

### ANNUAL REPORT 2018-19

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# Letter of compliance

30 August 2019

The Honourable Yvette D’Ath MP

Attorney-General and Minister for Justice and Minister for Training and Skills

1 William Street

Brisbane Qld 4000

Dear Attorney-General

I am pleased to present the Annual Report 2018–2019 and financial statements for the Anti-Discrimination Commission Queensland.

I certify that this Annual Report complies with:

* the prescribed requirements of the Financial Accountability Act 2009 and the Financial and Performance Management Standard 2009, and
* the detailed requirements set out in the Annual report requirements for Queensland Government agencies.

A checklist outlining the annual reporting requirements can be found at Appendix A of this annual report or accessed at www.qhrc.qld.gov.au.

Yours sincerely

**

**Scott McDougall**

**Commissioner**

**Anti-Discrimination Commission Queensland**

# Commissioner’s foreword

Welcome to the Anti-Discrimination Commission Queensland’s annual report for 2018–19 which is the final report of the Commission before transitioning to the Queensland Human Rights Commission on 1 July 2019.

As the incoming Commissioner, I wish to thank my predecessor Mr Kevin Cocks AM for the outstanding achievements of the Commission during his term, and for his strong leadership in creating a fairer, more inclusive Queensland. Under Kevin’s oversight, the Commission successfully promoted greater social, cultural, and economic participation by those groups in our community who face structural discrimination on a daily basis.

I would also like to thank and acknowledge the dedicated public service of Deputy Commissioner Neroli Holmes who acted as Commissioner prior to my commencement in October.

This year saw the introduction of the *Human Rights Act (2019)* which will add significant functions to the Commission’s ongoing responsibilities under the *Anti-Discrimination Act (1991)*. The Commission underwent an organisational restructure to reflect the new functions, resulting in the merging of two existing teams and the creation of a Legal Research and Policy Team. These changes occurred at a time when complaints received by the Commission rose by 22% to a total of 961 for the year.

I would like to thank all staff for their patience, professionalism and commitment to the delivery of high quality services, and I look forward to working with the Commission’s talented team as we embark upon our important role in protecting and promoting the human rights of people in Queensland.

**

**Scott McDougall**

**Commissioner**

# About the Anti-Discrimination Commission Queensland

## Our vision

A fair and inclusive Queensland.

## Our purpose

To strengthen the understanding, promotion and protection of human rights in Queensland.

## Our objectives

The Commission’s key objectives are to:

* provide a fair, timely, and accessible complaint resolution service;
* provide information to the community about their rights and responsibilities under the Act;
* promote understanding, acceptance, and public discussion of human rights in Queensland; and
* create opportunities for human rights to flourish.

The Commission supports the Queensland Government’s objectives for the community, and strives to meet these objectives through our work. The following values in particular are demonstrated clearly in the work of the Commission.

Building safe, caring and connected communities:

* ensuring an accessible and effective justice system; and
* encouraging safer and inclusive communities.

Delivering quality frontline services:

* providing responsive and integrated government services; and
* supporting disadvantaged Queenslanders.

Creating jobs and a diverse economy:

* increasing workforce participation, and
* ensuring safe, productive and fair workplaces.

## Our values

In delivering services to achieve our objectives, we are committed to:

* treating everyone with respect and dignity, and acknowledging their fundamental human rights;
* treating everyone fairly and impartially;
* supporting a workplace culture that encourages diversity, innovation and responsiveness to the needs of our clients; and
* valuing our independence and the rule of law.

The way in which the Commission delivers services, develops and supports staff and engages with the community also reflects the Queensland public service values of putting customers first, translating ideas into action, unleashing potential, being courageous and empowering people.

## Our functions

Established under the *Anti-Discrimination Act 1991*, the Commission is an independent statutory body that has the following functions:

* to inquire into complaints and, where possible, to effect conciliation;
* to carry out investigations relating to contraventions of the Act;
* to examine Acts and, when requested by the Minister, proposed Acts, to determine whether they are, or would be, inconsistent with the purposes of the Act, and to report to the Minister the results of the examination;
* to undertake research and educational programs to promote the purposes of the Act, and to coordinate programs undertaken by other people or authorities on behalf of the State;
* to consult with various organisations to ascertain means of improving services and conditions affecting groups that are subjected to contraventions of the Act;
* when requested by the Minister, to research and develop additional grounds of discrimination and to make recommendations for the inclusion of such grounds in the Act;
* such functions as are conferred on the Commission under another act;
* such functions as are conferred on the Commission under an arrangement with the Commonwealth under part 3 of the *Anti-Discrimination Act 1991*;
* to promote an understanding and acceptance, and the public discussion, of human rights in Queensland;
* if the Commission considers it appropriate to do so — to intervene in a proceeding that involves human rights issues with the leave of the court hearing the proceeding and subject to any conditions imposed by the court;
* such other functions as the Minister determines; and
* to take any action incidental or conducive to the discharge of the above functions.

## Our services

The Commission delivers frontline services to the Queensland community, including businesses, state and local government, the community sector, and people throughout the state.

Our services include:

* resolving complaints received under the Act;
* delivering training to business, government, and the community; and
* promoting public discussion of human rights through a variety of community engagement and communication strategies.

More detail about how these services are delivered is available in the relevant sections of this annual report.

## Our people

The ADCQ is led by the Anti-Discrimination Commissioner who is appointed by the Governor in Council, and reports to the Queensland Parliament through the Attorney-General and Minister for Justice. Although overall accountability for ADCQ services rests with the Commissioner, direct management responsibility of the various teams within the ADCQ is shared between the Commissioner and the Deputy Commissioner.

During 2018-19 an organisational restructure occurred to enable the Commission to deliver additional functions required under the *Human Rights Act 2019*, commencing in 2019-20. A staged implementation of the revised structure commenced in March 2019 and is reflected in the organisational structure in Appendix D.

The Commission has four offices located in Brisbane, Rockhampton, Townsville and Cairns which deliver services to the Queensland community. Each regional office performs a variety of functions including complaint management, training, community engagement and provision of information services directly to the public. The Brisbane office is responsible for executive and corporate services.

The Director, Complaint Management has program responsibility for the provision of complaint management services throughout the state and supervision of the regional offices.

The Brisbane Complaint Management team:

* manages the majority of complaints arising in South-East Queensland;
* provides information services to clients; and
* participates in community engagement activities.

The Director, Engagement and Corporate Services has program responsibility for the provision of training and engagement activities, marketing and communications and the administrative, financial, human resource, information technology, facilities and governance services of the Commission.

The newly established Legal, Research and Policy team is based in the Brisbane office and reports to the Deputy Commissioner. It provides executive support and legal services; develops human rights policy and undertakes research on human rights issues.

# Performance statement 2018-19

The ADCQ performed strongly throughout the 2018–19 financial year, meeting or exceeding the majority of performance targets across core service delivery areas. Highlights included:

* resolving 53% of accepted complaints, with 83% of clients as at 30 March 2019 being satisfied with the complaint handling service;
* delivering training to approximately 4480 people, and achieving an average 97% satisfaction rate;
* responding to 2637 enquiries about the *Anti-Discrimination Act 1991* and ADCQ services;
* conducting 286 community engagement activities including major projects; and
* enhancing discussion and understanding of contemporary human rights issues through submissions to a variety of state and federal inquiries and Parliamentary Committees.

Table 1: Service standards

|  |  |  |  |
| --- | --- | --- | --- |
| **Service standards** | **Notes** | **2018–19 Target/est.** | **2018–19 Actual** |
| Effectiveness measures |
| Percentage of accepted complaints resolved by conciliation |  | 55% | 53% |
| Percentage of clients satisfied with complaint handling service measured via client survey | 1, 3. | 85% | 83% |
| Percentage of clients satisfied with training sessions measured via client survey | 1. | 95% | 97% |
| Percentage of accepted complaints finalised within the Commission |  | 75% | 70% |
| Efficiency measures |
| Clearance rate for complaints | 2. | — | — |

Notes

1. This is a measure of overall satisfaction with the services provided by the ADCQ. Complaint parties and training clients are surveyed to determine their satisfaction with the services they receive including, for example, relevance, impartiality, content and professionalism. The measure is calculated by dividing responses where clients indicate they are either satisfied or very satisfied by total responses and then expressing the result as a percentage.
2. This new service standard is a proxy measure of efficiency which compares the number of complaints finalised with the number of complaints received in the reporting period. The measure is affected by both the number and timing of new matters and closures. This measure was added in 2018-19 to commence in 2019-20.
3. Service standards data is provided as at 30 March 2019 and may vary slightly from data as at 30 June 2019.

# Community engagement and education

An important aspect of the ADCQ’s role is the provision of education programs, and the promotion of understanding, acceptance and public discussion of human rights in Queensland through communication and community engagement activities.

The ADCQ Community Engagement Strategy incorporates eight strategic functional areas. These areas and their objectives are:

Table 2: Community Engagement Strategy

|  |  |  |  |
| --- | --- | --- | --- |
| **Engagement, consultation and community development** | **Web and social media** | **Partnerships and networks** | **Information products and services** |
| Increase community ownership and investment in human rights | **Broaden ADCQ’s reach through the use of the web and social media to allow for education and discussion of human rights** | **Enhance ADCQ’s reach and achievement of outcomes through collaboration** | **Maintain a range of products and services that provide clear and accurate information in an engaging and accessible manner** |
| **Education** | **Media** | **Events** | **Marketing and promotion**  |
| **Establish ADCQ as the provider of Queensland’s best quality training in the field of discrimination and human rights** | **Engage with media to promote human rights and education of the Queensland community** | **Maximise community engagement opportunities through involvement in key human rights events** | **Build a recognisable ADCQ brand, associated with quality education, professional complaint management, and a fair and inclusive Queensland** |

## Engagement, community development and major projects

The ADCQ’s community engagement and development is the main means of achieving our vision of a fair and inclusive Queensland. These activities serve two purposes:

* raising community awareness of the role of the ADCQ and the *Anti-Discrimination Act 1991*, and
* enhancing community capacity to create opportunities for human rights to flourish.

