insults or ridicules on the basis of one or more of 14 protected attributes;
- sexual harassment;
- incitement, by a public act, to hatred, serious contempt or severe ridicule on the basis of one or more of eight protected attributes;
- promoting discrimination or prohibited conduct;
- knowingly causing, aiding or inducing another person to breach the Act; and/or
- victimisation: which is protection against retaliation for making a complaint or participating in the complaint process.

Changes to the Act, which received Royal Assent on 7 May 2019, mean the attribute of 'intersex' is now called 'intersex variations of sex characteristics'. The definition of 'gender identity' was also changed, but not the name of the attribute.

Other than incitement, the conduct listed above is only unlawful if it happens in connection with one or more of the following areas of activity:

- employment;
- education and training;
- provision of facilities, goods and services;
- accommodation;
- membership and activities of clubs;
- administration of any law of the State or any State program; and/or
- awards, enterprise agreements or industrial agreements.

In 2018–19, 179 complaints were received under the Act (Table 4.1). This is an increase from 147 complaints received in 2017–18. Of these 179 complaints, 52 were received from one person.

Table 4.1 Type of breach alleged

	Current year 2018-19	Previous year 2017-18
Total complaints	179	147
Allegations raised in complaints		
Discrimination	347 ¹	138
Conduct that offends, humiliates, intimidates, insults or ridicules	193 ²	87
Incitement	91 ³	44
Victimisation	82 ⁴	61
Sexual harassment	20	21
Promoting a breach	3	3
Causing, inducing or aiding a breach	3	0
None alleged	2	0

Please refer to page 39 for table notes.

When comparing 2018–19 to 2017–18, the fact that many allegations were made by one person in 52 complaints makes it difficult to make meaningful comparisons. If the complaints from this one person are excluded, allegations of discrimination, offensive conduct and causing, inducing or aiding a breach increased. Allegations of incitement, sexual harassment and promoting a breach were about the same, and allegations of victimisation decreased.

Compensation paid to complainant alleging gender and disability discrimination¹

Equal Opportunity Tasmania received a complaint from a female who alleged her manager had approached her and made offensive comments about her facial hair, which is due to a medical condition. The manager allegedly expressed disgust and made comments about her removing the hair.

The complaint was accepted by the Anti-Discrimination Commissioner on the basis it disclosed possible discrimination on the basis of gender and disability, and possible offensive, humiliating, intimidating, insulting or ridiculing conduct on the basis of gender and disability.

The employer responded to the allegations with a substantially different recollection of the conversation.

The parties attended a conciliation conference where they agreed to an amount of compensation and the resignation of the complainant.

1 Please note, all case studies refer to what was alleged by the person making the report or complaint.

Discrimination complaints

During 2018–19, as in most previous reporting periods, disability was the most complained about attribute, with it being identified in 114 of the 347 allegations of discrimination (33%) (Table 4.2). 51 of these allegations were made by one person. However, even if these allegations are excluded disability remained the most complained about attribute.

The next highest levels of discrimination allegations related to the attributes of association (14%), gender (8%) and age (7%). In relation to association, 43 of the 47 allegations were made by one person. If these allegations are excluded, there were less allegations of association discrimination in 2018–19 compared to 2017–18.

There were no allegations of offensive etc. conduct made on the basis of intersex variations of sex characteristics or breastfeeding this reporting period or the previous year, therefore, these attributes are not included in Table 4.2.

Table 4.2 Complaints of discrimination by attribute

	Current year 2018-19	Previous year 2017-18
Total complaints in which discrimination alleged or identified	347	138
Disability	114 ⁵	81
Association with a person who has, or is believed to have, any attribute	47 ⁶	11
Gender	26	23
Age	25	23
Race	16	19
Irrelevant criminal record	15	8
Irrelevant medical record	15	11
Political activity	12 ⁷	6
Family responsibilities	10	3
Industrial activity	10	16
Relationship status	10	7
Political belief or affiliation	7	5
Gender identity	6	9
Lawful sexual activity	6	2
Marital status	6	7
Parental status	6	2
Religious belief or affiliation	6	8
Sexual orientation	6	9
Religious activity	2	2
Pregnancy	1	3
Unknown	1	0

As noted earlier, for discrimination to be unlawful it must be connected with an area of activity. In 2018–19, for complaints alleging discrimination, the main areas of activity were employment and provision of facilities, goods and services (Table 4.3).

Table 4.3 Discrimination complaints by area of activity identified

	Current year 2018-19	Previous year 2017-18
Employment	148	101
Provision of facilities, goods and services	130	85
Administration of any law or program of the State	95	28
Education and training	64	45
Accommodation	58	44
Unknown	48	1
Membership and activities of clubs	24	5
Awards, enterprise and industrial agreements	17	7

The 52 complaints made by one person alleged discrimination in numerous areas of activity. Because of this, it is difficult to provide a meaningful comparison to the previous year.

