



**Anti-Discrimination Board of NSW**

*Annual Report*  
*2003-2004*



# Anti-Discrimination Board of NSW



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*2003-2004*

*28 September 2004*

*The Hon. R. Debus, MP  
Attorney General  
Level 25, 59–61 Goulburn Street  
SYDNEY NSW 2000*

*Dear Minister,*

*In accordance with section 122 of the  
Anti-Discrimination Act 1977, the  
Anti-Discrimination Board of NSW presents its  
Annual Report covering the period  
1 July 2003 to 30 June 2004.*

*Yours sincerely*

*Stepan Kerkyasharian AM  
President*



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## President's report

I was appointed as President of the Anti-Discrimination Board in September 2003, shortly after the restructure of the Board was announced.

At that stage the restructure had begun but much was still to be completed. I was amazed by how effectively the staff were working during this time and remain impressed by their compassion, diligence and commitment.

I found my transition into the role of President very smooth, largely due to the hard work and thoroughness of Laurie Glanfield, Director General of the Attorney General's Department, who was Acting President from May to September 2003. I thank him for his dedication and support.

The year has been a challenging one for the Board, and I think we have met those challenges successfully. We reviewed a number of policies and procedures to create more streamlined processes that enhance our service to the public.

The Education Services Branch has continued to run a highly successful workplace education program. This operates on a cost recovery basis and met the higher target set for this year despite staff vacancies for some months due to the restructure.

Publications have continued to be popular, and sales matched previous years. The highlight this year was the publication of *Unfair treatment... What to do*, a booklet to assist people with intellectual disabilities to understand and address discrimination.

The Anti Discrimination Board's quarterly newsletter was reviewed and converted to electronic distribution only, saving the Board over \$25,000 in printing and postage. The Board's website was also reviewed to ensure that it can be used as effectively as possible as an information medium.

The enquiries section was merged into the Conciliation Branch as part of the restructure. A more formal relationship between enquiries and conciliation staff enables the process of complaint handling to be streamlined, thus improving our service to the community.

The number of complaints received by the Board is less than in previous years, which we regard as largely a temporary fluctuation. It may also have been affected by a decrease in the number of hours that our enquiry service was operating, and a change in counting methods.

There was a slight increase in the number of complaints finalised over last year, and complaints are also being finalised more quickly. In January 2004 I established new, tighter timeframes for the process and these have been achieved since then.

The Liaison and Support Branch continued to manage some local human resources, technology, financial management and administration functions. The focus this year has been the rollout of new computers and accompanying major software update.

The regional offices have performed well this year and enable us to provide effective regional education and conciliation services. They also give me direct advice about the issues affecting people living outside the Sydney metropolitan area.

Another result of the restructure was the establishment of the Aboriginal and Torres Strait Islander Team. The Board has had indigenous workers since it was established, but the team is now a more cohesive unit that interacts regularly with other branches to achieve its outcomes. The team continue to do outstanding work through community liaison and the outreach program.

I look forward to the continued success of the Board in 2004-2005.

**Stepan Kerkyasharian AM**  
**President, Anti-Discrimination Board**

## About the Board

The Anti-Discrimination Board was set up under the NSW *Anti-Discrimination Act 1977* to administer that Act. It is our role to promote anti-discrimination and equal opportunity principles and policies throughout NSW. We are part of the NSW Attorney General's Department.

### *Functions of the Board*

**We handle complaints of discrimination.** We provide an enquiry service for people who want to know about their rights or responsibilities under anti-discrimination law. We also accept complaints of discrimination, investigate complaints and conciliate complaints when appropriate.

**We try to prevent discrimination from occurring in the first place.** We inform the people of NSW about their rights and responsibilities under anti-discrimination laws, and explain how they can prevent and deal with discrimination. We do this through consultations, education programs, seminars, talks, participation in community functions, the production and distribution of written information and our website.

**We advise the Government** on discrimination matters, and make recommendations to the Attorney General about applications for exemption from the *Anti-Discrimination Act*.

### *NSW anti-discrimination law*

Under the *Anti-Discrimination Act 1977(NSW)(ADA)*, certain types of discrimination (or unfair treatment), harassment and vilification are against the law. These are discrimination on the basis of sex (including pregnancy

and sexual harassment), race, marital status, homosexuality, disability (including HIV/AIDS, hepatitis C and other infectious diseases), age, transgender status and carers' responsibilities in employment.

It is also against the law to discriminate against or harass a person because of the sex, race, marital status, disability, homosexuality, age or transgender status of any of their relatives, friends or associates.

These types of discrimination and harassment are against the law if they occur in employment, government education (sexual harassment and race discrimination are also illegal in private education), registered clubs, the provision of goods or services and the provision of accommodation.

### **Direct and indirect discrimination**

Discrimination can be direct or indirect. Direct discrimination means treating someone unfairly or unequally simply because they belong to a particular category of people, such as refusing to hire a woman because she may become pregnant.

Indirect discrimination means treating someone according to a requirement that is the same for everyone, but has an effect or result that is unequal. For example, an employer may have a requirement that a particular job requires a person who is over 180 cm tall. If this is not really necessary, then the employer may be discriminating indirectly against women and people from some ethnic groups, who are less likely to be that height than men or people from other ethnic groups.

### **Vilification**

Under the ADA, vilification is any public act that incites others to hate, have serious contempt for, or severely ridicule a person or group of people on the basis of their racial background, homosexuality, HIV/AIDS status or transgender status.

Vilification laws can cover behaviour that occurs outside the usual areas of employment, goods and services etc, for example in the media or in public places.

## **Ethnic Affairs Priorities Statement Program**

The Board has advanced this program by:

- responding to 1,037 enquiries about race discrimination and racial vilification;
- receiving and investigating 195 complaints of race discrimination and racial vilification;
- collecting information about the ethnic background of complainants on a voluntary basis (except in complaints of race discrimination or racial vilification, where the person lodging the complaint must state their race);
- including information about race discrimination and vilification in education programs that the Board provides to managers, employees and members of the community; and
- producing and disseminating information for people who cannot read English.

### ***successful conciliation • disability discrimination in employment***

The complainant was an assistant manager at one of the respondent's stores. She was diagnosed with cancer and had to take time off work to have chemotherapy.

She alleged that on her return to work, her manager was unsympathetic to her disability and created a hostile working environment. This included rostering her to work in a different store, reprimanding her because she couldn't predict when she would need to visit the hospital, and denigrating her work performance to management.

The matter was resolved when the company apologised to the complainant, and undertook to provide training for managers and to facilitate mediation between the complainant and her manager with a view to restoring a professional working relationship between them.





*The Anti-Discrimination Board management team. Back L-R: Nathan Tyson, Darryl Brown, Paul Santone and Lesley Ashwood. Front L-R: Elizabeth Wing, Stepan Kerkyasharian and Gerardo De Liseo.*

## Management structure

### The President and the Board

Stepan Kerkyasharian AM became the part-time President of the Anti-Discrimination Board on 15 September 2003. He replaced Laurie Glanfield AM, the Director General of the Attorney General's Department, who was Acting President from 2 May 2003. Mr Kerkysharian also continues as the part-time CEO and Chair of the Community Relations Commission.

The members of the Board are the President as Chair, and four part-time members appointed by the Governor of NSW. The members during 2003-2004 were Dr Suzanne Jamieson, Ms Phillipa McDermott, Mr Cameron Murphy, and Father Hugh Murray OAM until 5 September 2003.

### Staff of the Board

The President heads an organisation with 44 (full-time equivalent) salaried positions employed in Sydney, Wollongong and Newcastle. During 2003-2004 the Board's budget was cut by \$750,000, which required a significant restructure in order to maintain services. The Board also provided a placement for a student from Boston University.

### Enquiries and Conciliation Branch

This branch is responsible for handling initial enquiries and calls for advice about discrimination, and for investigating and conciliating discrimination complaints received by the Board. The Board's Legal Officer also works within this branch. The Manager is Elizabeth Wing.

### Education Services Branch

This branch oversees the Board's provision of training, community education, information, publication and website services. The Manager is Lesley Ashwood.

### Liaison and Support Branch

This branch provides support services to assist in achieving the primary goals of the Board, particularly financial control and information technology. The Manager is Darryl Brown.

### Regional offices

As well as the central office in Sydney, the Board has regional offices in Newcastle and Wollongong that handle complaints and provide education services for those areas. The Wollongong Manager is Gerardo De Liseo, and the Newcastle Manager is Paul Santone.

## The Statutory Board 2003-2004

### Stepan Kerkyasharian

Stepan Kerkyasharian was appointed Chair of the Ethnic Affairs Commission of New South Wales in 1989, and this became the Community Relations Commission For a Multicultural NSW in 2001. He became a Member of the Order of Australia in 1992, and received the Gold Cross in the Order of Merit of Poland in 1990 and the Olympic Order in 2000.

Mr Kerkyasharian is a member of the NSW Board of Studies, the NSW Geographical Names Board, the Independent Complaints Review Panel of the ABC, and the Police and Ethnic Advisory Council.

### Cameron Murphy

Cameron is a full time member of the Consumer Trader and Tenancy Tribunal and President of the New South Wales Council for Civil Liberties. He has been extensively involved in working to eliminate discrimination, particularly in the areas of gender discrimination, HIV/AIDS and ethnicity.

### Phillipa McDermott

Phillipa is the Manager of Communications at ATSI NSW. Her main professional interests are Indigenous media and arts and Indigenous and human rights. She is on the Board of the Gadigal Information Service, the Lloyd McDermott Rugby Development Team and the Tullagulla Aboriginal Cultural Centre. She has been a radio broadcaster for the past 12 years, and has represented Indigenous media interests at the United Nations.