The ADCQ aims to actively identify, direct, and support the capabilities of individuals and groups to achieve positive outcomes, and create spaces where human rights can flourish. ADCQ’s role is to provide information, connect people, build networks, and coordinate community projects and events.

Major achievements in this area throughout 2018–19 include:

### Human Rights Month

For the fourth year running, the ADCQ ran the Human Rights Month campaign from 10 November to 10 December 2018. The focus of the 2018 campaign was on the 70th anniversary of the Universal Declaration of Human Rights. This theme was chosen to celebrate the milestone, and also in preparation for the anticipated introduction of the Queensland *Human Rights Act 2019*.

The campaign provided information and resources about the international human rights framework and its linkages to domestic anti-discrimination and human rights provisions.

### Aboriginal and Torres Strait Islander Optimal Health Project

In 2017 the ADCQ in partnership with the Queensland Aboriginal and Islander Health Council (QAIHC) published a report on institutional barriers to health equity for Aboriginal and Torres Strait Islander people in Queensland's public hospital and health services. The report used a tool, known as the Matrix, to provide a set of baseline data from which to measure progress towards elimination of institutional barriers to health equity in health services over time. Since completion of the report, Queensland Health, QAIHC, and the Commission have collaborated on ways to improve health equity for Aboriginal and Torres Strait Islander people when accessing public hospital and health services.

In November 2018, a panel of experts in Aboriginal and Torres Strait Islander health reviewed and refined the Matrix tool, to more accurately reflect the matters that are within the immediate control of public health service providers.

Noticeable changes have occurred in Queensland Health and Hospital Services since the first audit. The representation of Aboriginal and Torres Strait Islander people on hospital boards has increased from 9 positions in 2017 to 17 positions in 2019; there are now new identified executive directors of Aboriginal and Torres Strait Islander Health in the Cairns and Hinterland, North West, Torres and Cape and Townsville Hospital and Health Services; and Aboriginal and Torres Strait Islander people have been appointed to other senior positions across Queensland Health.

Breaking down institutional barriers to Indigenous health equity will require constant vigilance and long term vision. In order for things to continue to improve, ongoing monitoring will be required – from both within the health system and outside it. ADCQ and QAIHC have committed to undertaking a follow-up audit in 2019-20 to measure how much change has taken place since the first round of figures were published, and to see what work remains to be done.

### Women In Prison Report

In 2004, the Commission received a submission from the advocacy group for female prisoners, Sisters Inside Inc, requesting the Commission to inquire into possible discrimination on the basis of sex, race, and disability within Queensland women’s prisons. In response to the wide range of matters raised by Sisters Inside, the Commission conducted a thorough review on the treatment of women in Queensland prisons, and published the *Women In Prison* report in 2006.

Ten years on from the report, and with the numbers of women being incarcerated steadily increasing, the Commission commenced a follow-up consultation which is reported in our *Women In Prison 2019* human rights consultation report.

We found that in many ways, the situation had not improved in the intervening decade.

The female prison population swelled by 59% between 2006 and 2016. Recently, overcrowding resulting from that increase has impacted several other parts of the prison system and negatively affected female prisoners, both during and after incarceration. With the opening of the new Southern Queensland Correctional Centre for Women in late 2018, overcrowding and its negative consequences has been solved for the present time.

The over-representation of Aboriginal and Torres Strait Islander women within the female prison population is of serious concern. Over one third (35%) of female prisoners are Aboriginal and Torres Strait Islander women. Not only are they statistically more likely to be incarcerated, Aboriginal and Torres Strait Islander women fare worse in prison than their non-Indigenous counterparts. They are more likely than non-Indigenous women to be held in high security prisons, make up almost half of the female prisoners on safety orders or separate confinements, and are more likely to return to prison for breach of parole. It is clear that the system is not designed with them in mind, and does not respond well to the complex and specific needs of Aboriginal and Torres Strait Islander women in prison.

The large increase in the numbers of female prisoners in the past decade have stretched the limited resources available in prisons for counselling and substance abuse programs. Many women in prison have backgrounds involving complex trauma, with high levels of sexual abuse and substance problems compared to the general population, but have little or no access to support for these issues inside prison.

Lack of support was also apparent when women transitioned from prison to living in the community once they have served their sentences. Recently, enhanced transitional support has been developed and is now being offered to women as they exit prison.

The lack of available, appropriate, and affordable housing has taken its toll on women exiting prison. Both short-term transitional housing and longer-term accommodation are in short supply, impacting heavily on women trying to reintegrate into society. The critical shortage of housing has resulted in women being refused bail or parole. The lack of housing may also be a contributing factor to women offending and reoffending. Recently, an intergovernmental taskforce has started to address this critical housing shortage.

This report contains 46 recommendations to improve the prison system and outcomes for female prisoners.

This report is the latest of several released in recent years focussing on aspects of the Queensland correctional system and the over-representation of Indigenous people in Australian prisons. All have called for sweeping changes. Although there appears to be growing awareness amongst government that major reform is vital, courage and leadership will be required to develop and implement a coherent plan to reduce the number of women in Queensland prisons.

## Whole-of-government plans

ADCQ contributed actively to the following whole-of government plans and initiatives during 2018-19:

### Queensland: an age-friendly community – Action plan

ADCQ delivered 15 free age-friendly communities training sessions throughout the year, providing information to seniors about their rights and responsibilities under Queensland anti-discrimination law. A further 55 training sessions on unconscious bias were delivered, and 211 general training sessions that contained information about the prevention of age discrimination. ADCQ staff also attended seniors’ events including Ipswich City Council’s, See Create Connect Expo and Townsville Seniors Expo.

### Multicultural Action Plan

ADCQ delivered 277 training sessions this year which provided information on discrimination law, unconscious bias and financial benefits of diverse and inclusive workplaces.All other ADCQ actions contained in the 2016-18 Multicultural Action Plan were finalised prior to this financial year. Further actions have been committed to for the revised 2019-22 action plan.

### Queensland Youth Strategy

Student and teacher resources on the ADCQ website were accessed 4453 times (3235 unique views) during 2018-19. ADCQ used social media to promote information and events relevant to youth during the year, including information about age discrimination, Queensland Youth Week activities, the benefits of age-friendly workplaces, Wear It Purple Day and Queeriosity. Young people were also engaged in a consultation process for the development of a Trans@School resource. The resource is aimed at educating school communities, students and other stakeholders about the legal aspects of practical issues affecting transgender students in schools.

## Speaking engagements

Staff of the Commission regularly accept invitations to speak to students, community groups, lawyers, employee and employer groups, and at community events. Speaking topics range from specific issues in anti-discrimination law to a broad overview of human rights and anti-discrimination instruments. In 2018-19, a total of 28 formal speaking engagements were conducted including presentations to:

* Legal Studies Teachers’ Conference;
* Human Rights Law Conference;
* Bond University – Diversity in the workplace panel;
* Bribie Island High School – transgender students in school;
* Brisbane Regional Disability Advisory Council;
* Central Queensland Multicultural Association Harmony Day event;
* Minter Ellison Human Rights Seminar;
* James Cook University, Cairns – guest lecture to social work students;
* QCAT Biennial Members’ Conference;
* The Smith Family, Townsville – community networking function;
* YFS Ltd – Culturally Competent Criminal Law Clinic;
* UQ Law School Forensic Mental Health & Human Rights Workshop;
* TAFE – Diploma of Travel and Tourism students;
* Peakcare Queensland – National Child Protection Conference;
* QCOSS – building awareness of the Human Rights Act in Queensland.

## Web and social media

Effective use of web-based technologies supports the ADCQ’s drive to engage with the community, provide digital means of access and service delivery, and connect with a wide range of clients. The website is accessible for users with assistive technologies.

The ADCQ website is currently AA compliant with the W3C (World Wide Web Consortium) Guidelines, and in some areas is AAA compliant. This enables people with visual and motor impairments, as well as people from non-English speaking backgrounds, to access the site. The ADCQ is aware of the importance of making information and services accessible to all Queenslanders and is committed to working on continuous improvement in this area.

The Commission’s website remains a popular means for Queenslanders to access information about discrimination law and the services of the ADCQ. In 2018–19 there were 243,860 visitors to the Commission’s website, an increase from the previous year’s total of 211,788 visitors. New visitors made up 86.6% of all website visits this financial year.

Table 3 shows the top twenty most visited pages on the Commission’s website in 2018–19. This list shows that visitors to the site are continuing to locate general information products and resources developed by the Commission as well as information on the law and making a complaint. This year new information about the *Human Rights Act 2019* was readily accessed by web visitors.