Conciliation conference results in measures taken to provide more inclusive sporting community

Equal Opportunity Tasmania received a complaint from a person with a disability who is involved in a sporting club. The person alleged they were subjected to taunts from the players such as ‘spastic’, ‘retard’ and that they were told people like them should not be playing the sport.

The complaint was accepted by the Anti-Discrimination Commissioner on the basis it disclosed possible disability discrimination and possible offensive, humiliating, intimidating, insulting or ridiculing conduct on the basis of disability.

The parties attended a conciliation conference where the complaint resolved by –

- *the complainant receiving an apology;*
- *the organisation’s internal complaint process to be set out in an easy-read format and sent to the complainant;*
- *the players of the sporting teams to receive information on discrimination and the organisation’s code of conduct; and*
- *for presidents and umpires of all teams to attend a talk about discrimination and vilification.*

Prohibited conduct complaints

Prohibited conduct refers to any of the types of unlawful conduct other than discrimination. It includes offensive conduct, sexual harassment, incitement, victimisation, promoting discrimination and prohibited conduct, and causing, inducing or aiding a breach of the Act.

Complaints alleging offensive, humiliating, intimidating, insulting or ridiculing conduct that identified disability as the relevant attribute increased in 2018–19. However this increase is largely attributed to one person making 48 of the 96 allegations of offensive etc. conduct on the basis of disability.

There were no allegations of offensive etc. conduct made on the basis of intersex variations of sex characteristics or breastfeeding this reporting period or the previous year, therefore, these attributes are not included in Table 4.4.

There was no notable change from the previous financial year for the other attributes alleged (Table 4.4).

Table 4.4 Complaints involving alleged offensive, insulting, intimidating, humiliating or ridiculing conduct by attribute

	Current year 2018-19	Previous year 2017-18
Total complaints in which offensive conduct alleged or identified	193	87
Disability	96 ⁸	45
Gender	22	25
Age	22	22
Race	14	14
Relationship status	8	7
Family responsibilities	7	1
Parental status	6	3
Sexual orientation	5	7
Gender identity	5	5
Marital status	4	7
Lawful sexual activity	3	0
Pregnancy	1	3

Of the other types of prohibited conduct:

- A similar number of complaints alleging sexual harassment were made in 2018–19 (20) compared to 2017–18 (21).
- More allegations of victimisation were made in 2018–19 (82) compared to 2017–18 (61). However, 38 of the 82 allegations of victimisation were related to complaints made by one person. If these are excluded, the allegations of victimisation decreased.
- The same number of allegations of promoting a breach of the Act were made in 2018–19 as in 2017–18.
- 3 allegations of causing, inducing or aiding a breach of the Act were made in 2018–19 compared to 0 in 2017–18.

With regard to the area of activity identified in complaints alleging prohibited conduct, employment and the provision of facilities, goods and services were the most identified areas, with these identified in 130 and 98 complaints respectively.

Complaint resolved after the respondent took immediate action

Equal Opportunity Tasmania received a complaint from a person who uses a wheelchair. The person had difficulty accessing a retail shop due to the configuration of display tables, and could not use the change-rooms.

The complaint was accepted by the Anti-Discrimination Commissioner on the basis it disclosed possible disability discrimination.

The organisation immediately sought to rectify the issues with accessibility by creating an accessible change-room, ensuring the change-room was signed and reconfiguring the store so people who use a wheelchair or other mobility device would be able to enter and browse the store without difficulty.

The organisation also sent a letter of apology to the complainant.

The complaint resolved on this basis, without a formal response or conciliation conference.

Complaints alleging incitement to hatred, serious contempt or severe ridicule increased in 2018–19 compared with the previous year. However this increase is largely attributed to one person making 50 of the 91 allegations of incitement, mostly on the basis of disability (Table 4.5).

Table 4.5 Complaints involving alleged incitement to hatred, serious contempt or severe ridicule by attribute

	Current year 2018-19	Previous year 2017-18
Complaints in which incitement alleged or identified	91⁹	44
Disability	72 ¹⁰	29
Race	9	11
Sexual orientation and lawful sexual activity	6	8
Religious belief or affiliation or activity	4 ¹¹	6
Gender identity	0	0
Intersex variations of sex characteristics	0	0

Incitement does not need to happen in connection with an area of activity to be unlawful. Instead, it requires a public act from which an ordinary member of the audience could understand that they were being incited to hatred, serious contempt or severe ridicule.

Who makes complaints and who they are against

The complainant is the person or persons that lodges a complaint. The respondent is the individual and/or organisation against whom the complaint has been made. A complaint can be made against more than one person or organisation.

Most complaints are received from individuals who either complain on their own behalf or on behalf of another person or group (Table 4.6). Most of the complaints made by a person on behalf of another are made by a parent on behalf of their child or a family member on behalf of a person with disability.

In 2018–19, 179 complaints were made by 181 complainants. Two complaints had more than one complainant. Of the 178 complaints, 52 were made by one person. This person is female, accounting for 52 of the 118 complaints made by females.

The three complaints made by organisations were made by unions on behalf of their members.