### Suzanne Jamieson

Suzanne is a Senior Lecturer in Work and Organisational Studies at the University of Sydney. She has completed a doctorate in women and occupational health safety, and has done extensive research in gender and discrimination issues in the workplace.

### Father Hugh Murray

Hugh is a Catholic priest with the Vincentian Order, and has spent most of his life working in education. Before his retirement, Father Murray spent several years as the Catholic Chaplain for people with HIV in the City of Sydney.



*Statutory Board Members  
Right: (L-R top)  
new member for 2004-2005 Peter  
Wertheim, Cameron Murphy;  
(bottom) Stepan Kerkyasharian,  
Suzanne Jamieson.  
Above: Father Hugh Murray,  
Phillipa McDermott.*



# adb

## Resolving complaints

In the restructure of the Board this financial year, the most significant change for the Complaints Branch was the merger with the enquiry service, to become the Enquiries and Conciliation Branch. The two services have always worked cooperatively, and the merger formalises the relationship in one branch.

Complaints can start with a phone call and go right through a formal process to finalisation, although an enquiry is not a precondition to a formal complaint, and not all matters follow this entire course. The amalgamation of the two services will provide greater efficiencies in complaint handling and customer service.

### Enquiries

The Board provides three specialised advisory services – one for general calls, one for employers and one for service providers. Advisory Officers do the following:

- give general information about what is covered by anti-discrimination law;
- give advice about how to deal with discriminatory or potentially discriminatory situations;
- provide information about where to go for further assistance (including referrals to other agencies when the caller's problem is not covered by the NSW *Anti-Discrimination Act*); and
- take requests for publications and other Board services.

General enquiries come from people who have experienced discrimination or are advising those who have, such as members of the public, employees, community workers, advocates and public servants.



Many complaints about discrimination are resolved at the initial enquiry stage, as the advisory officers inform callers about their legal rights and provide suggestions and strategies on how to resolve their situation. In many cases this prevents the need for a formal complaint, which reduces the number of complaints the Board receives.

During 2003-2004 we answered 8,977 enquiries, which is an average of 33 calls per day. This is a significant reduction from 2002-2003 (12,608 enquiries). It reflects the reduction in staff allocated to enquiries in 2003-2004 as a result of the Board restructure, which meant that the service was reduced by 20 person-hours per week.

The majority of enquiries 8,804 (98%) were made by phone; the remainder were made by letter, TTY, email or visit to one of our offices. Most calls took between 5 and 15 minutes, but some enquiries were very complex and took more than 30 minutes to deal with (72 calls in 2003-2004).

The majority of callers (6,955) wanted to discuss a situation where discrimination was occurring. Only 874 (9.7%) of people making enquiries were advised to lodge a formal complaint of discrimination. This reflects our policy of empowering callers to try to solve their problem more directly if possible before making a formal complaint.

Women continued to use our general enquiry service more than men, with 4,330 enquiries from women (48.2%) and 3,088 from men (34.4%) in 2003-2004. The remainder of calls were made by individuals contacting us on behalf of another person or organisation.

The most common types of discrimination people enquired about in 2003-2004 were sex discrimination (1,596 enquiries or 17.8%), disability discrimination (1,400 enquiries or 15.6%) and race discrimination, including racial vilification (1,037 enquiries or 11.6%). Of the sex discrimination enquiries, 580 were about sex discrimination, 568 were about sexual harassment and the remainder were about pregnancy-related discrimination.

The majority of enquiries continued to be employment-related with 5,475 enquiries (61%). The second largest area of discrimination was the provision of goods and services with 1,150 callers (12.8%).

Problems that were not covered under anti-discrimination law accounted for 3,405 calls (37.9%), with a quarter of these relating specifically to employment. We generally refer these enquiries to trade unions or to the NSW Office of Industrial Relations, or we give advice about how to resolve the problem within the workplace.

Other problems not covered by the law include people who were treated unfairly because they have a criminal record, or because of their religion, or because of a personal disagreement.

### ***successful conciliation • sexual harassment in employment***

The complainant worked in an office position. She alleged that a co-worker asked her out and would not take no for an answer, bombarding her with cards, flowers and gifts. She lodged a complaint of sexual harassment against the co-worker and their employer.

The company was a small business that had grown larger and had not instituted suitable procedures for dealing with such issues. They agreed to pay financial compensation to the complainant, to train all staff on discrimination and harassment issues and to establish a grievance policy.

The co-worker admitted that he had behaved in the manner described and apologised. He also agreed to pay financial compensation to the complainant.

## Enquiries by ground 2003-2004

	No	%
Sex <sup>†</sup>	1,596	16.9
Disability	1,400	14.8
Race	986	10.5
Carers' responsibilities	535	5.7
Age	536	5.7
Homosexuality	143	1.5
Racial vilification	51	<1
Marital Status	105	1.1
Victimisation	39	<1
Transgender	60	<1
HIV/AIDS	15	<1
Homosexual vilification	23	<1
HIV/AIDS vilification	12	<1
Transgender vilification	7	<1
All grounds	513	5.4
Not covered by ADA — other problems	2,794	29.6
Not covered by ADA — work not harassment	611	6.5
<b>Total</b>	<b>9,426</b>	<b>100</b>

<sup>†</sup>Includes sexual harassment and pregnancy.

The total number of enquiries by ground is greater than the total enquiries received because some enquiries cover multiple grounds.

## Enquiries by area 2003-2004

	No	%
Employment	5,475	60.3
Other	1,414	15.6
Goods and services	1,150	12.7
Accommodation	337	3.7
All areas	215	2.4
Education	266	2.9
Vilification	82	<1
Registered clubs	139	1.5
<b>Total</b>	<b>9,078</b>	<b>100</b>

The total number of enquiries by area is greater than the total enquiries received because some enquiries cover multiple areas.

## Formal complaints

Lodging a formal complaint involves the person or people affected by the unlawful conduct completing one of our complaint forms or sending a letter to the President of the Board describing the type of discrimination, harassment, vilification or victimisation that has occurred in an area of public life, and why they think the conduct was unlawful.

If the person is unable to write a letter because they have a disability, or because they are a child, they can get someone else to write it on their behalf or an officer of the Board can assist them. That officer will not have carriage of the case. Letters of complaint can be lodged in any language or in Braille.

All complaints are handled impartially and free of charge. The first stage is to investigate the complaint to see if it may involve a breach of the Anti-Discrimination Act. If this appears to be the case, we try to conciliate the complaint, which means we ask all the parties to the complaint to come to a confidential agreement or settlement that will resolve it. Many complaints are resolved through this process.

Settlements may involve the complainant:

- receiving an apology;
- being reinstated, promoted or interviewed;
- being provided with facilities;
- receiving the goods or services required;
- being provided with accommodation;
- receiving monetary compensation; and/or
- receiving some other form of compensation.

## Number of complaints

We received 944 complaints in 2003-2004, which is less than expected on the basis of recent years (1,659 complaints were received in 2003-2003). The Board is not able to fully explain the drop in complaint numbers this year.

One factor is that this year we modified the method of counting complaints. Each complaint is now counted as a single complaint regardless of the number of grounds involved, whereas previously each ground was counted as a separate complaint. The exceptions to this are an allegation of sexual harassment that identifies individual

respondents, an allegation of victimisation after an initial complaint, and complaints that are quite distinct events or are at separate times.

The loss of some of the Board's staff and resources may have been another factor, as some of our services were reduced to accommodate the loss. The number of contacts with our enquiry service was much less than previous years. While enquiries may not be converted into formal complaints in every case, a percentage of complainants approach our enquiry service before making a formal complaint. The percentage in 2003-2004 is consistent with 2002-2003, but the real figure is correspondingly less.

The other possible factor is that many people now have access to the internet, and may be accessing information from the Board's website, rather than phoning or writing to the Board.

It is anticipated that the Board's staffing and resource issues will be stabilised in the next financial year. With the restructure, the Board continues to re-assess the types of services provided to the community. We believe that this year's figures are an aberration, and the likelihood is that the number of complaints will return to previous levels next year.

Interestingly, although the complaint figures are lower than expected this year, the percentage of complaints and enquiries under each ground and area remained essentially consistent with the profile of complaints for previous years.

Of formal complaints received in 2003-2004, 127 complaints or 13.4% could not be investigated because they were outside our jurisdiction, or they did not specify a ground of complaint that we could deal with.

### Complaints received by ground and area 2003-2004

Ground	Emp	G&S	Accom	Educ	Clubs	Qual bodies	Race vil	Homo vil	HIV/ AIDS vil	Trans vil	Other	Total
Race	78	56	5	15	13	0	0	0	0	0	9	176
Racial vilification	0	0	0	0	0	0	19	0	0	0	0	19
Sex	176	24	5	1	0	0	0	0	0	0	0	206
Marital status	12	3	1	0	1	0	0	0	0	0	0	17
Carers' responsibilities	43	0	0	0	0	0	0	0	0	0	0	43
Disability	108	40	7	14	6	1	0	0	0	0	10	186
HIV/AIDS vilification	0	0	0	0	0	0	0	0	0	0	0	0
Age	48	21	11	2	1	0	0	0	0	0	1	84
Compulsory retirement	1	0	0	0	0	0	0	0	0	0	0	1
Homosexuality	16	3	0	0	0	0	0	0	0	0	2	21
Homosexual vilification	0	0	0	0	0	0	0	4	0	0	0	4
Transgender	2	6	0	0	0	0	0	0	0	0	1	9
Transgender vilification	0	0	0	0	0	0	0	0	0	2	0	2
Victimisation	36	2	1	2	1	0	0	0	0	0	0	42
Aiding unlawful act	7	0	0	0	0	0	0	0	0	0	0	7
Advertisement	0	0	0	0	0	0	0	0	0	0	0	0
Other	34	30	5	3	3	0	0	0	0	0	18	93
Unknown	9	12	2	3	2	0	0	0	0	0	6	34
<b>Total</b>	<b>570</b>	<b>197</b>	<b>37</b>	<b>40</b>	<b>27</b>	<b>1</b>	<b>19</b>	<b>4</b>	<b>0</b>	<b>2</b>	<b>47</b>	<b>944</b>



## Grounds of complaint

As in previous years, complaints of sex, disability and race discrimination accounted for nearly 60% of complaints received. Sex discrimination (which includes discrimination on the basis of pregnancy and sexual harassment) was again the most frequent ground of complaints with 206 complaints or 21.8% (compared with 23.4% last year).