Table 3: Top 20 most visited website pages

|  |  |  |  |
| --- | --- | --- | --- |
| 1 | Resources for employers – employer rights & responsibilities | 11 | Making a complaint |
| 2 | Case studies - sexual harassment  | 12 | Resources for employers |
| 3 | Resources for employers – diversity in the workplace | 13 | Guidelines – discrimination in education |
| 4 | Fact sheet – Indirect discrimination | 14 | Guidelines – discrimination in the provision of goods and services |
| 5 | Legislation | 15 | Human rights |
| 6 | Complaints  | 16 | Make a complaint |
| 7 | Complaints – discrimination  | 17 | About us |
| 8 | Human rights – Qld Human Rights Act | 18 | Case studies – sex discrimination |
| 9 | Resources – case studies | 19 | Complaints – sexual harassment |
| 10 | Guidelines – discrimination in employment | 20 | Contact us |

The Commission maintains a social media presence through Facebook, YouTube, Instagram and Twitter accounts. These platforms enable real-time dissemination of information, promotion of activities and events, and two-way engagement with stakeholders. The ADCQ’s social media engagement is managed by the Engagement and Corporate Services team in the Brisbane office, and is guided by an internal social media policy.

## Partnerships and networks

As a small organisation, the ADCQ is increasingly aware that the establishment of strong and productive partnerships and networks is an effective strategy for achieving outcomes across a broader range of issues, stakeholder groups, and geographical areas. The ADCQ is involved in key networks and partnerships throughout Queensland. Through these we provide information on human rights issues and legislation, and in-kind support for actions and initiatives, while gaining a deeper understanding of the issues, challenges and achievements within the community. The key partnerships and networks in which ADCQ was an active member in 2018–19 were:

### Police Ethnic Advisory Group (PEAG)

PEAG is an advisory body to the Queensland Police Service on issues relating to cultural diversity. The group contributes to the promotion and maintenance of harmonious relations between Queensland police and ethnic communities. The ADCQ contributes on matters that fall within its jurisdiction under the *Anti-Discrimination Act 1991*.

### Queensland Police Service and Muslim Community Reference Group

The ADCQ is an active member of this Queensland Police Service initiated community reference group, which consists of representatives from several local, state and federal government agencies, as well as the Islamic Council of Queensland, the Islamic College of Brisbane, and the broader South-East Queensland Muslim Community.

The group meets every two to three months or as needed, to share information relevant to the Muslim community including community cohesion initiatives; identified threats, action being taken by relevant authorities, and feedback from the community.

### Senior Officers Group on Multicultural Affairs (SOGMA)

The Senior Officers Group on Multicultural Affairs (SOGMA) was established in 2016 in response to the introduction of the Multicultural Recognition Act and associated Multicultural Queensland Charter. SOGMA provides whole-of-government strategic leadership and advice on key elements to implement the Queensland Multicultural Recognition Act.

### Multicultural and multi-faith networks

The ADCQ is an active member of multicultural and multi-faith networks across Queensland including:

* Cairns and Region Multicultural Service Providers Network;
* Cairns Local Area Coordination Committee;
* Multicultural Advisory and Action Group (MAAG), Gold Coast; and
* Chai Community (multi-faith women’s network), Gold Coast.

### Disability networks

The ADCQ is involved with disability advisory groups and networks across the state, including:

* Queenslanders with Disability Network;
* Queensland Disability Information Network;
* Aboriginal and Torres Strait Islander Disability Network Queensland;
* Rockhampton Access and Equity Group;
* Capricorn Coast Community Access Group;
* Townsville Inclusive Community Advisory Committee;
* Capricornia Region Accessible Transport Network; and
* Cairns Transition Network.

The ADCQ gives input on matters relating to impairment discrimination and accessibility, as well as keeping abreast of issues concerning this significant stakeholder group.

### Community and other networks

The Commission is represented in a variety of other professional and community networks including:

* Townsville Community Network;
* Burdekin Community Network;
* Townsville Organisational Networking forum;
* Queensland Law Society’s Equalising Opportunities in the Law (EOL) Committee;
* Play by the Rules – safe, fair and inclusive sport professional network;
* Diversity Practitioners Association (DPA); and
* Coordinators of Funded Services Network, Cairns.

## Information products and services

### Products

The Commission produces a wide range of print and non-print publications including guidelines, fact sheets, information brochures, rights cards, videos, and audio files. All publications are available online, and many in hard copy by request.

In 2018-19 the Commission’s hard copy newsletter, *Balancing the Act,* was replaced by a schedule of email bulletins. Subscribers are provided with a range of information about ADCQ services as well as changes to legislation and events promoting diversity and inclusion.

### Services

The Commission continues to provide a free, accessible and personal information service for Queenslanders to help them understand their rights and responsibilities under the Act. The Brisbane office continues to respond the bulk of enquiries across the state.

This year the Commission answered 2,637 telephone, email, postal and personal enquiries about anti-discrimination laws, a decrease from 3,038 in the previous year. In response to the wide range of enquiries it receives, the Commission provides telephone information as well as fact sheets, brochures and videos which it makes available to the public through the website and by email or post.

### Marketing and promotion

The ADCQ mostly relies on our established and developing networks to communicate with stakeholders and the broader community. No professional marketing services were engaged in 2018–19.

The ADCQ promotes not only the work and services of the Commission, but the positive human rights actions and initiatives of the Queensland community. The ADCQ web and social media pages are used to highlight community events, activities, and stories of human rights leadership. This promotion acknowledges the efforts of local human rights pioneers, as well as furthering discussion, action and collaboration on human rights issues, in line with our legislative function ‘to promote an understanding and acceptance, and the public discussion, of human rights in Queensland.’

## Events

Each year the ADCQ attends a variety of community events across the state. Having a presence at these events not only enables the Commission to share in the celebration and recognition of diversity and inclusion, but it raises awareness of the ADCQ and its role, and makes information available to the community. In most cases, the ADCQ presence at community events is in the form of an information stall. On some occasions Commission staff members are asked to open events or undertake speaking engagements. In regional areas, ADCQ staff members often have significant involvement on planning and organising committees for major community events. During the reporting period, ADCQ staff was involved in the following types of community events:

* Luminous Lantern Parade, Brisbane;
* NAIDOC week events in Cairns, Townsville, Rockhampton and Brisbane;
* Multicultural events in Brisbane, Cairns, Mareeba and Townsville;
* Law Week, Rockhampton;
* Seniors events in Townsville, Ipswich and Cairns;
* University orientation week events in Rockhampton, Townsville and Cairns; and
* Disability inclusion and awareness events in Brisbane, Townsville, Rockhampton and Cairns.

Major events which ADCQ hosted or co-hosted in 2018-19:

### Mabo Oration

In June 2019, coinciding with Mabo Day, the ADCQ co-hosted the biennial Mabo Oration in partnership with the Queensland Performing Arts Centre (QPAC) and the Mabo family.

This year’s orator was Luke Pearson, founder and CEO of IndigenousX, a social media platform designed to showcase and amplify a diverse range of Indigenous voices online.

The 2019 Mabo Oration was delivered to a sold out crowd of almost 800 people and also live streamed on Facebook.

### Townsville Inclusive Games Day

In September 2018, our Townsville team hosted their second inclusive games day in partnership with Townsville City Council and Cootharinga North Queensland. The event was held as part of Disability Action Week.

Participants of all abilities participated in a range of activities including netball, rugby league, goal ball, AFL, basketball and wheelchair basketball, land-based water polo and tai chi. WNBL Townsville Fire players and Invictus Games athletes were also in attendance, assisting participants with activities throughout the day. The inclusive games day gave participants a unique opportunity to get involved in new sports, learn skills, socialise and engage with others while also demonstrating their enthusiasm and abilities to the activity facilitators and other participants.

### Cairns All Abilities Sports Day

In celebration of Disability Action Week 2018, our Cairns team partnered with ARC Disability Services, Surf Life Saving Queensland and other local sports groups to deliver the 6th annual All Abilities Sports Day. The successful event again provided participants of all ages and abilities the opportunity to engage in sports, games and social activities together. Held on the Cairns Esplanade, the day involved a free sausage sizzle and a range of activities including chess and checkers, boccia, golf using a ParaGolfer, cricket, sailing, rugby league, AFL, tennis and a fitness circuit.

### Changing Lives, Changing Communities

Throughout 2018-19, a series of 12, two-day events were held across Queensland as part of the Changing Lives, Changing Communities project, a partnership between ADCQ, Queensland Council of Social Service (QCOSS) and Queenslanders with Disability Network (QDN). The events provided new ways for people – citizens, community organisations, the private sector and government representatives – to come together, envision and ask, ‘what will it take to create communities where everyone contributes, matters and belongs?’ The aim of the events was to co-create solutions to ensure everyone is included in their community, and can access what they need; like a place to call home, good health, transport, education and meaningful employment.

The Changing Lives, Changing Communities events will continue throughout 2019-20.

### International Women’s Day – Townsville and Rockhampton

For the fourth consecutive year the North Queensland office of the ADCQ partnered with North Queensland Women’s Legal Service to host an International Women’s Day event with the theme *Invest in Women. Invest in the Future.*

The sold out event provided a platform for three local women to share their stories of success – who invested in them, the challenges they have faced along their journeys, and how they are supporting and investing in other women.

The Central Queensland office of the ADCQ also celebrated International Women’s’ Day by hosting a movie evening where the film *On the Basis of Sex* was shown to an audience of approximately 96. The movie is an American biographical legal drama based on the life and early cases of Supreme Court Justice Ruth Bader Ginsburg. It depicts the struggle endured by Justice Ginsburg as a new mother facing adversity and numerous obstacles in her fight for equal rights.