Table 4.6 Complaints: complainants and respondents

	Current year 2018-19	Previous year 2017-18
Number of complainants	181	147
Individual complainants	178 ¹²	146
Male	59	77
Female	118 ¹³	69
Other	1	0
Organisation or group complainants	3	1
Number of respondents	307	246
Individual respondents	107	98
Male	59	59
Female	48	39
Other	8 ¹⁴	0
Organisation or group respondents	192	148

Respondent organisation type identified in complaints

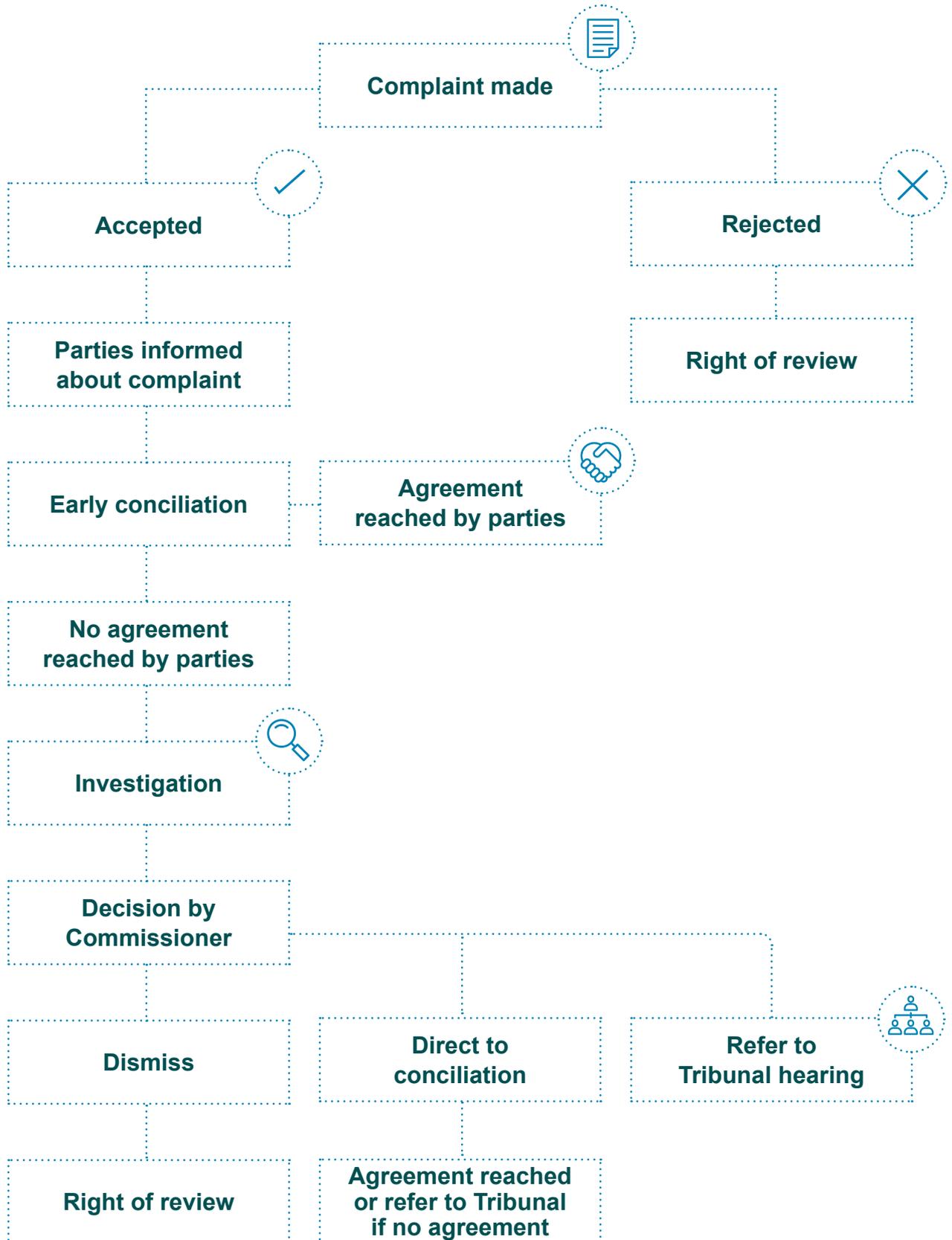
Organisational respondents are categorised according to their respondent type. Complaints received in 2018–19 saw the State government as the highest respondent type identified, with a similar number to 2017–18 (Table 4.7). This was followed by private enterprise, although complaints against private enterprise decreased from the previous year. Complaints that identified a local government organisation or non-profit entities as the respondent increased.

Table 4.7 Complaints by respondent organisation type

	Current year 2018-19	Previous year 2017-18
State government entities	71	59
Non-profit entities	69	39
Private enterprise	39	48
Local government	11	3
Federal government	2	3

Please note that the Act doesn't apply to complaints made against the Federal government and its agencies and they must be rejected.

Complaint flowchart



Access to legal representation, advocacy and support

Some complainants and respondents choose to seek legal or advocacy representation. This may include lawyers from community legal centres, private firms and the Office of the Solicitor-General (for complaints involving the State government), in-house counsel, and advocates from advocacy organisations. Others may enter the complaint process unrepresented and remain so throughout the process.