The next most common grounds were disability discrimination (186 complaints or 19.7%, which is almost the same as last year's percentage) and race discrimination (176 complaints or 18.6%), which has risen slightly as a proportion of total complaints for the last two years. Racial vilification complaints are steady at 2%. The percentage of age discrimination complaints rose from 6% in 2002-2003 to 8.9% 2003-2004.

## Areas of complaint

The largest number of complaints were employment-related, with 570 complaints (60.4%). Goods and services complaints were again the second largest area of complaint with 197 complaints (20.9%). This is comparable with previous years.

### Employment-related complaints

The breakdown of employment complaints was very similar to the last two years. As last year, the vast majority of employment-related complaints were about the work environment and/or harassment (252 complaints or 44.2%). Dismissal was the next most common employment-related complaint with 96 complaints (16.8%, almost exactly the same level as last year). Private enterprise accounted for 52.8% of employment-related complaints.

## Type of employment complaints 2003-2004

	No	%
Work environment and harassment	252	44.2
Classification/benefits	100	17.5
Dismissal	96	16.8
Recruitment/selection	72	12.6
Retirement/redundancy	20	3.5
Resignation	17	3
Awards and enterprise	5	<1
Promotion	4	<1
Demotion	3	<1
Transfer	1	<1
<b>Total</b>	<b>570</b>	<b>100</b>

## Type of employer 2003-2004

	No	%
Private enterprise	301	52.8
State govt dept	68	11.9
Individual male*	57	10
State statutory body	30	5.3
Hospital	27	4.7
Education (public)	19	3.3
Local government	13	2.3
Registered club	12	2.1
Non-profit association	11	1.9
Education (private)	6	1.1
Trade union	6	1.1
Govt bus enterprise	4	<1
Media organisation	3	<1
Cwlth stat body	2	<1
Cwlth dept	2	<1
Individual female*	0	0
Other	4	<1
Not known	5	<1
<b>Total</b>	<b>570</b>	<b>100</b>

\* In some cases a complaint may be made against both an individual and their employer. These are counted separately.

## Complaint finalisation

The Board had excellent results in finalising complaints in 2003-2004. A total of 1,840 complaints reached an outcome this year, a slight increase on last year's total despite the loss of staff resources.

We were also able to clear a large backlog of cases the Board had carried for several years. This reflects the Board's strategies to streamline the complaint handling process and shorten the amount of time taken to finalise cases. All complaints are now allocated for investigation immediately, whereas previously they were put in a queue and not allocated to a complaint handler until one became available.

The President has also revised our target time frames, which took effect from 1 January 2004. We now try to finalise 80% of all complaints within 6 months from the date of receipt. Of the 473 complaints lodged within the six months to 30 June 2004, 207 complaints or 43.8% have already been finalised. The target time frames will be discussed more fully in next year's annual report.

### How were complaints finalised?

The Board can only investigate complaints that come within our legal jurisdiction, so the first decision after we receive a complaint is whether it appears to come within the provisions of the *NSW Anti-Discrimination Act (ADA)*.

Of the complaints finalised during 2003-2004, 240 complaints (13.1%) were found to be outside our jurisdiction. Some of these complaints were covered by other laws or could be dealt with by another agency. If a complaint is not within our jurisdiction, we inform the complainant about other avenues that may be available to them.

Of the remaining 1,600 complaints that were finalised, 438 (27.4%) were settled by the Board negotiating with the parties, assisting them to negotiate with each other, or holding a conciliation conference. This percentage is close to the figure for previous years (32.4% in 2002-2003).

A total of 623 complaints (38.9%) within jurisdiction were not proceeded with in 2003-2004. This was 5.1% less than the percentage for last year.



There are many reasons why matters do not proceed: for example, investigation may reveal that unlawful discrimination was not the cause of the problem, the complainant does not make any further contact after receiving a response to the complaint, or the complainant may decide not to pursue the matter for personal reasons. Where appropriate, the Board has also continued to encourage complainants to sort out their complaint themselves, or suggest avenues where they might be able to resolve it, especially in the industrial area.

Respondents are also encouraged to talk to the complainant to see if they can resolve the problem. If the parties successfully resolve the problem, the complaint is regarded as settled.

126 complaints within jurisdiction (7.8%) were formally declined by the President as lacking in substance or as not involving a contravention of the ADA, often after lengthy investigation. This figure, although relatively low, represents a twofold increase in the percentage of complaints declined.



335 complaints (18.2%) were referred to the Equal Opportunity Division of the Administrative Decisions Tribunal (ADT), compared with 14.7% last years. This includes 41 complaints that were referred at the request of the complainant after the President declined the complaint.

### **Bonella decision**

In last year's annual report the Board referred to a significant increase in the number of complaints that were not accepted because some of the events referred to in the complaint occurred more than six months before it was lodged.

This was a result of the decision of the ADT in *Wollongong City Council -v- Bonella and Ors* and *Bonella and Ors -v- Wollongong City Council* on the operation of s88(4) of the ADA. In this case, the ADT stated that the President of the Board must make a decision as to whether the complainant has shown good cause as to why events that are out of time should be accepted as part of a complaint.

This year, the President rejected a total of 52 complaints (2.8%) on this basis. This is similar to the 57 (3.2%) complaints rejected last year, so this figure has remained stable and has not continued to increase.

### **successful conciliation • homosexual discrimination in employment**

The complainant worked at a branch office of a financial institution. She alleged that the assistant manager harassed and discriminated against her by making comments about her sexual preference.

After an argument in which the complainant swore at the assistant manager, the complainant resigned in the face of being terminated. She lodged a complaint of homosexual discrimination, and also alleged that the respondent did not properly investigate her allegation of harassment.

When she made the complaint, the complainant was working in a different section of the same financial institution, through an employment agency. The complaint was resolved when the respondent agreed to make the complainant a permanent employee in her current position.

## **Speed of finalisation**

The Board is pleased to report that complaints no longer have a waiting time for allocation to a complaints officer. All complaints are now dealt with on receipt.

This year, complaints staff concentrated on eliminating the number of complaints in the queue by adopting more efficient and effective practices. Strategies to streamline the investigation process were implemented across the entire complaints process, but particularly at the intake stage.

The Board's previous target time frames applied for the first six months of the period covered by this report. These targets were that once a complaint had been allocated:

- 20% of allocated complaints will be finalised in two months;
- 60% of allocated complaints will be finalised in six months; and
- 85% of allocated complaints will be finalised in 12 months.

This year we met these targets with:

- 21% of allocated complaints finalised in one month;
- 33 % of allocated complaints finalised in two months;
- 43% of allocated complaints finalised in three months;
- 64% of allocated complaints finalised in six months; and
- 85% of allocated complaints finalised in 12 months.

In relation to time taken to finalise the files closed in this financial year from *date of receipt*:

- 12% of complaints were finalised in one month from date of receipt;
- 18 % of complaints were finalised in two months from date of receipt;
- 25% of complaints were finalised in three months from date of receipt;
- 40% of complaints were finalised in six months from date of receipt;

- 60% of complaints were finalised in 12 months from date of receipt; and
- 40% of complaints were finalised more than 12 months from date of receipt.

It must be remembered that files closed in this financial year will include many files that were lodged in previous reporting years.

The President has determined that the new target time frames for the coming year will be:

- 20% of complaints to be finalised within 2 months of receipt.
- 30% of complaints to be finalised within 3 months of receipt.
- 80% of complaints to be finalised within 6 months of receipt.
- 100% of complaints to be finalised within 18 months of receipt.

The Board is currently instituting revised recording procedures in order to set standards for finalisation times from date of receipt. These time frames have applied to all complaints received after 1 January 2004.

### *Rural trips*

There is an ongoing demand for the Board's services in rural and regional areas. For a number of reasons such as disability or work commitments, complainants and respondents from rural areas may be unable to travel to one of the Board's offices for conciliation conferences.

In recognition of this, and in order to increase our service delivery to regional NSW, Conciliation Officers arrange conferences in rural areas when appropriate. Two officers from the Sydney Office travelled to Broken Hill to conduct three conciliation conferences, and two officers went to Lismore and facilitated six conciliation conferences.

Many more conferences were conducted by telephone, for example where a trip was not feasible or the parties were located in different places. Other scheduled conferences were cancelled when the parties resolved the issues without the need for a face-to-face meeting.