## Media

In 2018–19, the ADCQ provided information and public comment to a variety of mainstream, regional and independent media outlets including ABC 4 Corners, WIN News Rockhampton, The Courier Mail, A Current Affair, ABC News online, ABC Radio National, 4EB, Central Queensland Radio, The Guardian and Ten TV.

## Education

The ADCQ delivers training courses based on the *Anti-Discrimination Act 1991* as well as topics related to diversity, inclusion and stereotypes. The primary objectives of training are to educate people in Queensland about their rights and responsibilities under the Act, encourage inclusive attitudes and practices, and to support organisations to adopt best practice methods for preventing and managing discrimination and harassment in the workplace. Training is provided on a fee-for-service basis, with reduced rates offered to small community organisations and groups that demonstrate limited capacity to pay. Training services are delivered primarily on client demand, with only intermittent email marketing undertaken.

### State-wide training performance

In 2018–19 we delivered 277 training sessions to approximately 4,480 people. This was a slight increase on the previous year’s total of 271 sessions. Overall training demand from across the various sectors evened out this financial year. While the previous year saw increased demand in training to the public sector, this year 88 sessions were delivered to public sector organisations compared with the 136 sessions delivered in 2017-18. Private sector training increased from 59 sessions to 92 sessions and community sector training also increased from 31 sessions to 48.

 Table 4: Delivery of training by sector, by region

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **South-East** | **Central** | **North** | **Far North** | **Total** |
| Private sector | 31 | 18 | 30 | 13 | **92** |
| Public sector | 66 | 2 | 10 | 10 | **88** |
| Community | 37 | 5 | 3 | 4 | **49** |
| In-house | 16 | 12 | 13 | 7 | **48** |
| **Total** | **150** | **37** | **56** | **34** | **277** |

Table 5: Types of training sessions

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Course** | **South-East** | **Central** | **North** | **Far North** | **Total** |
| Introduction to the Anti-Discrimination Act | 62 | 17 | 24 | 14 | 117 |
| The Contact Officer (standard and refresher course) | 11 | 5 | 7 | 2 | 25 |
| Managing complaints | 2 | 1 | — | 1 | 4 |
| Recruitment and Selection | — | 1 | 2 | 3 | 6 |
| Tracking your rights — A and TSI  | 7 | — | — | — | 7 |
| Introduction to the Anti-Discrimination Act for Managers  | 17 | 7 | 6 | 10 | 40 |
| Unconscious bias  | 31 | 5 | 13 | 3 | 52 |
| Business benefits of diverse & inclusive workplaces | 3 | — | — | — | 3 |
| Gender identity and discrimination | 5 | — | — | — | 5 |
| Age-friendly communities | 10 | 1 | 3 | 1 | 15 |
| Ensuring Safe and Inclusive Public Transport | 1 | — | — | — | 1 |
| Tailored training | 1 | — | 1 | — | 2 |
| **Total** | **150** | **37** | **56** | **34** | **277** |

Demand for the basic Introduction to the Anti-Discrimination Act training session has remained consistent and it continues to be the most popular training offering. Interest in unconscious bias training has remained steady, as has the Introduction to the Anti-Discrimination Act for Managers course.

As part of the ADCQ’s commitment to the whole-of-government Queensland – an age-friendly community strategy, 15 free information sessions focussed on age discrimination were delivered.

The Safe and Inclusive Public Transport project which was initiated in 2016 in partnership with Department of Transport and Main Roads and Queensland Police Service, was finalised this financial year. This training was delivered to frontline staff in the public transport industry and continues to be delivered by the Queensland Bus Industry Council to its members.

Interest in the ADCQ’s online training module, Discrimination Awareness in Queensland, remained steady this year, with 184 new subscribers undertaking the training. ADCQ invested in a new online training platform this financial year, to be launched in July 2019. It is anticipated that the relaunch of the existing online training and the addition of new modules will increase demand and client satisfaction.

Training revenue for 2018–19 exceeded the target of $180,900 to reach total revenue of $190,536. This revenue will be invested in the development of online training modules about the new *Human Rights Act 2019*.

Table 6: Details of training sessions

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **South-East** | **Central** | **North** | **Far North** | **Total** |
| No. of people | 2543 | 688 | 678 | 571 | 4480 |
| Hours of delivery | 385 | 113 | 149 | 114 | 761 |
| Actual revenue | $88,399 | $27,811 | $35,933 | $38,393 | $190,536 |

## Evaluation

As part of the ADCQ’s commitment to continuous improvement of services, training participants are asked to complete an evaluation form at the end of each training session. Evaluation is based on the following criteria:

* content of the training session;
* quality of information resources provided;
* overall presentation of the session;
* understanding of the course content before and after training;
* effectiveness of the trainer in terms of content knowledge, engagement and service delivery;
* participant expectations and whether they were satisfied; and
* whether the training material can or will be applied in practice.

Overall participant ratings have remained very high with an average satisfaction rating of 97%.

Here is a sample of responses from 2018–19 training participants:

|  |
| --- |
| **What did you like most about this training?** |
| The knowledgeable trainer; positive delivery of thought provoking material. |
| The openness of the trainer, the workbook, the dialogue and the examples. |
| Practical and inspiring; real world examples & participant involvement. |
| Helped understand and put in perspective a lot of things. |
| It was presented in a very digestible manner and was easy to engage with.  |
| Resource material was great, great presentation/engagement of the group, answered questions well. |
| It made me think and re-evaluate. I will be reflecting on all of this.  |
| Interactive – integration with our policies. |
| The enthusiasm of the presenter and responsiveness to each individual member of the audience. |
| Engaging – not boring. |
| Interactive, interesting and applicable content. |
| Clear and good examples of what’s appropriate and what’s not.  |

# Complaint management

Complaint numbers have continued to increase this financial year, continuing the trend of recent years. The Commission has been busy in its complaint management role and it has been a challenge to meet the increasing complaint management demands with existing resources. As in previous years, the Commission’s complaint management focus has been resolving complaints under the *Anti-Discrimination Act 1991*.

The Commission deals with complaints about discrimination, sexual harassment, victimisation, vilification and requests for unnecessary information. The Commission also has power to deal with complaints of reprisal against whistle blowers who elect to resolve their complaints through the Commission’s process, rather than pursue court proceedings, as well as discrimination against residents of regional communities.

The Commission has met or exceeded some of its complaint management targets in terms of timeliness of the overall process. The satisfaction rates was 84% of all parties evaluating the service.

Complaints continue to be managed in all offices across Queensland. This means that efficient local service delivery can be provided to all parties irrespective of their location, resources and vulnerabilities. It also means that complaints across Queensland are managed from the various different offices depending on available resources. Telephone conferences are commonly held as a result, and have continued to be an effective means of resolving complaints.

## State-wide complaint trends

The majority of complaints continue to originate from the South-East Queensland region as shown in Table 7. The complaints received in South-East Queensland include all complaints lodged online, which could originate from any region. They are then allocated throughout the complaint handlers in the Brisbane and regional offices, with priority given to regional offices to manage files where all parties reside in their respective regional areas.

This year 961 complaints were received across the state, representing an 18.6% increase from the 810 complaints received last year. This further increase means there has been a 51% increase in complaints in the last 3 years (636 complaints were received in 2015-2016) and this has had a significant impact on the Commission’s complaint handling demands with more staff focussing on complaint management activities.

Of the total complaints received this year, 558 were accepted as coming within the Commission’s jurisdiction, representing about 58% of complaints received. The Commission continues to undertake a thorough assessment process at the initial lodgement stage, however there has been an increase in the number of complaints accepted after the Commission received strong direction from the Queensland Court of Appeal regarding accepting complaints in the decision of *Toodayan v Anti-Discrimination Commission Queensland [2018] QCA 349*. The remaining complaints assessed during the financial year fell outside the Commission’s jurisdiction. Where a complaint does not come within the Commission’s jurisdiction, the complainant is provided with written reasons and is referred to another agency that can assist them, if there is one.

The number of complaints finalised this year was 849. This, again, is an increase from the 818 finalised last year, and 700 in 2016-17. Although the Commission finalised substantially less files than were received, the Commission avoided any backlog and the files not finalised are in the process of complaint management and are likely to be finalised early in the following financial year. The complaint management team across Queensland continue to work together to meet increased client demands, whilst continuing to provide high quality service in a high pressure environment of increasing complaint numbers with limited resources.

Table 7: Complaints received, accepted and finalised

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **South-East** | **Central** | **North** | **Far North** | **State-wide** |
| Complaints received | 899 | 17 | 19 | 26 | **961** |
| Complaints accepted | 285 | 78 | 74 | 121 | **558** |
|  |  |  |  |  |  |
| Complaints finalised — accepted | 244 | 71 | 73 | 107 | **495** |
| Complaints finalised — not accepted | 176 | 55 | 42 | 81 | **354** |
| Total complaints finalised | **420** | **126** | **115** | **188** | **849** |

Note: Complaints may be dealt with in a location other than where they were received.

As shown in Table 8, allegations of discrimination are included in 69.4% of accepted complaints which is a slight rise from last year (68.6%). Discrimination complaints involve allegations of less favourable treatment based on an attribute which arise in an area of public life covered by the law, such as at work, in accommodation, in education and in obtaining goods and services, including government services.

The breakdown of the attributes on which allegations of discrimination are made in Table 8 clearly shows that discrimination on the basis of impairment remains the dominant ground, comprising 30.3% of all complaints (29.5% last year). This represents 268 complaints which is a significant increase from 202 last year.