The relatively informal complaint handling process within the Equal Opportunity Tasmania setting enables, in many instances, a timely, creative and flexible approach to resolving matters without the need for legal or other representation.

In 2018–19, of the 179 complaints under the Act:

- 16 (9%) complainants had a lawyer at some stage during the complaint process.
- 12 (7%) complainants had an advocate or other representative involved at some time during the complaint process.
- Of the primary respondents, 28 (17%) had a legal representative (private lawyer or in-house counsel) and 2 (1%) involved another representative.

Complainant unable to show ‘nexus’ between attributes and alleged conduct

Equal Opportunity Tasmania received a complaint from a person who experienced general bullying in the workplace, including verbal harassment, being chastised in front of customers and allegations of misconduct and theft.

The complaint alleged discrimination on the basis of family responsibilities, irrelevant medical record and parental status, offensive, humiliating, intimidating, insulting or ridiculing conduct on the basis of family responsibilities and parental status, and victimisation because they complained to someone about discrimination or prohibited conduct.

The person also had no information to show they had made a complaint they could have been victimised about and as the person could not show a connection (“nexus”) between the alleged conduct and the attributes the complaint was rejected.

The complaint indicated that the person worked in an environment characterised by inappropriate workplace conduct, but not conduct which could be investigated under the Act.

Assessment

Equal Opportunity Tasmania handles complaints independently, impartially and within the timeframes set by the Act.

The Commissioner assesses every complaint and decides whether to accept or reject it.

Acceptance of a complaint **does not** mean the complainant has proved they have been discriminated against or subjected to prohibited conduct. Rather, it means the complaint satisfies the requirements of the Act and discloses possible breach/es of the Act based on what the complainant alleged has happened.

The Act requires the Commissioner to accept or reject a complaint within 42 days after it is received.

The Commissioner also has the power to reject part of a complaint, while accepting other parts of it. For example, a complainant may name a number of respondents. The Commissioner may decide that only some of those respondents could have any possible liability under the Act. Part-rejecting a complaint avoids the need for all the respondents having to remain involved in the complaint process.

Apology and compensation for worker with intellectual disability

A sister made a complaint of disability discrimination and victimisation in employment on behalf of her brother, who has intellectual disability. The complaint was made against his employer, a labour hire company, and the workplace he had worked. The complaint alleged he was discriminated against by being called names related to his disability and by having a tool thrown at him at the workplace. They alleged he was victimised because after a complaint was made to the workplace, he was told that he was no longer required to work there. It was also alleged that the labour hire company did not do an independent investigation into what happened.

The complaint against the workplace was resolved at conciliation. The workplace provided a written apology to the worker for the discrimination and bullying he experienced, and the way the matter was handled when it was brought to their attention. The workplace also agreed to pay compensation of \$10,000. The complainant released the workplace from legal liability. The parties also agreed to maintain confidentiality and not disparage each other.

The complaint was not able to be resolved against the labour hire company because the parties couldn't agree on wording of terms. The complainant decided to withdraw the complaint against the labour hire company.

Table 4.8 provides an overview of complaint assessment decisions made in 2018–19.

Table 4.8 Complaint assessment decisions

	Current year 2018-19	Previous year 2017-18
Assessment decisions	141	132
Accepted	83	82
Rejected	55 ¹⁵	46
Partially accepted/rejected	3	1

Of the 141 assessment decisions made by the Commissioner in 2018–19 on whether to accept or reject a complaint:

- 16 complaints were received in 2017–18 and the remaining 123 were received in 2018–19.
- 83 complaints (58%) were accepted (down from 62% in 2017–18).
- 55 complaints (39%) were rejected (up from 35% in 2017–18).
- 3 complaints (2%) were partially accepted and partially rejected.

Of the 55 complaints rejected:

- 27 complaints were lacking in substance or misconceived.
- 23 complaints did not relate to discrimination or prohibited conduct.
- 2 complaints did not meet the requirements to be a valid complaint under the Act.
- 1 complaint was made outside the time limit of 12 months.
- 1 complaint could be more effectively dealt with by another statutory authority.
- 1 complaint had already been adequately dealt with by the Commissioner, a State authority or a Commonwealth statutory authority.

The average timeframe for a complaint to be assessed during the reporting period was 33 days.

Early conciliation

When the Commissioner believes that an accepted complaint may be resolved, a conciliation conference will be held at an early stage of the investigation into a complaint. If a complaint cannot be resolved at early conciliation it is returned to investigation.

During 2018–19, 72 early conciliations were held (down from 75 in 2017–18). Of these:

- 40 complaints (56%) were resolved.
- 26 complaints (36%) were not resolved and returned to investigation.
- 4 complaints (6%) were withdrawn resolved.
- 1 complaint (1%) was not resolved and referred to the Tribunal.²
- 1 conciliation (1%) was adjourned with the possibility of resolution remaining open in this case.