### **Outcome of complaints finalised 2003-2004**

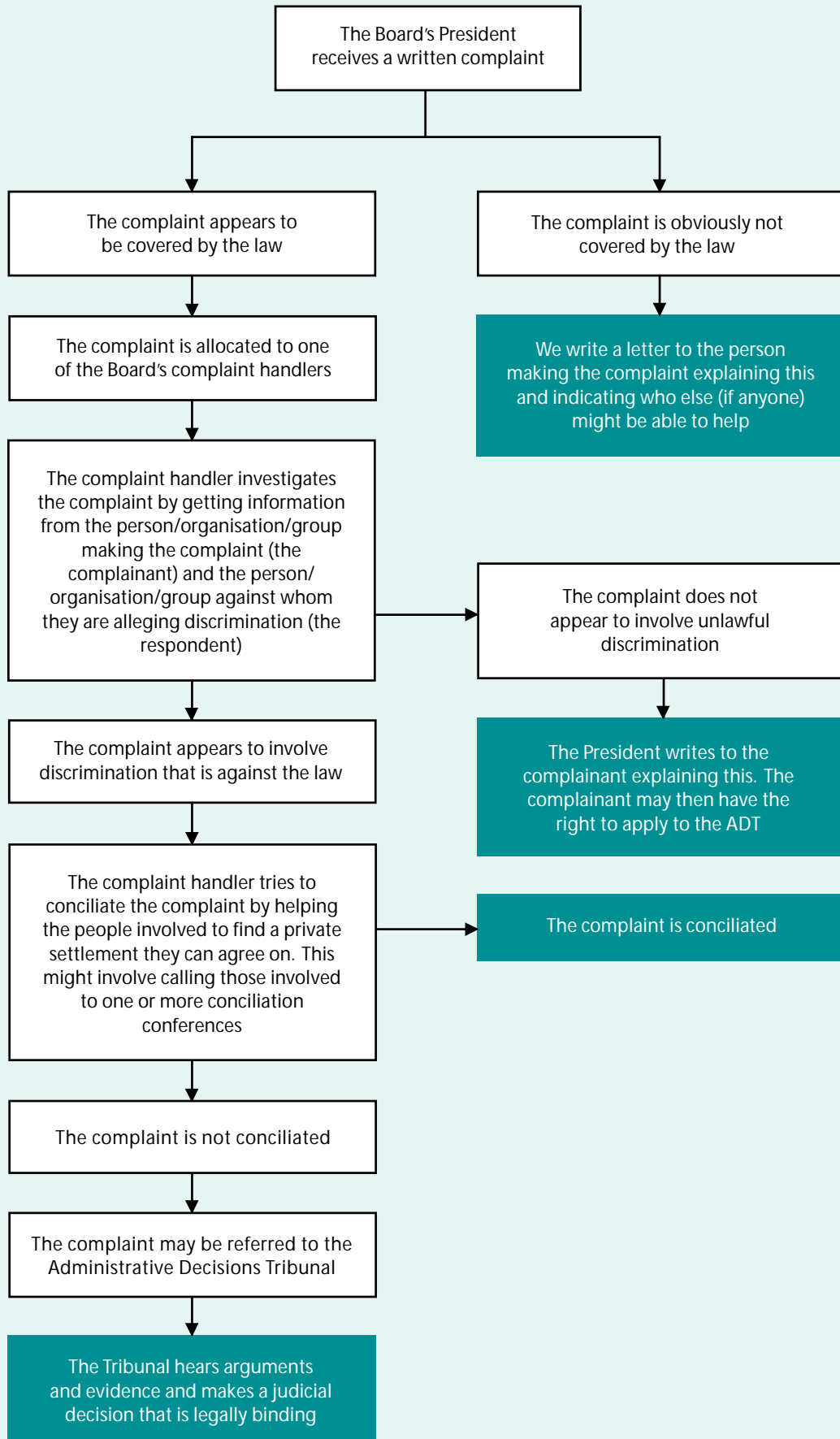
	No	%
Not proceeded with	655	35.6
Referred to ADT	294	16
Settled at or after conciliation	260	14.1
Outside jurisdiction	226	12.3
Settled before conciliation	178	9.7
Formally declined	85	4.6
Not accepted - out of time	52	2.8
Formally declined - referred to ADT	41	2.2
Settled outside the Board	28	1.5
Referred to HREOC	14	<1
Referred to AGs Dept - serious vilification	7	<1
<b>Total</b>	<b>1,840</b>	<b>100</b>

### *Legal Officer*

As part of the restructure of the Board, the Legal and Policy Branch was disbanded and some work previously undertaken by that branch is now performed by the Crown Solicitor's Office of the Attorney General's Department.

The Board retained one Legal Officer who focused largely on providing advice to the President, the Statutory Board and complaints and education staff, and liaising with the Crown Solicitor's Office as required. The officer also dealt with applications for exemption from the provisions of the Anti-Discrimination Act (ADA), provided advice to the Attorney General and assisted in developing reforms to the ADA's complaint handling provisions.

## How we handle complaints



## Wollongong office

As a result of the restructure of the Board in 2003, the staffing of the Wollongong office was increased by an additional conciliation officer. Staff at Wollongong now includes the Regional Manager, two conciliation officers, a workplace relations consultant and an enquiry officer/administrative assistant.

As part of the restructure, the Wollongong office's "catchment area" was expanded to take in Sutherland Shire in southern Sydney, as well as the Wagga Wagga-Griffith-Deniliquin area of the state's south west.

### Complaints

In 2003-2004 the Wollongong office received 122 new complaints, which is a small decrease in the number received in 2002-2003 (141). In addition, over 60 complaints already on hand in the Sydney and Newcastle offices were transferred to Wollongong as a result of the restructure.

The profile of the complaints in terms of grounds and area of discrimination was similar to previous years, although there was an increase in the number of race discrimination complaints compared to the previous year.

The most common grounds of complaint were disability discrimination (32 complaints or 22.7%), sex, including pregnancy and sexual harassment, (26 complaints or 18.4%), race (22 complaints or 15.6%) and carer's responsibilities (9 complaints or 6.4%). These four grounds together accounted for 73% of all complaints.

The most common area of complaint was employment (85 complaints or 70%), followed by goods and services (17 complaints or 14%) and accommodation (6 complaints or 5%). These three areas accounted for almost 90% of all complaints.

The large number of complaints relating to employment is consistent with the pattern over many years. This highlights the importance of the Board's workplace education program, delivering fee-for-service training to a client base which includes mainly employers in medium and large enterprises.

### Complaints finalised

In 2003-2004, the Wollongong office finalised 225 complaints. Of these, 65 (29%) were settled through conciliation, 14 (6%) were formally declined, 86 (38%) were withdrawn and not proceeded with, 22 (10%) were closed because they were not within jurisdiction or were lodged out of time and 38 (17%) were referred to the Administrative Decisions Tribunal for determination.

### Education

In 2003-2004 the Wollongong Workplace Relations Consultant provided on-site training to 21 client organisations across 15 major towns throughout south-eastern NSW. This involved 58 training sessions attended by 806 individual participants.

The industry profiles of the 21 client organisations was quite diverse. Ten were in the private sector, seven in the public sector, and four in the community/not for profit sector.

They included state and local government authorities, uniformed services, utilities, health, education, finance, labour hire/employment agencies, mining, industrial and manufacturing companies, registered clubs and personal care service providers.

Of the 58 training sessions, 33 sessions (402 participants) were in rural areas. These reached into almost all corners of the region, including the South Coast (11 sessions), Murray-Riverina (13), Southern Tablelands (4), South-West NSW (4) and one in Canberra. The remaining 25 sessions (404 participants) were in larger urban centres.

The training sessions most in demand were about discrimination and harassment awareness for employees (29 sessions). This was followed by sessions aimed at managers and supervisors (17) and sessions for contact officers (7).

The participants' evaluation of the sessions revealed a very high level of satisfaction. An overwhelming majority (86%) rated them as either "excellent" or "very good".

The Workplace Relations Consultant also presented a session on discrimination law relating to accommodation at a major seminar organised by the NSW Department of Fair Trading in Nowra. The seminar was aimed at real estate agents and managing agents and attracted 130 participants.

The office has found that the issue of carer's responsibility in employment continues to be misunderstood by both employers and employees and requires more public education. Workplace harassment (including sexual harassment) and bullying also continues to generate energetic discussions.



## Newcastle office

### Complaints

The Newcastle office received 117 complaints in 2003-2004, a substantial decrease from the number received in 2002-2003 (179).

The most common grounds of complaint were sex discrimination, including pregnancy and sexual harassment, (36 complaints or 30.76%), disability discrimination (34 complaints or 29.06%), race discrimination (14 complaints or 11.07%) and age discrimination (12 complaints or 10.25%). This is a change from last year, when disability (36.31%) was the most common, followed by sex (24.58%), race (10.06%), and carer's responsibilities and victimisation (each 6.15%).

By far the most common area of complaint was employment, with 90 complaints or 76.92%, followed by goods and services (9 or 7.69%) and education (5 or 4.27%). While last year the area of employment also accounted for the majority of complaints (111 complaints or 62.01%), last year's second most common area was registered clubs (25 or 13.97%), followed by goods and services (14 or 7.82%).

### Complaints finalised

The Newcastle office finalised 300 complaints in 2003-2004, an increase of 16% over 2002-2003 (259 complaints). Of these 56 (18.66%) were settled through conciliation, 67 (22.33%) were referred to the Administrative Decisions Tribunal, 113 (37.66%) were withdrawn and 64 (21.33%) did not proceed, for example

because they were declined, were lodged outside the statutory time limit or were outside jurisdiction. This compares with 2002-2003 figures of 20.9% conciliated, 23.2% referred to the ADT and 41.3% that were withdrawn or did not proceed .



## Education

In 2003-2004, the Newcastle office provided education services to employers and community organisations in the Hunter Valley, Central Coast, Mid-North Coast and New England areas of the state.