We received 70 race discrimination complaints this year, comprising 7.9% of discrimination complaints, fairly consistent with last year’s 7.4%. The proportion of sex discrimination allegations has remained consistent at 9.3% (9.2% last year).

Family responsibilities complaints decreased to 6.3% (6.9% last year). Age discrimination complaints rose slightly from 3.9% to 5.3%. Religious discrimination complaints comprised only 1.7% of complaints, consistent with low numbers in previous years. Gender identity complaints increased from 1.2% last year to 1.7% this year.

Table 8 shows that sexual harassment allegations of unwelcome sexual behaviour to or about a complainant are included in 10.4% of accepted complaints. This is a slight decrease from last year (11.4%) in terms of percentages, but represents an increase in number of complaints from 78 last year to 92 this year. The vast majority (77.1%) of complaints of sexual harassment arise in the workplace, as can be seen from Table 9.

Sexual harassment may involve allegations of unwelcome sexual behaviour such as comments about a person’s body and/or sex life, telling lewd jokes to or about a person, requests for sex, sending sexualised emails and texts, showing pornographic pictures and/or videos, sexual assault and even rape. Complaints of sexual harassment have historically comprised a significant proportion of complaints to the Commission and it seems to be a continuing issue in workplaces as well as other areas of life.

Victimisation complaints arise where a complainant or witness feels they have been poorly treated for being involved in a complaint. Victimisation complaints have increased from 9.2% of accepted complaints last year to 10.7% of accepted complaints this year. As shown in Table 9, 57.1% of victimisation complaints arose in the workplace. Because of the continuing relationship between the employer and their employees, there is more opportunity for victimisation complaints to arise after a person makes an initial complaint at work, compared to other areas. Fear of victimisation is also a reason why complainants are sometimes reluctant to lodge complaints until after they leave the workplace, or at all.

To make a complaint of vilification, a complainant must provide information to allege that others have been publicly encouraged to hate, severely ridicule or have severe contempt for them because of their race, religion, sexuality or gender identity. Public vilification complaints remain low with only 1.8% of accepted complaints accepted on the basis of allegations of race, religious, sexuality or gender identity vilification. The Commission accepted four complaints of whistle blower reprisal, representing 0.3% of overall accepted complaints. Despite commencement of a new type of discrimination in 2017-18, on the basis of residence of a regional community near a large resource project, the Commission did not accept any complaints on this ground again this year.

Table 8: State-wide accepted complaints by ground

|  |  |  |
| --- | --- | --- |
| **Ground** | **Number** | **%** |
| Discrimination |
| Age | 47 | 5.3% |
| Breastfeeding | 2 | 0.2% |
| Family Responsibility | 47 | 5.3% |
| Gender Identity | 10 | 1.1% |
| Impairment | 268 | 30.3% |
| Lawful Sexual Activity | 3 | 0.3% |
| Parental Status | 13 | 1.5% |
| Political Belief/Activity | 9 | 1.0% |
| Pregnancy | 25 | 2.8% |
| Race | 70 | 7.9% |
| Relationship Status | 6 | 0.7% |
| Religion | 15 | 1.7% |
| Sex | 82 | 9.3% |
| Sexuality | 14 | 1.6% |
| Trade Union Activity | 3 | 0.3% |
| **Sub-total Discrimination** | **614** | **69.4%** |
| Discriminatory Advertising | 0 | 0.0% |
| Request/Encourage a Breach | 12 | 1.4% |
| Sexual Harassment | 92 | 10.4% |
| Unnecessary Questions | 53 | 6.0% |
| Victimisation | 95 | 10.7% |
| **Sub-total** | **252** | **28.5%** |
| Vilification |
| Gender identity | 3 | 0.3% |
| Race | 6 | 0.7% |
| Religion | 3 | 0.3% |
| Sexuality | 4 | 0.5% |
| **Sub-total Vilification** | **16** | **1.8%** |
| Whistle-blower reprisal | 3 | 0.3% |
| Resident of regional community  | 0 | 0.0% |
| **Total** | **885** | **100%** |

Note: Complaints may be accepted under more than one ground. Percentages have been rounded to one decimal point.

The number and proportion of work-related complaints shows workplace fairness is the most significant area of people’s lives. Table 9 shows that 60.2% of complaints arose in the workplace or when seeking work. This is consistent with previous years.

Complaints arising in the area of the provision of goods and services, which includes access to public places and buildings, made up 16.7% of total complaints. The number of complaints in the area of accommodation has increased this year to 47 (38 last year) representing 5.9% of complaints. These complaints generally represent concerns about the fairness of accommodation arrangements such as rental properties and can also include claims by resident-owners of units that body corporates have discriminated against them in their decision making.

Table 9: State-wide accepted complaints by area

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Discrimination** | **Discriminatory advertising** | **Request or encourage a breach** | **Sexual harassment** | **Unnecessary questions** | **Victimisation** | **Vilification** | **Whistle-blower reprisal** | **Total** |
| **#** | **%** |
| Accommodation | 33 | — | — | 1 | 3 | 8 | 2 | — | 47 | 5.9% |
| State laws and programs | 35 | — | — | 2 | 1 | 3 | — | — | 41 | 5.2% |
| Goods and services | 106 | — | 1 | 5 | 3 | 12 | 5 | — | 132 | 16.6% |
| Club membership and affairs | 0 | — | — | 1 | — | 1 | — | — | 2 | 0.3% |
| Superannuation and insurance | 5 | — | — | — | 1 | — | — | — | 6 | 0.8% |
| Disposition of land | 1 | — | — | — | — | — | — | — | 1 | 0.1% |
| Work | 312 | — | 3 | 74 | 30 | 56 | 1 | — | 476 | 60.2% |
| Education | 32 | — | — | 2 | 1 | 4 | 1 | — | 40 | 5.1% |
| Not recorded\* | — | — | 9 | 11 | 3 | 14 | 6 | 3 | 46 | 5.8% |
| **Total** | **524** | — | **13** | **96** | **42** | **98** | **15** | **3** | **791** | **100%** |

*Note: Only discrimination breaches require an area*

Impairment discrimination continues to dominate complaints in the workplace. Table 10 shows that 53% of impairment discrimination complaints arise at work. Impairment discrimination complaints arising at work include allegations of the refusal of employment because of an applicant’s impairment, failure of employers to make reasonable adjustments to accommodate a person’s impairment, impairment-based bullying, and forced retirement because of impairment or the impact of impairment.

While Table 10 clearly shows the prevalence of discrimination complaints across most grounds in the workplace, a significant number of complaints of impairment discrimination arose in connection with the provision of goods and services (21%) which includes access to public places and buildings. Impairment (44.7%), sex (13.1%) and race (11.2%) are the most common bases for discrimination complaints across the total of all areas of complaint consistent with last year. 26 pregnancy discrimination complaints were accepted, an increase from last year when we received only 18 complaints. There was also an increase in the number of complaints in the area of Superannuation and Insurance from two last year to six this year.

Table 10: State-wide accepted discrimination complaints by ground, by area

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Accommodation** | **State laws & programs** | **Goods & services** | **Club membership** | **Super & insurance** | **Disposal of land** | **Work** | **Education** | **Total** |
| **#** | **%** |
| Age | 4 | 2 | 8 | — | — | 3 | 29 | 2 | 48 | 7.5% |
| Breastfeeding | — | — | — | — | — | — | 2 | — | 2 | 0.3% |
| Family responsibility | — | — | 4 | — | — | — | 42 | 1 | 47 | 7.3% |
| Gender identity | — | 3 | 4 | — | — | — | 2 | 1 | 10 | 1.6% |
| Impairment | 26 | 22 | 60 | — | 1 | 1 | 153 | 24 | 287 | 44.9% |
| Lawful sexual activity | — | — | 1 | — | — | — | 2 | — | 3 | 0.5% |
| Parental status | 2 | — | — | — | — | — | 12 | — | 14 | 2.2% |
| Political belief/activity | — | 1 | 4 | — | — | — | 4 | — | 9 | 1.4% |
| Pregnancy | 1 | — | 1 | — | — | — | 24 | — | 26 | 4.1% |
| Race | 6 | 6 | 23 | — | — | — | 32 | 5 | 72 | 11.3% |
| Relationship status | — | 2 | — | — | — | — | 4 | — | 6 | 0.9% |
| Religion | — | 3 | 2 | — | — | — | 9 | — | 14 | 2.2% |
| Sex | 1 | 1 | 5 | — | — | — | 75 | 2 | 84 | 13.1% |
| Sexuality | — | 1 | 4 | — | — | — | 9 | — | 14 | 2.2% |
| Trade union activity | — | — | — | — | — | — | 3 | — | 3 | 0.5% |
| **Total** | **40** | **41** | **116** | — | **1** | **4** | **402** | **35** | **639** | **100%** |

## Settlement of complaints

Conciliators at the Commission assist parties to resolve complaints under the *Anti-Discrimination Act 1991*. The conciliation conference allows the parties to explore each other’s perspective on the issues, identifying what they may have in common, and discuss options for settling the complaint.

This year saw the settlement rate of 53.8%, the same percentage as last year. This is slightly below the Commission’s target of 55%; however, this settlement rate demonstrates that our conciliators continue their commitment to helping parties reach settlement, in a busy client-focused environment.

Referrals to QIRC continued this year for all work-related matters. 105 complaints were referred to QIRC (an increase from 98 last year). 52 non-work related complaints were referred to QCAT, a significant increase from the previous year’s 39 referrals.