Complaint of sexual orientation discrimination in the provision of insurance services resolved at conciliation

The complainant alleged discrimination and offensive conduct on the basis of sexual orientation and lawful sexual activity in the area of the provision of services. He applied to extend his insurance cover. The complainant is gay and answered on the application form that he is taking HIV preventative medication (PrEP). His application was declined. He was told that it is because PrEP is a new medication and also that the risk of contracting HIV while on PrEP had to be assessed.

The insurer denied discrimination. They provided information about the difficulty of assessing risk, and that new guidelines regarding PrEP had been released while the complainant's application was being assessed.

Although the insurer denied discriminating against the complainant, the complaint was resolved at conciliation by the insurer agreeing to pay \$5,000 compensation, to change the outcome of the complainant's application from 'Declined' to 'Not proceeded with' and to move questions about HIV out of the 'Lifestyle Questions' section of the application form.

² A complaint would normally be returned to investigation if an early conciliation did not resolve the complaint. In this case, conciliation negotiations had been ongoing and the 6-month date expired. Accordingly, it was recorded as not resolved and referred to the Tribunal.

Table 6.8 Type of incident

Discrimination	51.0%
Conduct that is offensive, humiliating, intimidating, insulting or ridiculing	14.3%
Inciting hatred	14.3%
Sexual harassment	4.1%
Promoting discrimination or prohibited conduct	4.1%
Victimisation	2.0%
Knowing causing, inducing or aiding contravention	2.0%
None alleged	8.2%

All of these reports represent potentially serious interference in the rights of Tasmanians to be free from discrimination and other prohibited conduct. As outlined earlier, some of the reports received by Equal Opportunity Tasmania progressed to a formal complaint.

Report it! Case study

A person of a culturally or linguistically diverse background was in a bus mall when they were approached by 11 young white Australian men (appearing to be between 16 and 20 years of age). These men surrounded the person and verbally abused them using racial taunts and mocking their accent.

In many of the reports the perpetrator was unknown to the person who made the report. Further, many of the reports stated that the incident made them feel unsafe, afraid, hurt and angry. The effects of these incidents is unknown and may differ for everyone, however it is known that it can affect a person's general health and well-being.

The purpose of the *Report it!* form is to give people a voice and talk to someone about what happened to them. This in turn empowers them to document what happened and gives them a greater understanding of the Act and other options available to them.

Report it! Case study

Equal Opportunity Tasmania delivered training to a community service provider's employees. One employee reported that a client had needed an interpreter to access a medical service. The employee advised the medical service of their requirement to provide an interpreter. The medical service failed to provide one.

Exemptions granted

Women's Legal Service (Tasmania) Inc

Exemption no: 18/06/012

Date granted: 4 July 2018 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(d)

This exemption was granted to permit Women's Legal Service (Tasmania) Inc to recruit and employ women only in the identified positions of CEO; Principal Solicitor; Solicitors; Reception/Administration Assistant; Project Manager; Office Manager; Para-Legal; Legal Students; Volunteers; and Board of Management.

Tasmanian University Union Inc

Exemption no: 18/08/024

Date granted: 6 September 2018 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(d), 41

This exemption was granted to permit Tasmania University Union Inc to restrict nominations for the student representative positions of Aboriginal and/or Torres Strait Islander Student Representative; Disabilities Student Representative; International Student Representative; Queer Student Representative; and Women's Student Representative.

Hobart City Council

Exemption no: 18/08/036

Date granted: 10 September 2018 for 3 years

Relevant exceptions under the Act: Sections 25, 41

This exemption was granted to permit Hobart City Council to recruit and employ an Aboriginal and/or Torres Strait Islander person to the identified position of Community Development Officer in the Community and Culture division of the Council.

Jireh House Association Inc

Exemption no: 18/08/033

Date granted: 12 September 2018 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(d)

This exemption was granted to permit Jireh House Association Inc to recruit and employ women only in the identified positions of Manager; Administration Officer; Finance Administration Officer; Child Support Worker; Client Services Worker; Family Support Worker; Property Services Worker; Tenancy Support Worker; Outreach Support Worker; and Support Worker (including sleepover).

Karinya Young Women's Service Inc

Exemption no: 18/08/043

Date granted: 27 September 2018 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(c), 27(1)(d)

This exemption was granted to permit Karinya Young Women's Service Inc to recruit and employ women only in the identified positions of Youth Crisis Accommodation Worker (permanent full-time); Youth Crisis Accommodation Worker (permanent part-time); Youth Crisis Accommodation Worker (casual); Cleaner; and Management Committee (membership).

University of Tasmania (College of Sciences and Engineering)

Exemption no: 18/09/037

Date granted: 1 October 2018 for 3 years

Relevant exceptions under the Act: Sections 25, 27(1)(d)

This exemption was granted to permit the University of Tasmania (College of Sciences and Engineering) to recruit and employ a woman lecturer in Chemistry.