Services included training for managers, supervisors and staff as well as advice and assistance to employers and service providers in drafting and implementing policies and procedures which comply with current best practice.

Organisations undertaking training have included a large number of local councils, community organisations, government departments, industrial and manufacturing companies, registered clubs and hotels.

Our education programs have been tailored to suit the individual needs of each client, with many requesting training across the organisation for staff at all levels. The fact that many clients return for more training demonstrates the Board's success and competency in the delivery of these services.

The EEO Network program continues, with human resource and other staff from a range of organisations attending on a regular basis. The meetings provide an opportunity for open discussion about current issues arising out of legislative or judicial developments. The Board has also now introduced an email network to allow the group to exchange ideas and information at any time.

As part of the Newcastle office's commitment to the community, staff have continued to participate in disability networks, training for indigenous youth and aged care services, and providing information talks to groups including local transgender and homosexual support groups as well as business and professional organisations.

### *successful conciliation • race, sex and disability discrimination in employment*

An Aboriginal woman alleged that her supervisor undertook unnecessary monitoring of her work in view of the fact that she was fully qualified, and treated her in a patronising manner in comparison with non-indigenous workers.

She developed a back problem which meant she could no longer work with her existing group, and her continual requests to be transferred to another group were not met. This was despite a vacancy occurring in a suitable group, which was filled by a casual worker.

The complaint was resolved with the employer agreeing to pay the complainant \$2,500. The employer also agreed to ask the supervisor to make a written apology to the complainant, and make the supervisor aware of their policies on Aboriginal cultural awareness.

## Aboriginal and Torres Strait Islander services

The Board's Indigenous Services Team consists of three staff. Our services to Aboriginal and Torres Strait Islander people include complaint resolution, education and training, and community outreach.

### Complaint resolution

In 2003-2004 financial year the Board received 74 complaints from Aboriginal or Torres Strait Islander people.

The main ground of complaint was race discrimination, with 63 complaints received. This represents 35.8% of all race discrimination complaints received by the Board in 2003-2004.

The most frequent area of complaint was goods and services with 26 complaints (35.1%). The next most frequent were employment (17 complaints or 23%), registered clubs (10 complaints or 13.5%) and education (6 complaints or 8.1%).

In the last 12 months the Board has developed and implemented streamlined complaint handling procedures. This has resulted in a reduction in the time taken to action, investigate and resolve complaints.

### Education and training

In 2003-2004 the Aboriginal and Torres Strait Islander team at the Board continued to provide an education program to raise the awareness of Aboriginal and Torres Strait Islander people and communities of their rights and responsibilities under the *Anti-Discrimination Act*.

### Aboriginal and Torres Strait Islander services

With the Office of Industrial Relations of the NSW Department of Commerce, the Board has facilitated a number of combined forums throughout NSW in the last 12 months. This year these were held at Penrith, Blacktown, Tamworth, Armidale, Newcastle, Condobolin, Wagga Wagga and Wollongong.

The forums have also included representation from the Office of Fair Trading, the NSW WorkCover Authority, the NSW Working Women's Centre, the Australian Taxation Office, the Energy and Water Ombudsman of NSW, the Consumer Trader and Tenancy Tribunal (CTTT), Wirringa Baiya Aboriginal Women's Legal Centre and Whyburn and Associates Solicitors.

### Outreach

An important aspect of the Board's services to Aboriginal and Torres Strait Islander communities in NSW is providing information about unlawful discrimination and the *Anti-Discrimination Act*.

In 2003-2004 members of the Board's Aboriginal and Torres Strait Islander team held information stalls at a number of venues and events. These included the Police Youth Project Launch, the Survival Day Concert, Blacktown Girls High School, a community information stall at Redfern, Elder's Achievement Awards, Riverstone Neighbourhood Centre, Hebersham Youth Centre,





*(L-R) Felicity Huntington from the Board, Rosemary Laurie and Trish Evans from the Office of Fair Trading and Chris Capper from the Office of Industrial Relations at the Armidale information forum.*

Cumberland Women's Health Centre, the Betty Cuthbert Festival at Ermington, the Indigenous Job Market at Redfern, and NAIDOC Week celebrations at Villawood.

Members of the Board's Aboriginal and Torres Strait Islander team also attended a number of meetings to network with Aboriginal community workers.

These included the South Eastern Sydney Aboriginal Interagency, the Sydney Aboriginal Interagency Network, the Western Sydney Aboriginal Interagency Network, the Inner Sydney Koori Interagency, the Southern Sydney Koori Interagency and the Maroubra Koori Interagency (Inna-Nurra).

### *Advisory committee*

The Board has an Aboriginal and Torres Strait Islander Advisory Committee which meets every three months to discuss issues relating to discrimination against Aboriginal or Torres Strait Islander people. It includes Aboriginal and Torres Strait Islander representatives from Government departments and agencies, as well as community representatives.

Feedback from the committee enables the Board to be aware of significant and emerging issues that may affect Aboriginal or Torres Strait Islander people in NSW. The committee also provides advice to the Board on how it might best provide services to this community.

### **Aboriginal and Torres Strait Islander complaints 2003-2004**

<b>Ground</b>	<b>Emp</b>	<b>Goods &amp; servs</b>	<b>Accom</b>	<b>Educ</b>	<b>Clubs</b>	<b>Qual bodies</b>	<b>Race vilif</b>	<b>Homo vilif</b>	<b>Other</b>	<b>Total</b>	<b>%</b>
Race	17	26	3	6	10	0	0	0	1	63	67.4
Sex	2	1	0	0	0	0	0	0	0	3	9.6
Disability	1	0	0	0	0	0	0	0	0	1	6.7
Age	0	0	1	0	0	0	0	0	0	1	2.9
Homosexuality	0	0	0	0	0	0	0	0	1	1	1.9
Victimisation	0	0	1	0	0	0	0	0	0	1	5.8
Other	0	1	2	1	0	0	0	0	0	4	2.9
<b>Total</b>	<b>20</b>	<b>28</b>	<b>7</b>	<b>7</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>74</b>	<b>100</b>

*There were no complaints from Aboriginal and Torres Strait Islanders on the grounds of marital status, carers' responsibilities, transgender status, racial vilification, homosexual vilification or transgender vilification.*





## Education services

One of the Board's core functions is to provide people with information about their rights and responsibilities under anti-discrimination legislation. The Education Services Branch's activities underpin and support the concept and process of anti-discrimination law by enabling people to:

- identify discrimination and harassment;
- understand the benefits of non-discriminatory behaviour;
- prevent and resolve incidents of discrimination themselves; and
- make complaints to the Board when necessary.

The branch successfully met the following challenges in providing this service in 2003-2004:

- covering a very broad range of target groups with limited resources;
- accessing appropriate forums, given the limited resources and the highly competitive market for workplace training; and
- providing information that is relevant and accessible to all groups within the community, but also keeping pace with changes in technology and the increasing use of electronic information delivery.

### *Community education*

With reduced staff resources in this area as a result of the restructure of the Board in 2003, the Branch has focused more strongly on one aspect of community education that it has always practised – strategic

partnering with key bodies through joint exercises in relation to discrimination and through direct consultations with communities that are covered by the legislation.

This has included negotiating with Behind the Label and Asian Women at Work to establish contact and provide information to people who might otherwise have limited access to information about the legislation. The intention is that this information will be further disseminated through associated community groups and networks.

We have continued to conduct training sessions for particular groups as they have requested it, if the resources have been available. In 2003-2004 these included migrant settlement officers, the Department of Commerce Disability Network, the VAST Community Group, Bass High School Arabic Youth Group, Kurri Kurri Community Centre, Access Industries and the Office of Fair Trading Tenancy Group.

We also attended information and fair days to provide printed information and answer questions from community workers and the general community. In 2003-2004 these included the Eastwood Multicultural Fair Day and the Mt Druitt and Granville TAFE Information Days.

In addition, we have disseminated information to groups such as the Spokeswomen's Program within the

government sector, so they can inform people within their networks, and conducted specialist seminars for community workers to enable them to fully support or advocate their clients in relation to anti-discrimination legislation.

### **Resource for people with intellectual disabilities**

The publication of a picture booklet for people with intellectual disabilities demonstrates the effective role of community consultation at the Board.

Produced with specialist assistance from the Intellectual Disability Rights Service, *Unfair treatment... What to do* was launched by Attorney General Bob Debus as part of Law Week in May 2004. It contains photo stories explaining how to identify and deal with discrimination, and the role of the Anti-Discrimination Board.

The booklet originated from a forum on disabilities which highlighted the fact that people with intellectual disabilities can be particularly vulnerable to discrimination, as it may be difficult for them to understand their rights or stand up for themselves.

The Board established the Intellectual Disability Consultation, which suggested that a picture book would be an effective method for conveying information to this target audience. The group also provided advice on the content and script during the development process.



*(L-R) Education Services Manager Lesley Ashwood, NSW Council on Intellectual Disability President Robert Strike, Attorney General Bob Debus and Board President Stepan Kerkyasharian at the launch of Unfair treatment...What to do.*





The booklet addresses specific types of discrimination that people with intellectual disabilities most commonly face. These include sexual harassment, discrimination in service provision such as clubs and restaurants, and difficulties getting things like bank accounts, rental accommodation and hire agreements.

### *Workplace education*

The workplace education program is based on providing high quality training at cost effective prices to all workplaces. The Board's reputation for interactive, relevant and up-to-date training has resulted in the program earning over \$680,000 in 2003-2004, which is a 20% increase on 2002-2003. This meant we effectively covered the cost of the relevant salaries, on-costs and venue hire, plus some publications costs.