Overall, there were 157 complaints referred to QIRC or QCAT, an increase from 137 the previous year. This reflects the increase in overall complaint numbers and also a slight increase in the referral rate to 31.8%, from last year’s referral rate of 30.5%. 25 (5.1%) complainants withdrew their complaints and 34 (6.9%) accepted complaints were unconciliated but not referred. This meant that overall 68.2% of accepted complaints were finalised within the Commission, below the target of 75%. We continue to focus on resolving complaints between parties and to finalising matters within the Commission; however, there has been a growing tendency for complainants to seek referral of unconciliated complaints than they have historically which is predominantly outside the Commission’s control.

Table 11: State-wide outcomes for accepted complaints by region

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **South-East** | **Central** | **North** | **Far North** | **State-wide** | **% Outcome for accepted complaints state-wide** |
|
| Conciliated | 132 | 41 | 37 | 56 | 266 | 53.8% |
| Lost contact (s169) | 4 | 2 | 1 | 3 | 10 | 2% |
| Referred to QCAT | 31 | 9 | 4 | 8 | 52 | 10.5% |
| Referred to QIRC | 46 | 11 | 20 | 28 | 105 | 21.3% |
| Lapsed (s168) | 2 | 0 | 0 | 0 | 2 | 0.4% |
| Unconciliable but not referred | 18 | 7 | 4 | 5 | 34 | 6.9% |
| Withdrawn | 11 | 0 | 7 | 7 | 25 | 5.1% |
| **Total** | **244** | **70** | **73** | **107** | **494** | **100%** |

## Timeliness

The Commission continued to manage complaints in a timely way and met or exceeded most of its timeliness targets. This meant that, despite the increase in complaint numbers, our conciliators were committed to working efficiently and effectively throughout the year to avoid any backlogs in complaints.

The majority of complaints (65.6%) were finalised within three months from assessment notification, and a further 24.3% were finalised within six months. This means a total of 89.9% of complaints were finalised within six months of acceptance.

Of accepted complaints, 62.9% were assessed and notified within 28 days of lodgement which exceeded the Commission’s target of 60%. This demonstrates that the Commission has been more consistently able to assess complaints based on the information initially provided by the complainant rather than requiring further information.

Of accepted complaints, 68.2% reached conference within the 42-day statutory timeframe from notification of decision until conciliation conference. This was a decrease from 70.3% last year and is just below the Commission’s target of 70%. It demonstrates that although the Commission endeavours to set matters down for an early conciliation conference, there have been a higher number of justifiable reasons provided by parties to adjourn conferences.

## Conciliated outcomes

The following are examples of complaints made to ADCQ in 2018–19 that were successfully resolved through conciliation.

### Insensitive request for medical records of transgender employee

A transgender woman lodged a complaint with the Commission after transitioning from male to female. The complainant requested to change her name on the payroll system and was asked by her employer to provide formal paperwork, either a passport or “hospital documents of the procedure”. The complainant had provided a Medicare card and driver’s licence but these were not documents accepted under the name change policy. The complainant says she felt embarrassed and hurt about receiving the request for hospital documents to confirm her gender change. During conciliation, the respondents explained the context in which the request had been made – the complainant’s payroll record was about to expire on the system and they were anxious to complete the change quickly. The complainant had lost a copy of her certificate of name change from Birth Deaths & Marriages and the request for a hospital document was made as an alternative to other formal documents. Following a conciliation conference, the respondent agreed to pay $6000.00 in compensation to the complainant, change the internal policies around gender transitioning and provide a statement of regret acknowledging the distress and upset she felt she experienced.

### Racist comments at work

The complainant identified as Aboriginal and South Sea Islander and was a former employee of a non-profit organisation providing services to the Aboriginal and Torres Strait Islander community. The complainant alleged he had been subjected to racist comments by his supervisor. The complainant chose to pursue his complaint with the organisation as the supervisor had already left the organisation. He was of the view that the organisation should have included questions focussed on cultural awareness and sensitivity when hiring staff to avoid the racist treatment he had experienced, and to ensure appropriate hiring.

At conciliation the parties discussed broader systemic issues around the organisation’s hiring process as well the professional supports available for employees who identified as Aboriginal and/or Torres Strait Islander.

The agreement included:

* An undertaking to ensure all Aboriginal and Torres Strait Islander employees had cultural supervision available and they were aware of it;
* A review of the hiring processes for relevant roles including:
	+ interview questions had a sufficient cultural component; and
	+ panel members included an Aboriginal or Torres Strait Islander person who is a respected member of the local community.
* $5,000 financial settlement

### Employee with intellectual disability bullied at work

A man with an intellectual disability was employed at a recreational club. He alleged that his supervisor constantly bullied him because of his disability, including making him work in wet conditions for hours, refused him permission to speak with clients of the club, constantly questioned him about what he was doing and made derogatory comments about his ability to understand his duties. The complainant had been dismissed after he lost his temper because of the alleged treatment of his supervisor. The respondent denied allegations. An agreement was reached at conciliation that all staff would receive training in discrimination law, a statement of service was provided, and $1,500 was to be paid by the individual respondent to a disability support organisation located in the complainant’s neighbourhood.

### Female employee receives hundreds of sexual texts from supervisor

Soon after commencing work, the female employee received text messages and phone calls on a regular and increasing basis from one of her supervisor. After a few months the intensity of texts and calls increased including the context of the messages. The message repeatedly stated that the colleague loved the female worker, and made unwanted expressions of his feelings and emotions, advances and excessive compliments about her appearance. The messages referred to her as “sweetie”, “sweetheart” and “darl”. He sent her a picture of a bra and said “I walked past a lingerie shop tonight and saw this massive bra and thought of you. You're the only girl I know that could fill it”. A further message included an image of the female employee’s work ID and said “I'm smelling your ID and it smells lovely. I think I'll take it home with me for the night. Don't worry, I'll wash it before I hand it back tomorrow”. Further, “I have absolutely no interest in being intimate with anyone but you”.

She alleged that after reporting the sexual harassment to her workplace, she was victimised by being told to avoid the workplace whilst the supervisor was promoted.

At conciliation conference, the supervisor stated that he believed their friendship was at a point that he could say the things he had said. The workplace denied any wrong doing following the employee’s reporting of the sexual harassment.

An agreement was reached at conciliation that the complainant agreed to resign, was paid $13,333 payment in lieu of notice, $93,333.31 compensation for future economic loss, $75,000 general damages, statement of service was provided for the employee together with agreed communications about the cessation of her employment, and a confidentiality agreement including destruction of documents relating to the complaint.

### Child with ADHD and ASD not permitted to attend school camp

The 13 year old complainant had ADHD and ASD Level 1, the characteristics of which included impulsivity and violent outbursts that could be minimised by medication. The complainant had attended mainstream schooling and school camps for his entire schooling with minimal problems. He attended a private school and alleged (through his mother as his agent) that the acting principal would not permit him to attend school camp due to violent outbursts and ASD. The school informed the mother the complainant needed to be in another educational facility as they did not believe he could be in mainstream schooling.

No written response was provided. During conference the school representatives explained the reasons for the steps taken and provided details as to the concerns they had around safety, including the complainant’s behaviour towards other students and staff. However, they did express regret over the way the matter was handled, and the school acknowledged communication could have been better.

The school assured the complainant’s mother that they had already taken steps to improve communication and one of the school representatives that attended the conference was a new employee hired to address problems such as this in the future.

The complaint was resolved by conciliation by agreement on the terms of $3,000 general damages; $720 special damages for medical expenses; waiver of all school fees owed; and that policies and procedures would be reviewed, revised and implemented - specifically, improved communication with parents/guardians, improved management of students with challenging behaviours and improved complaint management.

### Legally blind resident provided with a safe path of travel

The complainant was legally blind and complained that there was inadequate lighting, signs, crossings and tactile indicators in the high traffic area where she resided. This meant she did not have access to a clear and safe path of travel. The respondent local council lodged a detailed written response stating they had complied with regulatory standards but were also looking into in the complainant’s concerns and further works were planned. Detailed diagrams and photos of different sites were provided. Pre-conference communication with the complainant and the council representative led to productive conference discussions involving an expert in regulatory requirements and the council representative responsible for works of this nature. Post-conference negotiations led to significant council works that addressed every safety concern and the matter settled by conciliation agreement on the basis that the complainant was satisfied with discussions at conference and the council works that had been completed addressing all of her concerns.

### Church excluded and restricted congregation member with disability

This was a joint complaint made by a mother on behalf of herself and her adult (18 year old) son against a church, its clergy and certain members of the congregation. The mother alleged that her son had ten separate and significant disabilities including severe physical, sensory (hearing and vision) and intellectual impairments. He used a wheelchair and required oxygen, and his intellectual impairments affected his behaviour.

The mother had been an active member of a church congregation since 1996, and had been bringing her son to church with her since he was around 6 years old. The mother alleged that the church, its clergy and various members of the congregation treated her and her son in the following discriminatory ways from 2006 to December 2018:

Writing a letter to the mother “on behalf of the clergy and congregation” suggesting that the son’s behaviour was disrespectful and stating that the church “is so pleasant and peaceful when you’re not there”;

Excluding the mother and son from church activities and placing restrictions on where they should sit in the church, effectively excluding them from the main area where most the congregation sat;

Unfairly blaming the son and/or falsely accusing him of certain behaviour which either didn’t occur, or was behaviour characteristic of one or more of his impairments;

After an incident in which the son’s oxygen trolley accidentally fell and knocked a bystander (who was unharmed), imposing restrictions on the use of his oxygen, allegedly for workplace health and safety reasons.