Roman Catholic Church Trust Corporation of The Archdiocese of Hobart

Exemption no: 18/11/025

Date granted: 27 November 2018 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(c), 27(1)(d)

This exemption was granted to permit the Archdiocese of Hobart to recruit and employ women only in the identified positions of Crisis Worker(s); Team Leader(s); and Manager(s) at the Annie Kenney Young Women's Emergency Accommodation Service.

University of Tasmania (College of Sciences and Engineering)

Exemption no: 19/03/011

Date granted: 18 April 2019 for the period from 18 April 2019 to 1 October 2021

Relevant exceptions under the Act: Sections 25, 26, 27(1)(d)

This exemption was granted to permit the University of Tasmania (College of Sciences and Engineering) to advertise, recruit and employ four female academics in the identified positions of:

- Lecturer Geoenvironment and Geometallurgy (School of Natural Sciences/Discipline of Earth Sciences/Centre for Ore Deposit and Earth Sciences);
 - Lecturer in Civil and Environmental Engineering (School of Engineering);
 - Lecturer, Senior Lecturer or Associate Professor (School of Engineering); and
 - Lecturer in Geology (School of Natural Sciences/Discipline of Earth Sciences/Centre for Ore Deposit and Earth Sciences).
-

Cooper Screen Academy

Exemption no: 19/04/051

Date granted: 29 April 2019 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(f)

This exemption was granted to permit Cooper Screen Academy to advertise for and enrol women only in the screen acting course called 'TV MUMS'.

Tasmania Parks and Wildlife Service

Exemption no: 18/01/017(a)

Date granted: 30 April 2019 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(d), 41

This exemption was granted to permit Tasmania Parks and Wildlife Service to recruit and appoint a female and/or a male Aboriginal and/or Torres Strait Islander person, whichever is required to maintain the gender and cultural representation of the Aboriginal and/or Torres Strait Islander community, to the identified position(s) of member of the National Parks and Wildlife Advisory Council.

Hobart City Council

Exemption no: 19/05/022

Date granted: 10 May 2019 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 41

This exemption was granted to permit Hobart City Council to advertise for and engage an Aboriginal and/or Torres Strait Islander artist, craft practitioner or designer (or a collaboration of Aboriginal and/or Torres Strait Islander artists, craft practitioners or designers) to create a new artwork or install an existing artwork within the Elizabeth Street Mall Information Center development.

Australian Red Cross Society

Exemption no: 19/05/076

Date granted: 13 June 2019 for 3 years

Relevant exceptions under the Act: Sections 25, 26

This exemption was granted to permit Australian Red Cross Society to recruit and employ an Aboriginal and/or Torres Strait Islander person to the position of Customer Service Officer in its Head Office in Hobart.

Roman Catholic Church Trust Corporation of The Archdiocese of Hobart

Exemption no: 19/05/077

Date granted: 24 June 2019 for 3 years

Relevant exceptions under the Act: Sections 25, 26, 27(1)(d)

This exemption was granted to permit the Archdiocese of Hobart to advertise, recruit and employ females only in the identified positions of Case Worker(s); Assessment Worker(s); Local Support Coordination Case Worker(s); Department of Social Services Local Support Training Coordinator(s); and State Coordinator(s) related to the Safe Choices program (CatholicCare Tasmania).

**If you think you are
too small to make a
difference, try sleeping
with a mosquito.**

Dalai Lama

8 Policy and projects

Equal Opportunity Tasmania is responsible for providing advice on proposed policies, programs and laws to promote compliance with the Act.

In 2018–19 our work continued to play a strong role in helping to develop policies, procedures and legislative reforms that address discrimination and related conduct.

Policy submissions and contributions

Each year Equal Opportunity Tasmania is invited to comment on proposed amendments to legislation and development of law and policy, where relevant to the Act. In 2018–19 we provided comment or made submissions on the following inquiries, reviews and committees:

- Australian Human Rights Commission consultations on implementation of the Optional Protocol for the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Australia
- Disability Framework for Action 2018-2020
- Tasmania's Multicultural Policy and Action Plan 2019-2022
- Tasmanian Law Reform Institute - Review of the Defence of Insanity in s16 of the Criminal Code and Fitness to Plead
- WorkCover Tasmania Board - Review of Section 87 of the *Workers Rehabilitation and Compensation Act 1988* (Tas)
- Response to the draft regulatory framework for the on-demand passenger transport industry in Tasmania
- Response to the National Review of Community Visitor Schemes by the Department of Social Services

Copies of submissions can be found on Equal Opportunity Tasmania's website www.equalopportunity.tas.gov.au, under *News, reports and submissions*.