There are three workplace consultants in the Board's Sydney Office, plus one in Newcastle and one in Wollongong. The bulk of their work is on-site training, in which the training program is planned to meet the specific needs and makeup of the organisation.

Over 530 sessions were conducted in 2003-2004 in various workplaces, predominantly in NSW but also throughout Australia and in

Singapore, Hong Kong and Tokyo. Some companies based in NSW use our trainers throughout Australia and in the Asia-Pacific region, as they are pleased with the quality of our service and prefer to maintain the consistency of the information provided to their staff.

Organisations we worked with in 2003-2004 included international banks, large manufacturing companies and a range of public sector agencies. We also participated in information panels for the NSW Private Sector Equity Specialists (NEEOPA), and presented regularly to the NSW Public Sector Equity Specialists (EESA).

Our public seminar series conducted in Sydney has also proved to be highly successful, raising over \$100,000 in 2003-2004 and attracting over 250 participants. Among the most popular sessions are those covering grievance resolution, grievance handling and skills for contact officers.

The workplace consultants ensure that they are meeting the needs of their human resources and industrial

### *successful conciliation • disability discrimination in employment*

The complainant was a security guard who was injured in a work-related incident. She said she was harassed and discriminated against by her co-workers and management, including attempts to undermine her rehabilitation plan, assigning her inappropriate tasks, and failing to provide her with the facilities to do her job.

The respondent agreed to pay the complainant \$6,250, provide a statement of regret and review their policies and procedures on work-related incidents.

The complainant also alleged that she was discriminated against by representatives of her union, including lack of support for her return to work program and being verbally abused. The union agreed to pay her \$5,000, provide a written apology, review its grievance procedure and publish an article in its newspaper on the responsibilities of delegates regarding discrimination complaints.

relations practitioners by developing new courses as required. Two new courses were developed in 2003-2004:

- *Hot potatoes for employers* - an update on relevant case law, particularly in relation to contentious aspects of legislation or decisions; and
- *Managing psychiatric disability in the workplace*.

Both of these courses have proved so popular that we are now offering them as part of our on-site training package as well as in the public seminar program.

Our service has several other valuable aspects: course participants also receive a range of handouts, guidelines and slides; and the workplace relations consultants continue to support them with advice and information on request after the formal training sessions have been completed.

## Website

The Board's website is increasingly the first point of contact for people with enquiries about discrimination, harassment or the role of the Board. The number of hits during 2003-2004 averaged 151,293 per month. The Board's website is consistently one of the five most popular sites for the Attorney General's Department.

The website provides a wide range of information including:

- basic information about discrimination;
- how to make a complaint;
- training programs and services;
- advice for employers and service providers; and
- information in community languages.

The Board's site is part of the Lawlink site, which is hosted by the Attorney General's Department. The Department is currently upgrading Lawlink, and Education Services staff have redesigned the Board's site to tie in with this process. The new ADB site will improve client access to the Board's services through improved navigation, printing and search facilities, and will enable users to order publications online and register online for seminars. We have also reviewed and consolidated existing material on the site to make sure it is accurate, up-to-date and reflective of current Board practice.

## Organisations we trained in 2003-2004

DYWIDAG-Systems International  
Moree Plains Shire Council  
Mingara Recreation Club  
Shoal Bay Resort & Spa  
Master Builders Association, Newcastle  
Department of Sport and Recreation  
Law Society of NSW  
Westpac  
Deutsche Bank  
Promina  
Ericsson  
Murrumbidgee Irrigation  
Illawarra Credit Union  
Blue Mountains City Council  
Macarthur Disability Services  
Anglican Youth & Family Services, Goulburn  
Sydney University Union  
Investec

## What people said about our training in 2003-2004

*Good, varied presentation and content. Clear expression of sometimes complex examples. Engaging discussion and facilitation. Very thorough understanding of content and legal technicalities.*

*Kept to the topic, had some fun, delivered the message well.*

*Excellent presentation - very hands-on and relevant to the audience. I was expecting a fairly dry course and couldn't have been proved more wrong. Thoroughly enjoyed it and learned a lot!*

*Truly appreciated the honesty and realistic approach of the trainer.*

*A most enjoyable learning experience. I wish I had found the course earlier.*

*Very informative - I gained an incredible amount of confidence. I feel I can guide staff appropriately if they have any complaints.*



## Publications

The Board has an extensive publications program which provides information and public education for service providers, employers and the wider community. The Board produces two main types of publications, factsheets which provide basic information, and guidelines which give more detailed information for employers and service providers.

We also have a range of posters, flyers and pamphlets that highlight the Board's education and conciliation roles in the community and provide information about our training programs.

As part of the information technology upgrade at the Board, publications will be produced on PCs rather than on Macintosh computers from July 2004. Publications staff have been liaising extensively with IT staff from the Attorney General's Department's to ensure that existing material can still be used.

### Achievements 2003-2004

In 2003-2004 we sold almost 5,000 copies of our publications. In addition, we distributed over 4,000 copies of our employer guidelines to people who attended our workplace training sessions. We also distributed over 3,000 copies of our publications at community information days and in response to enquiries from the public.

This year the goal of the Branch has been to review existing publications and streamline production. Some publications have been merged, and we are printing less copies overall as more people are accessing and downloading material from the Board's website, resulting in financial savings. We also continue to reprint our existing stock of publications as required, making revisions to reflect new case law and legislative amendments.

In 2003-2004 we produced new fridge magnets which are popular items at stalls and displays, and provide a ready reference of the Board's contact details at home or in the workplace. We are also in the process in designing a new set of posters, as there has been high demand for these from employers and community workers.

### Newsletter changes

At June 2003 our newsletter *Equal Time* had 12 pages and was distributed largely in print, with only a small number of recipients receiving it electronically. There were over 4,000 recipients, many of whom were not-for profit organisations who received it free of charge.

As part of the process to streamline publications and reduce costs, we reviewed *Equal Time* and decided to distribute it in electronic format only from June 2003. This involves a pdf file for most recipients and a text file which is produced for vision impaired readers to use with a screen reader.

After a second review in June 2004, we have decided to reduce the publication to 4-6 pages, and to make it free to all interested recipients. This enables us to keep providing a resource and update for the community within the available staff resources.

### New publications

This year, the Board produced 14 new publications and related items:

- Annual report 2002-2003
- Equal Time newsletter (4 issues)
- Unfair treatment.....What to do (for people with intellectual disabilities)
- ongoing design of new structure for website

- creation of content for sections of new website (4 sections)
- workplace seminar training brochure (3 issues)
- community sector training brochure
- in-house training brochure
- services for employers brochure
- fridge magnets (2)

In addition, we revised and reprinted 17 existing publications:

- factsheets (10 updated)
- How to deal with discrimination, unfair treatment or harassment
- publications order form
- revision of sections of existing website (5 sections)

## Consultations

Consultations with specific groups throughout the year provide the Board and the President with an opportunity to canvass concerns and developments in the community. These may not be matters that can become complaints, but the Board can be aware of them and address them through its publications and education programs.

### Gay, Lesbian and Bisexual Consultation

The ADB Gay and Lesbian Consultation (as it then was) was one of the first government agency consultations, beginning in 1983. The types of issues that were initially raised through these forums are now often addressed through committees and consultation groups formally structured by departments such as the Attorney General's and health departments.

Through the year, members of the consultation have informed the Board and each other of legal developments within Australia and throughout the world. Reports covered the Genetic Discrimination Project funded by the Australian Research

Council, the Gay and Lesbian Immigration Taskforce, the Anti-Homophobia Interagency Roundtables, 20/10 Gay and Lesbian Youth and Family Support, the Gay and Lesbian Anti Violence Project and the project on domestic violence.

The subject of ageing within the gay and lesbian community was raised in late 2003, and the consultation is now developing recommendations on this issue. Jo Harrison's papers on ageing within the community were circulated and created some interesting discussion. The consultation has since received another report from a forum on ageing held in Newcastle.

The issues raised through the papers, forum and discussion at the consultation include the recognition of same sex couples, legal guardianship, inheritance, recognition of relationships within retirement villages and nursing homes, and the provision of goods and services to gays and lesbians through retirement villages and nursing homes. The consultation group will continue to explore this issue in 2004-2005.

### *successful conciliation • carers' responsibility discrimination in employment*

The complainant was employed as a team leader for several years before taking maternity leave for a year.

Just prior to her return, she contacted her employer and was told that she could only return to a full-time position, not part-time as she had requested. She was offered lower grade positions part-time but she said this would result in a lower income and professional disadvantage. She was then told the full-time position she was being offered was also of a lower status than her old position.

The complainant resigned her position and began retraining in an alternative career. The matter was resolved prior to a conciliation conference when the respondents agreed to pay the complainant \$12,000 plus \$3,000 for training for the alternative career.



Participants in this year's Gay and Lesbian Consultation included representatives from 2010, the Attorney General's Department, the AIDS Council of NSW, the AIDS Trust, Bi-Pride, the Central Sydney Area Health Service, the Community Support Network, the Country Network, the Crime Prevention Division of the Attorney General's Department, the Gay and Lesbian Counselling Service, the Gay and Lesbian Rights Lobby, the Gender Centre, the Inner City Legal Centre, the Lesbian and Gay Anti-Violence Project, Lesbian and Gay Solidarity, Luncheon Club, New Mardi Gras, the Order of Perpetual Indulgence, People Living with HIV and AIDS, People with Disabilities, the Pride Centre, the Senior Programs Officer of the NSW Police, South Sydney Council, the Sydney Bisexual Network, TAFE, the Teachers' Federation, Workers Out, Uniting Network, Vincare and several individual participants.