The mother and son eventually left the congregation and attended another church, but the complaint alleged that discrimination continued. After a conciliation conference and subsequent negotiations, the parties reached an agreement that, amongst other things, provided for:

* The son’s input into a working group to develop a Disability Access and Action Plan for the respondent;
* A meeting between the mother, a senior member of the clergy and an independent consultant with expertise in the inclusion of people with disabilities, workplace health and safety and risk management, to develop a disability support plan to facilitate the son’s return to regular worship at the church; and
* Payment of a small sum as general damages.

### Bank provides sit-down transaction facilities

The complainant had a disability that caused her to experience excruciating pain when walking or standing. She complained that she was not provided adequate seating when using her local bank so she could not effectively do her banking.

The complaint was resolved through early negotiations on the basis that the bank would provide adequate sit down facilities at its local branches, appropriate security for those facilities, additional customer service training for its staff including in anti-discrimination and awareness, and a meeting between the complainant and the bank executives to ensure that the banking facilities were accessible for the complainant, and to deliver face to face verbal apology.

## Evaluation

Following each conciliation conference, complaint parties are asked to evaluate the ADCQ complaint process based on a variety of factors including:

* outcome of the complaint;
* fairness of the process;
* clarity of letters and brochures provided;
* reliability of information provided;
* timeliness of the process;
* conciliator’s skills; and
* impact of the process on understanding of rights and responsibilities under anti-discrimination law.

A sample of responses from 2018–19 conciliation parties follows:

|  |
| --- |
| (The conciliator) was very thorough and professional during the whole process and was always clear and straight forward with anything I asked him he was very good and a great asset to the (commission). (Complainant) |
| The flexibility of the conciliator, while still working within the legislative framework, was appreciated. (Complainant) |
| I was extremely happy with the process. (The conciliators) were professional and compassionate. (Complainant) |
| (The conciliator) did an excellent job in her role as conciliator. (Respondent’s lawyer) |
| (The conciliator) was very kind and patient with me throughout the entire process. So thankful for her role and the (Commission’s) assistance in helping me deal with this situation. I am also grateful for the free legal aid clinic that is provided which I was able to access and helped to boost my confidence and alleviate some of my anxiety I had as I knew the respondents had proper legal representation. (Complainant) |
| The conciliator handled my frustrations nervousness and emotions in a calm and caring manner. (Complainant) |
| I would just really like to thank the ADCQ for giving me the opportunity to be heard without bias or judgement. I found the conciliator very professional and not at all intimidating. I am very grateful for the whole process. Thank you. (Complainant) |
| Preparation of response and for mediation process is onerous for respondent/respondent organisations. More rigorous testing of complaints against legislative thresholds and against evidence provided by respondents before progressing to mediation should occur. Complaint processes are an important protection and deterrent against illegal action by employers however there seems to be increased tendency for complaint processes to be used by disaffected employees to secure payments. This is a general observation - not specific to this particular case. (Respondent’s advocate)  |
| (Conciliator) displayed a high level of professionalism and EQ throughout a rather unpleasant process. When the complainant behaved aggressively and unethically, (Conciliator) was able to resolve the situation quickly and with a positive outcome. (Respondent) |
| I felt slut shamed at work and no one was listening. (Conciliator) was a great mediator who was fair on everyone and was very clear in discussing my risks with me and this was very much appreciated. I don't think I would have got through this if it was not for the way both (advocate) and (Conciliator) approached the mediation. I assumed (Conciliator’s) plain speaking to me about risks and strengths was also provided to the other side and this gave me a great feeling of fairness and justice. As a (redacted profession), this was also appreciated. Can you please pass on to (Conciliator) and her boss that she has helped close a stressful but important step and while I was dreading and sick with fear at the beginning, I am very glad I did this. I am not quite sure my old bosses learned their lesson but time will tell. (Complainant)  |
| The Conciliator was easy to deal with and assisted at all times, and was forthcoming with information to keep us up to date of where the matter was at. Is an excellent conciliator. (Respondent’s lawyer)  |
| I appreciate help understand through the process as a person with a disability thankyou (Conciliator) was very understanding of my needs and respectful. (Complainant) |
| (Conciliator) was very professional and helpful throughout the process.(Respondent) |

# Influencing government policy and legislation

In 2018-19 the Commission provided submissions to various bodies on the development of government policies and legislation. These included:

### *Anti-Discrimination (Right to Use Gender-Specific Language) Amendment Bill 2018* to the Legal Affairs and Community Safety Committee

This was a private member’s Bill, the objective of which was to protect an individual’s right to use gender-specific language and to protect businesses and other organisations from disadvantage in the provision of facilities and services that exclusively recognise gender as either male or female.

The Commission did not support the Bill and submitted that the amendments were not necessary or warranted, and were inconsistent with the objectives of the *Anti-Discrimination Act 1991*.

The Commissioner and the Principal Lawyer appeared at a public hearing of the Committee.

The Bill was not passed.

### *Human Rights Bill 2018*to the Legal Affairs and Community Safety Committee

The purpose of the Bill is to recognise the inherent dignity and worth of all human beings by protecting and promoting human rights, building a culture in the public sector that respects and promotes human rights, and promoting a dialogue about the nature, meaning and scope of human rights.

The Commission provided an analysis of how the Act would operate in Queensland. The Commission supported the Bill, including a complaints function for the Commission, a feature that does not currently exist in Australian jurisdictions that have legislated human rights protections.

The Commissioner, Deputy Commissioner, and Principal Lawyer appeared at a public hearing of the Committee.

The Bill was passed and the educative functions of the Commission commenced on 1 July 2019. The obligations on public entities and remainder of the provisions are expected to commence on 1 January 2020.

### Inquiry into imprisonment and recidivismto the Queensland Productivity Commission

The Commission referenced its two *Women In Prison* reports (2006 & 2019) and made suggestions for reducing overcrowding in prisons and recidivism, including addressing underlying issues, reconsidering remand and criminal offences, and implementing justice reinvestment and diversionary programs.

### Inquiry into aged care, end of life and palliative care, and voluntary assisted dyingto the Health, Communities, Disability Services, and Domestic and Family Violence Committee

The Commission provided information on human rights relevant to voluntary assisted dying, including references to issues papers and reports, and the background to the Victorian legislation. An analysis of the relevant human rights suggests that there is no one right that compels voluntary assisted dying to be legislated for, nor is there one right that prevents it, provided stringent safeguards are implemented.

The Deputy Commissioner and the Principal Lawyer appeared at a public hearing of the Committee.

# Legal information

## Applications to the Tribunal for review

Under section 169 of the *Anti-Discrimination Act 1991* a complainant may apply to the tribunal for review of a decision to lapse a complaint where the Commissioner has formed the opinion that the complainant had lost interest in continuing with the complaint.

For work-related matters the tribunal is the Queensland Industrial Relations Commission, and for all other matters the tribunal is the Queensland Civil and Administrative Tribunal.

There were no applications to the tribunal for review during the period.

## Judicial review of decisions

Decisions of the Commissioner may be judicially reviewed by the Queensland Supreme Court under the *Judicial Review Act 1991*.

The Court of Appeal allowed an appeal against a decision on a judicial review application where the Court at first instance dismissed the application. The Court of Appeal set aside the Commissioner’s decision rejecting a complaint. A summary of the Court of Appeal decision is included in this Annual Report.

There were no new applications for judicial review made in the reporting period.

## Intervention in proceedings

Under section 235 of the *Anti-Discrimination Act 1991* the Commission has the function to intervene in a proceeding that involves human rights issues, with the leave of the court hearing the proceeding, if the Commission considers it appropriate to do so.

The Commission applied to the Queensland Industrial Relations Commission (the tribunal) to intervene in the hearing of an application to dismiss a complaint that had been referred to the tribunal.

In their application to dismiss the complaint the respondents argued that the Commissioner’s decision to accept the complaint was wrong, and that the earlier settlement agreement precluded the tribunal from dealing with the complaint.

The Commission made submissions about the jurisdiction of the tribunal on referred complaints and the effect of section 137 of the *Anti-Discrimination Act 1991*, which allows the Commissioner to accept a complaint notwithstanding an earlier agreement not to complain. The Commission submitted that the tribunal does not have jurisdiction to review the Commissioner’s decision under section 137 of the Act and does not have jurisdiction to consider common law principles of accord and satisfaction and estoppel in relation to the agreement.

As a consequence, the respondents withdrew their arguments about the Commissioner’s decision and the effect of the agreement.

## Exemption applications

Under section 113 of the *Anti-Discrimination Act 1991* the tribunal is required to consult the Commission before deciding an application for an exemption from the operation of a specified provision of the *Anti-Discrimination Act 1991*. For work-related applications the tribunal is the Queensland Industrial Relations Commission (QIRC), and for all other applications, the tribunal is the Queensland Civil and Administrative Tribunal (QCAT)

During the period the Commission made two submissions to QCAT and three submissions to QIRC on applications for exemption from the operation of the *Anti-Discrimination Act 1991*.