Other policy work

During the year, Equal Opportunity Tasmania also provided input into a number of other government and non-government policy development and review processes, including:

- Tasmanian Government's Draft Criminal Code Amendments (Bullying) Bill 2019
- Tasmanian Elder Abuse Prevention Strategy and Action Plan 2019
- Family Violence Reforms Bill 2018
- National Plan on Elder Abuse: Consultation Paper
- School Transport and the National Disability Insurance Scheme
- Evaluation of the Tasmanian Legal Assistance Sector
- Approaches to amending the *Births, Deaths and Marriages Registration Act 1999* (Tas)
- Updates on implementation of International Labour Organisation Conventions

Participation in working groups

In 2018–19 Equal Opportunity Tasmania participated in the following working groups and consultative forums:

- Tasmanian Government Family Violence Consultative Group
- Steering Committee for Department of Justice White Ribbon Accreditation
- Steering Committee for Diversity and Inclusion projects
- Tasmanian Police and Emergency Services Multicultural Strategic Reference Group
- Statewide Elder Abuse Prevention Advisory Committee
- Tasmanian Government Community Advisory Group on Active Ageing Plan
- Department of Education Inclusion Advisory Panel
- LGBTI Whole of Government Reference Group
- LGBTI Police Strategic Working Group
- LGBTI Issues in Health and Human Services Working Group
- Department of Police and Emergency Management Multicultural Strategic Working Group
- Australian Council of Human Rights Agencies (ACHRA)

Success isn't about how much money you make, it's about the difference you make in people's lives.

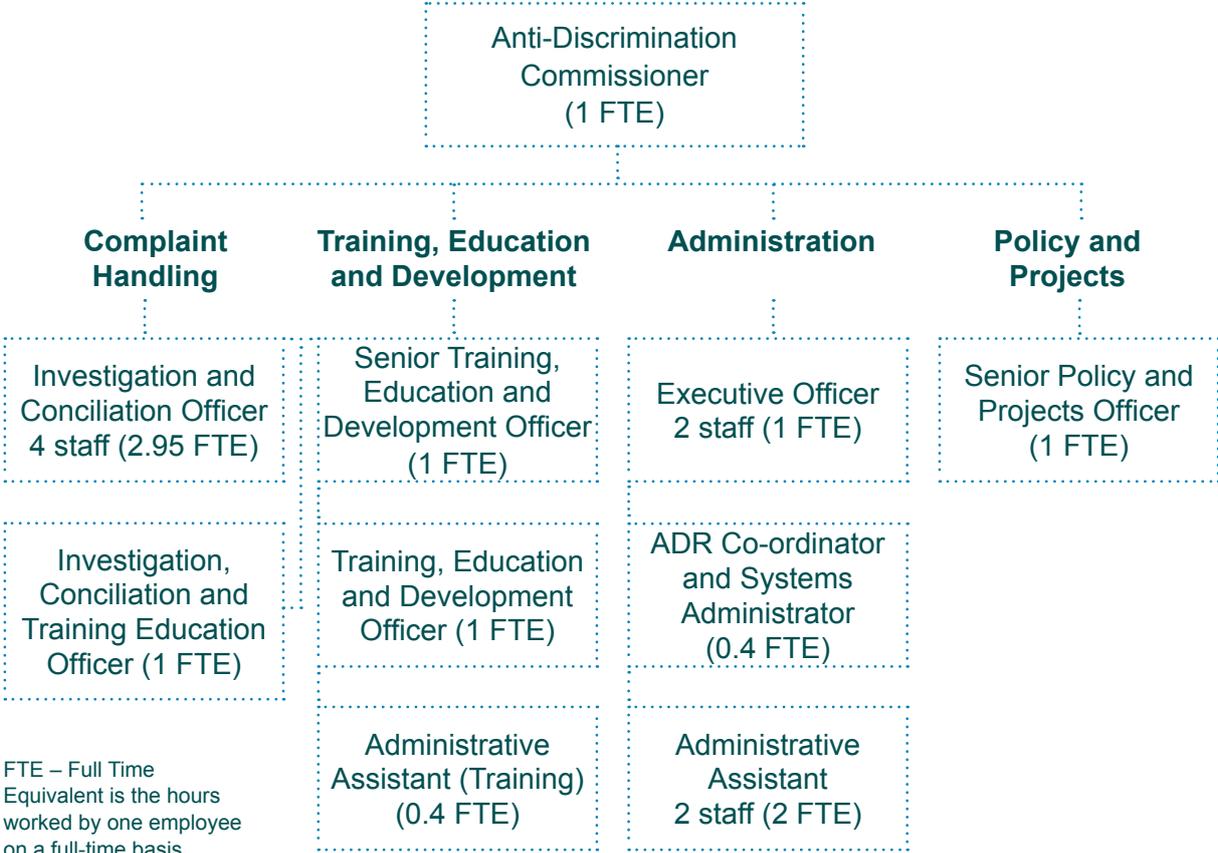
Michelle Obama

9 Our people

Equal Opportunity Tasmania has a permanent staff complement of ten (five of whom are part-time) and five fixed-term contract positions (two of whom are part-time). The staff work together in teams to support the Commissioner to perform the functions set out in section 6 of the Act and strategic activities planned each year. Staff members often collaborate on work across the teams. The teams are Administration; Policy and Projects; Training, Education and Development; and Complaint Handling.

Organisational chart

The figure below shows the organisational chart for Equal Opportunity Tasmania.



Work placement

During the reporting period Equal Opportunity Tasmania participated in the Rosny College work placement program. The program provides students studying Certificate II in Business experience in working in a real office environment. A student attended the office one day a week for a 5-week period.