### **Sex and Gender Diversity Group Consultation**

This year, the consultation changed its name from the Transgender Consultation to recognise the diverse sex and gender identities in the community.

The consultation met twice and the main issues discussed included:

- the case of *Re: Alex* in the Family Court of Australia, which concerned a 13-year-old female-to-male transgender person who successfully sought approval to begin hormonal treatment.
- the broadcast of the television program *Miriam* on Channel 10, in which male contestants compete for

the affections of a woman who is revealed in the last episode to be a pre-operative male to female transgender person. The consultation was concerned about the possible negative image or ridicule of transgender people that could result from the program.

- an exemption application by a national welfare organisation to provide female only crisis accommodation, which may exclude non-recognised male to female transgender people.
- the inclusion of transgender people in Part 9A of the *Anti-Discrimination Act*. This part of the Act promotes equal employment opportunities for disadvantaged groups in public employment.

An extraordinary meeting of the consultation was held in June 2004 to discuss uniform national recognition for transgender people. At present, inconsistencies between state legislation mean that transgender persons born in one state may not be legally recognised when they cross state borders. The federal Attorney General will consider information provided at the meeting in developing a national recognition policy.

Participants included the Gender Centre, the Sex Worker's Outreach Project, the Sex and Gender Education Foundation, the Registry of Births, Deaths & Marriages, the Attorney General's Department, Genderlight, the Inner City Legal Centre and individuals from the relevant communities.

### **Intellectual Disability Consultation**

The highlight for the group this year was the publication and launch of the booklet *Unfair treatment... What to do*. The design and content of the book was the main focus of the previous three consultations, and it was highly satisfying for the group to see the publication come to fruition so successfully. The President is appreciative of the effort to group put in to ensure its success.

As the group's recent focus was the publication of the booklet and also due to staff cuts as a result of the Board restructure, the group has not met this financial year. It will be convened when issues arise that require it.

## Current publications

### Factsheets

Age discrimination – your rights  
Anti-discrimination law and the small business owner  
Carers' responsibilities discrimination – your rights  
Disability discrimination – your rights  
Discrimination, EEO & affirmative action  
Discrimination & the Anti-Discrimination Board of NSW  
Harassment & sexual harassment – your rights  
Homosexual discrimination – your rights  
How does the Anti-Discrimination Board deal with complaints?  
How to make a complaint about discrimination to the Anti-Discrimination Board  
Discrimination against people with infectious diseases  
Introductory factsheet in 25 community languages  
Lesbian discrimination & harassment & anti-lesbian behaviour  
Marital status discrimination – your rights  
People living with HIV/AIDS discrimination – your rights  
Pregnant women and discrimination  
Race discrimination – your rights  
Sex discrimination – your rights  
Strategies factsheet – How to deal with discrimination or unfair treatment  
Transgender discrimination – your rights  
Treated unfairly because you are an Indigenous person?  
Vilification – your rights  
What you can do if you are treated unfairly (low literacy)  
What you need to know about anti-discrimination law (for people from culturally and linguistically diverse communities)

### Posters

Harassment is not welcome here  
Know your rights  
Multilingual information  
Speak out against harassment  
Together we can beat harassment  
You have rights

### Guidelines

Anti-discrimination guidelines for hoteliers  
Anti-discrimination guidelines for local government councillors  
Anti-discrimination guidelines for managers of local councils  
Anti-discrimination guidelines for people providing goods & services  
Anti-discrimination guidelines for people who advise clients, consumers and members of the community about their rights  
Conciliation – a guide for complainants and respondents  
Exemption guidelines  
Guidelines for advertisers  
Guidelines for media (vilification)  
Guidelines for providers of financial services  
Guidelines for real estate agents  
Guidelines for registered clubs  
Transgender discrimination guidelines

### Workplace guidelines

Anti-discrimination and EEO guidelines for managers, supervisors & team leaders  
Anti-discrimination and EEO guidelines for small business owners and managers  
Carers' responsibilities discrimination – guidelines for employers  
Discrimination, harassment & EEO – a guide for non-supervisory staff  
Grievance procedures  
Harassment in the workplace  
How to implement EEO in any organisation  
Identifying and eliminating discrimination from industrial awards and agreements  
Sample policies and procedures disk  
Guidelines for union representatives  
Sample guidelines for Contact and Support Officers  
Grievance Investigator guidelines

### Other publications

Advance Australia Fairly postcards (16 postcards)  
Advance Australia Fairly website (<http://lawlink.nsw.gov.au/advanceaustraliafairly>)  
Annual report  
Occasional paper series  
C-change – Report of the enquiry into hepatitis C related discrimination  
Charities and anti-discrimination law  
Discrimination complaints form  
Discrimination and harassment: the rights and responsibilities of employees (training kit for vocational teachers)  
Enquiry line external agencies and service providers referral list  
Equal Time (newsletter, four per year)  
Fridge magnet for advisory service  
Fridge magnet for employers advisory service  
Guarantee of service  
How to deal with discrimination, unfair treatment or harassment  
In-house training for employers and service providers  
Know your rights: a guide for Aboriginal and Torres Strait Islander people  
Indigenous rights wallet card  
Unfair treatment... what to do (for people with intellectual disabilities)  
Pre-employment medical tests  
Publications for Employers catalogue  
Race for the headlines: racism and media discourse  
Services for employers brochure  
Skool's Out report and wallet card (with the Crime Prevention Division of the Attorney General's Department)  
Training for community sector workers brochure  
Training calendar (for employers, three per year)





## **Corporate and support services**

The Board's Liaison and Support Branch ensures the efficient running of the Anti-Discrimination Board's core activities by providing advice and support to the President and members of the management team in the areas of human resources, information technology, financial management, purchasing, management of premises and administration.

This occurs in a context of stringent external and internal public and departmental accountabilities, and a greater demand from the public and from public sector leadership to get more value for money from corporate and support functions.

As part of the 2003 restructure, the support services branch was reduced from seven to five staff.

Rationalisation of services, re-engineering of work processes, and the more effective use of remaining resources has resulted in the continued delivery of quality support services to the new Board.

### *Corporate services*

The Liaison and Support Branch coordinates with a number of other business centres of the Attorney General's Department that provide support services and systems throughout the department. These include human resources, asset management, finance, training and development, communications, information technology and records management.

Board staff work to develop workplace information and support systems that complement but do not duplicate systems and services provided at a departmental level.

## Administration

This year Liaison and Support Branch continued to focus on improving operational procedures by reorganising processes for travel, petty cash, assets, receipting and banking, along with further refinements to recruitment administration.

Other work included preparations to move to accrual accounting for Board debtors. This means that debts due to the Board at year-end will be included in the ledgers of the Department.

## Human resources

The branch's primary focus in 2003-2004 was managing staff displaced by the 2003 restructure, reviewing and updating positions descriptions and creating position descriptions for new or changed jobs.

Training continues to be encouraged, with all branch staff undertaking training and development activities.

Occupational health and safety continues to be a priority for management. The board has an excellent record in staff welfare, with no significant mishaps occurring in 2003-2004.

### **successful conciliation • marital status discrimination in employment**

The complainant worked as a cleaner at various work sites related to the legal system. She alleged that her employer advised her that she could not work in certain locations because of her husband's past criminal record.

It appeared that a junior supervisor of the respondent had acted on inaccurate advice. The matter was resolved when the respondent affirmed that the complainant should not have been prevented from working at the locations in question, even though she was provided with alternative work.

The parties agreed that the next available opportunity for relief work at either of the locations would be provided to the complainant. The respondent also undertook to write to one of the locations indicating its intention to provide work to the complainant.



## Accommodation

The Board is actively looking for more economical rental premises for its Sydney operations. In the 2003 restructure, the funding deliberations included an expectation that the Board would achieve significant savings by moving to more cost-effective premises. Negotiations are continuing on this issue.

## Information technology

The Information Technology Officer provides network management and user support to ensure that Board staff are able to operate with maximum effectiveness. Apart from ongoing support and management functions, the main activities in 2003-2004 were:

- preparing for a major upgrade of our primary complaint handling database;
- preparing for the cyclical upgrade of all Board computer equipment;
- planning a replacement customer management system for the Board's commercial training activities; and
- planning to further use the Attorney General's Department's financial management system to manage the Board's debtors.

## Financial statements

The Board achieved a significant budget surplus in 2003-2004, for the eighth year in a row. This resulted from the achievement of above income targets from our self-funded education program, and a significant reduction in operating expenses.

In 2003-2004 government funding of the Board was reduced by \$750,000. The main budgetary emphasis was therefore on restructuring the Board to deliver services

within the reduced budget. This included the deletion of 11 positions and the reduction of operating costs.

Through savings in operational costs the Board was able to fund most of the cost of displaced staff throughout the year. Three displaced staff remained on the Board's payroll at 30 June 2004.

No special project initiative funds were sought by the Board in 2003-2004.