Staff training

During 2018–19 staff participated in training as part of their continuing professional development, which included:

- Defensive Driver Training delivered by Performance Driving Australia.
- Standard Mental Health First Aider delivered by Mental Health First Aid Australia.
- Preparing Documents for Decision Makers delivered through The Training Consortium.
- Investigation Skills delivered through The Training Consortium.
- Mediation and Mental Health delivered by the Resolution Institute.
- Reflections on ADR from a Career in Government delivered by the Resolution Institute.
- Women, Ageing and Disadvantage: A Symposium of Experts delivered by the Senior Rights Service.
- Developing Safe and Supportive Workplaces: White Ribbon Training for Managers and Supervisors delivered through the Department of Justice.
- Apology in Dispute Resolution delivered by the Resolution Institute.
- Decision Making and Reason Writing delivered by Legalwise Seminars.
- Administrative Law: Decisions, Decisions, Decisions... delivered by Legalwise Seminars.
- Provide First Aid delivered by St John Ambulance Australia.
- Understanding Unconscious Biases to Improve Decision Making delivered through the Department of Justice.
- The Mediator's Role in Agreement and Closure delivered by the Resolution Institute.
- Working with High Conflict Personalities and Situations delivered by the Resolution Institute.
- In Different Voices: Refugee and Migrant Communities' Engagement with Conflict Resolution delivered by the Resolution Institute.
- Working with Lawyers in Mediation delivered by the Resolution Institute.

Staff continue to be committed to completing online training provided through the Department of Justice e-learning programs, including Work Health and Safety; and Family Violence (White Ribbon) training.

**Aging is not lost youth but
a new stage of opportunity
and strength.**

Betty Friedan

10 Anti-Discrimination Tribunal

For more information about the Anti-Discrimination Tribunal functions and activities during 2018–19, you can access the Tribunal’s latest Annual Report on their website at: www.justice.tas.gov.au/tribunals/tribunal_sites/Anti-Discrimination_Tribunal.

Tribunal membership

Tribunal members during 2018–19 consisted of:

- Robert Webster (Chair – South)
- Lucinda Wilkins (Deputy Chair – South)
- Kate Cuthbertson (Member – South)
- Audrey Mills (Member – South)
- Robert Winter (Member – South)
- Leigh Mackey (Member – South)

All Tribunal members carry out their responsibilities on a part-time basis.

Contact

Registrar
Anti-Discrimination Tribunal
Level 7, NAB House
86 Collins Street, Hobart

Phone: (03) 6166 4750
Fax: (03) 6173 0203
E-mail: ADT@justice.tas.gov.au

11 Financials

The Diversity Education: Let's Get Together project for which Equal Opportunity Tasmania received one-off project funding from the Solicitors' Guarantee Fund is complete.

A Financial Statement for the office is provided in the Department of Justice's Annual Report 2018–19. The Department of Justice Annual Report for 2018–19 and previous years can be found at: www.justice.tas.gov.au/annual-report.

12 Contact

If you have any questions about the work of Equal Opportunity Tasmania or this report, or would like to be sent this report in a different format, please contact Equal Opportunity Tasmania.

The report is available on our website at:
www.equalopportunity.tas.gov.au/about_us/annual_report.

Equal Opportunity Tasmania

Phone: 1300 305 062 (in Tasmania) or (03) 6165 7515

E-mail: office@equalopportunity.tas.gov.au

Text: 0409 401 083

Translating and Interpreting Service: 131 450

National Relay Service:

Internet users: Connect at <https://internet-relay.nrscall.gov.au> then enter 1300 305 062

Speak and Listen users: Phone 1300 555 727 then ask for 1300 305 062

Office: Level 1, 54 Victoria St, Hobart TAS 7000

Post: GPO Box 197, Hobart TAS 7001

Facebook: www.facebook.com/equal.opportunity.tasmania

Website: www.equalopportunity.tas.gov.au

Women will only have true equality when men share with them the responsibility of bringing up the next generation.

Ruth Bader Ginsburg

Dark teal bar

Red bar

Dark teal bar, Blue bar, Dark teal bar

Dark teal bar, Magenta bar, Dark teal bar, Red bar

Orange bar, Dark teal bar, Olive bar, Dark teal bar, Blue bar

Magenta bar, Dark teal bar, Red bar, Dark teal bar, Dark teal bar

Dark teal bar, Orange bar, Dark teal bar, Dark teal bar, Purple bar, Dark teal bar

Red bar, Dark teal bar, Magenta bar, Dark teal bar, Magenta bar

Dark teal bar, Blue bar, Dark teal bar, Dark teal bar, Orange bar, Dark teal bar

Dark teal bar, Olive bar, Dark teal bar, Dark teal bar, Dark teal bar

Orange bar, Dark teal bar, Dark teal bar, Blue bar, Blue bar, Dark teal bar

Magenta bar, Dark teal bar, Dark teal bar, Dark teal bar, Dark teal bar