### Financial Statements

TOTAL OPERATIONS 2003-2004	ACTUAL	BUDGET	VARIANCE
<b>Revenue</b>			
User Charges	(785,382)	(809,283)	(23,901)
Other Revenue	(8,775)	0	8,775
<b>Total revenue</b>	<b>(794,157)</b>	<b>(809,283)</b>	<b>(15,126)</b>
<b>Expenses</b>			
Employee related payments (excl. Crown liabilities)	3,104,070	3,252,118	148,048
Other operating	1,046,177	1,048,764	2,587
Maintenance	12,560	14,123	1,563
Depreciation	111,288	115,836	4,548
Grants and subsidies	0	0	0
Other services	0	0	0
<b>Total expenditure</b>	<b>4,274,095</b>	<b>4,430,841</b>	<b>156,746</b>
<b>NET COST OF SERVICES</b>	<b>3,479,938</b>	<b>3,621,558</b>	<b>141,620</b>

#### Notes

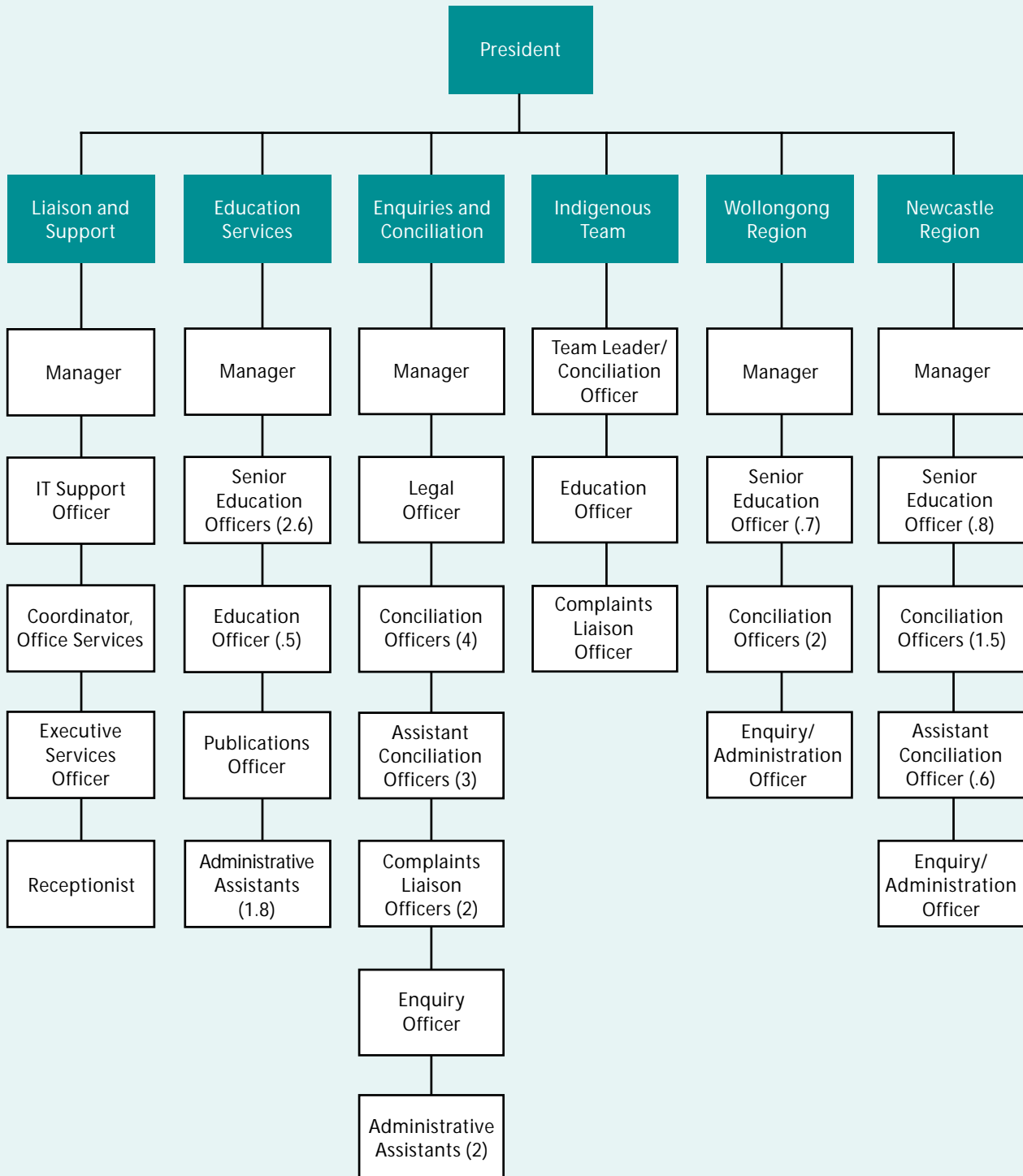
1. Cost of carrying displaced staff during the year 269,000
2. Additional rent arrears for the Sydney office lease 80,528
3. Cost of fully funded redundancies 163,289

EDUCATION SELF FUNDING PROGRAM	ACTUAL	BUDGET	VARIANCE
<b>Revenue</b>			
User charges	(776,443)	(773,125)	3,318
<b>Total revenue</b>	<b>(776,443)</b>	<b>(773,125)</b>	<b>3,318</b>
<b>Expenses</b>			
Employee related payments (excl. Crown liabilities)	293,965	440,377	146,412
Other operating	193,518	238,894	45,376
Maintenance	1,444	936	(508)
Depreciation	105	696	591
Grants and subsidies	0	0	0
Other Services	0	0	0
<b>Total expenditure</b>	<b>489,032</b>	<b>680,903</b>	<b>191,871</b>
<b>NET COST OF SERVICES</b>	<b>(287,411)</b>	<b>(92,222)</b>	<b>195,189</b>

#### Notes

1. Surplus includes accrued revenue in this transition year to accrual accounting for debtors. The amount of accruals, \$109,811, accounts for that amount of the increase compared to the previous year.
2. The Board's full financial figures are included in the consolidated accounts of the Attorney General's Department and published in that annual report.

## Structure of the Board



### Notes

1. Regional Managers and the Team Leader, Indigenous Services participate in monthly management team meetings.
2. The Executive Services Officer provides direct support to the President and support services to the other managers of the board, and assists with the general delivery of administrative support services.
3. The Legal Officer coordinates the delivery of legal services to the Board, providing some onsite advice to the President, Manager Enquiries and Conciliation and Manager, Education Services. He/she also liaises with the Crown Solicitor's Office as necessary to obtain legal advice and services.

## Exemptions

There are two types of exemptions available under the NSW *Anti-Discrimination Act (ADA)* – those under section 126 and those under section 126A.

**Section 126 exemptions** are needed when an organisation seeks to redress past disadvantage or discrimination experienced by a particular group on any of the grounds covered by the ADA, for example by

designating a job for a person of a particular race or gender. The initial period of exemption can be up to ten years, with the possibility of renewal for another ten years. To gain this exemption, applicants should write to the President of the Anti-Discrimination Board, setting out the nature of the exemption sought and arguments in support of it.

**Section 126A exemptions** apply when employers or service providers wish to run a special needs program or activity that would be discriminatory on the grounds of sex, transgender status, marital status, disability, homosexuality or responsibilities as a carer. Applications for Section 126A exemptions must be made to the Attorney General.

The Statutory Board decides whether to recommend to the Attorney General that an exemption be granted. In doing so, the Board takes into account the purpose of the ADA as legislation designed to promote equality of opportunity.

### Section 126 exemptions 2003-2004

Applicant	Program	Sections	Date	Expiry
Arts Law Centre of Australia	to employ 2 Indigenous staff members for the provision of arts law services to the Indigenous community	8,51	13.8.2003 (10 years)	12.0.2013
BreastScreen Greater Western Sydney	to designate and recruit for women only to fill various positions in frontline client areas	25, 51	6.4.2004 (10 years)	5.4.2014
Campbelltown City Council	to designate and recruit an Indigenous person for a position of Child Care Assistant	8, 51	15.6.2004 (10 years)	15.6.2014
Disability Council of NSW	to designate and recruit for an Indigenous project officer within the Council's secretariat	8, 51	18.8.2003 (5 years)	17.8.2008
Inverell Shire Council	to designate and recruit an Indigenous person for a position of Circulation and Support Services Officer, Inverell Public Library	8, 51	17.6.2004 (10 years)	16.6.2014
Soft Images Beauty Salon	to provide services for women only	33, 51	3.12.2003 (10 years)	3.12.2013
Windsor Toyota	to designate and recruit for a position of New Vehicle Salesperson for women only	25, 51	3.12.2003 (2 years)	3.12.2005

## Section 126A exemptions 2003-2004

Department or organisation	Special needs program or activity	period of exemption
Central Sydney Sexual Health Service	Aboriginal men's clinic and Aboriginal women's clinic	1.7.2004 to indefinitely
Disability Council of NSW	to advertise and designate positions on the Council for people who have particular types of disabilities	4.10.2003 to indefinitely
Mission Australia	A Woman's Place, Lou's Place and Women in Supported Housing - accommodation and other services for women and their dependent children	30.6.2004 for 10 years
TAFE	to run a Certificate 1 in Information Technology and a Certificate 2 in Information Technology for Aboriginal Women only	18.6.2004 for 10 years

*This Annual Report was edited and designed by Carley Tucker. Photos by Tim Moyes and Carley Tucker, except for p19, p20 by Kerri Alderton and p22.*

*All photos are staff of the Anti-Discrimination Board unless otherwise stated.*

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### **successful conciliation • sex (pregnancy) discrimination in employment**

The complainant was employed as the housekeeping manager of a large hotel. She told her manager she was pregnant in the early stages of the pregnancy, but later she had to go into hospital for two weeks.

When she came back to work, her manager told her he was placing her on light duties, which turned out to be on reception. Her salary was to be maintained, but she lost a number of entitlements such as parking and meal privileges, and another person was appointed to her original position.

Greatly distressed by the hotel's actions, she left employment earlier than she had planned and was unable to get another job. The hotel admitted that things could have been managed more appropriately and agreed to pay the respondent \$8,000.



# adb

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