## Tribunal and Court decisions

### Tribunal

Under the *Anti-Discrimination Act 1991*, the tribunal has the functions of:

1. hearing and determining complaints referred by the Commissioner;[[1]](#footnote-1)
2. hearing and determining applications for exemptions;[[2]](#footnote-2)
3. hearing and determining applications for interim orders before referral of a complaint;[[3]](#footnote-3)
4. considering applications for review of a decision that a complainant has lost interest;[[4]](#footnote-4) and
5. providing opinions about the application of the Act.[[5]](#footnote-5)

The Queensland Industrial Relations Commission (QIRC) is the tribunal for all work-related matters, and the Queensland Civil and Administrative Tribunal (QCAT) is the tribunal for all other matters.

There were 25 decisions of the tribunals published for the period, made up as follows:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **QIRC** | **QCAT** | **Totals** |
| Final hearings | 2 | 5 | **7** |
| Dismiss/strike out | 1 | 3 | **4** |
| Legal representation | - | 2 | **2** |
| Produce documents | - | 1 | **1** |
| Costs | - | 2 | **2** |
| Amend complaint | - | 2 | **2** |
| Interim orders before referral (s.144) | 1 | 1 | **2** |
| Injunction | - | 1 | **1** |
| Miscellaneous process | - | 1 | **1** |
| Exemption applications | 2 | 1 | **3** |
|  | **6** | **19** | **25** |

The following is a selection of the published decisions.

## Tribunal and Court decisions: Complaints

### Former politician denied job in public hospital

A specialist doctor was a former member of parliament and Assistant Minister for Health. He was sacked as Assistant Minister for Health and he resigned from parliament and from the Liberal National Party. He had been critical of the government of the time, being involved in a very public dispute over employment contracts of public hospital doctors. Before going into politics he had been employed in public hospitals throughout Queensland as a physician and geriatrician, and at one stage he was the State President of the Australian Medical Association.

After leaving politics, the doctor applied for an advertised position as a specialist geriatric medicine senior medical officer for the Royal Brisbane and Women’s Hospital. The doctor was the only applicant for the position. The standard recruitment procedure was not followed, and the doctor was eventually informed that the position had been withdrawn.

The tribunal found that departure from the standard recruitment process by notifying the Board (via the chief executive) would have occurred in the case of an application from any person with a high profile, and accordingly was not less favourable treatment of the doctor.

However, the tribunal found that the decision of the CEO to cease the recruitment process and not appoint the doctor amounted to less favourable treatment of him. An inference that the decision was made because of the doctor’s political belief or activity was open on the evidence, and there was no innocent explanation for the decision.

As a consequence of the discrimination, the doctor said he lost dignity, lost his standing in the profession, and lost self-esteem as he had been reduced from a medical director of a major academic clinical department to a clinician incapable of securing a public hospital position. He suffered considerable distress and isolated himself, which resulted in his not applying for further public hospital clinical jobs. He had minimal opportunity to practice his professional skills or engage in professional development that is integral with public hospital clinical practice.

The tribunal found that the discrimination caused the doctor to change from a confident, highly achieving medical professional capable of taking responsibility for the management and direction of an entire department of a major public hospital to an anxious, despondent, socially isolated person who demonstrates a lack of purpose, self-worth and drive. The tribunal found the deleterious impact had been long lasting and was ongoing.

Although the doctor did not rely on medical evidence that he sustained a diagnosed psychological disorder, the tribunal found that the impact on his functioning caused by the discrimination is not dissimilar to, and has had serious and debilitating consequences in common with, the effects of diagnosed psychological disorder.

The tribunal adopted the reasoning used in Green v State of Queensland as to assessment of damages and considered that in the absence of psychological injury the tribunal should consider the persuasive influence of the Full Court of the Federal Court in Richardson v Oracle. The tribunal considered the impacts of contraventions and awards of damages in QCAT cases of Green, STU, and Carey, and concluded that the impact on Mr Green and STU were significantly greater than the impact to the doctor. The tribunal awarded damages totalling $1,450,771.69 comprised of:

General damages $ 50,000.00
Interest on general damages $4,410.00
Past economic loss $830,824.83
Lost superannuation $78,928.35
Interest of past economic & super $78,784.62
Future economic loss $407,823.89

*Davis v Metro North Hospital and Health Services & Ors [2019] QCAT 18*

### University student required to sit exam while a psychiatric inpatient

A student from the United States (US) was studying medicine at the University of Queensland (UQ) as part of a program between UQ and a US health provider, where the first two years would be studied at UQ Brisbane and the next two years in New Orleans.

For the 2012 year the student’s grade point average was 2.5. In January 2013 he was diagnosed with Bipolar 1 and Social Anxiety Disorder. In November 2013 UQ terminated the student’s enrolment and he appealed. He claimed his poor performance was based on his psychiatric conditions, and in April 2014 the appeal was upheld.

By October 2016 there was one last course requirement – a complex clinical practice assessment called OSCE, which students must pass before moving to the 2nd phase of working with real patients. Students were allowed three attempts to pass the OSCE assessment.

The student was first scheduled to sit the exam on 14 October 2016. He experienced a panic attack and the exam was rescheduled for 11 November 2016, but the student did not attend. The student sat the exam on 15 December 2016 but did not pass.

The exam was rescheduled for 25 January 2017. The student experienced a manic episode beforehand and was hospitalised on 23 January 2017 and UQ was notified. The student sat the exam on 25 January 2017 while he was still an inpatient and he failed.

On 2 February 2017 UQ advised the student by letter that he had failed the exam and that he was refused further enrolment. He appealed, and in June 2017 his enrolment was reinstated. He was not allowed to sit the exam in the US and it was rescheduled for 14 October 2017 with an observer present. The student again failed the exam. He asked for a supplementary assessment and was informed he was excluded from the course.

The parties were in dispute about the calculation of the number of attempts at the exam. Both excluded the exam that the student sat while an inpatient, however UQ counted the exam scheduled for 16 November 2016 that the student did not attend.

The tribunal was satisfied that the student had bipolar disorder, anxiety disorder, and panic disorder. For direct discrimination, the tribunal found the comparator was a fellow medical student without the disorders, who was in the Ochsner program undertaking the OSCE practical examination. The treatment was the conduct of UQ in the application of its rules and policies as to the number of attempts at the examination before exclusion, the time and date when attempts must be undertaken, employment of an observer, and lack of feedback.

The tribunal found that the evidence favoured the proposition that the observer was put in place not because of any impairment, but because the student had lost trust in UQ, and to ensure the exam process was fair, robust, and beyond reproach. Accordingly, there was no direct discrimination or victimisation.

The tribunal considered three claims of indirect discrimination.

The requirement to sit the exam in January 2017 without feedback on the failed attempt in December 2016. The student claimed there was a term relating to the delay between the two exams, e.g. Christmas.

The tribunal found there was no term imposed that feedback would not be provided over the Christmas break. There were no policies, procedures or rules and no obligation to provide feedback to students before assessments. Even if a term had been imposed, it was reasonable in the circumstance – there was a change of staff and a misunderstanding that feedback had been given.

The requirement to undertake the examination in January 2017 when the student was an inpatient of a psychiatric ward, having experienced a manic episode. The consequence was failing the exam and the lengthy appeals process was a material disadvantage.

The tribunal said there was a lack of evidence to find that there was an offer to defer the exam till June (at a meeting the day before the scheduled exam). A term was imposed that to pass the course the student needed to attend and pass the exam on the specified date, namely 25 January 2017.

The tribunal ordered nominal compensation because the requirement to sit the exam ‘did not play a starring role’ in the ultimate disenrollment, as it was not counted as an attempt.

The exam scheduled for November 2016 being included in the count and the disenrollment. UQ said four opportunities were given to the student (not including the January 2017 exam) and it was not reasonable to provide endless opportunities.

A medical certificate nominated one day only that the student was unfit for studies or work, and that day was not the exam date. As there was no medical evidence that the student was unfit on the scheduled day, he failed to attend without reasonable excuse, so was in no different position to a student without his impairments. The student alleged there was a term that to pass he must attend in person and pass on a least one of three occasions. The tribunal said there was no term imposed.

The requirements to sit the January 2017 exam did not lead to the final expulsion of the student. The tribunal found that the student was not dis-enrolled due to his impairment – he was excluded due to the valid application of university rules relating to the number of attempts at examinations.

Attempts by UQ to ‘right the wrong’ did not mean there could be no finding of discrimination, however it impacted the assessment of compensation. The tribunal considered the student should not be compensated beyond nominal compensation, and given there was a lack of submissions on the amount of compensation sought, the tribunal ordered the university to pay $2,000 to the student.

*Patel v University of Queensland [2019] QCAT 108*

### Proof of impairment, and expert evidence

A woman who worked for yourtown as a Production Administrator in the fundraising department had high levels of absenteeism due to illness, and she failed to successfully complete two return to work programs.

The woman failed to return to work in late November 2016, and in early December 2016 she said she couldn’t work full-time, and she asked to work part-time. For various reasons, including that December is the busiest time for the employer in fundraising, the woman was told to stay away from work until further details of her ability to work were received from her psychologist, and that the request for part-time work would be reviewed in January.

At the QIRC a complainant is required to file a Statement of Facts and Contentions (SOFC), which is not as formal as a pleading, however an outline of the case is required of a complainant. By the conclusion of the hearing, the woman’s allegations differed from those in the SOFC, and the changing nature of the contentions put the respondents at a distinct disadvantage. Nine allegations of direct discrimination had become three, and in the closing submissions there was a reformulation of the term for the case of indirect discrimination.

In the present case the tribunal said the late amendment of the term was unfair to the respondents, and the woman was bound by the term as particularised in the SOFC.

The woman claimed to have an impairment of anxiety and PTSD. Her treating Clinical Psychologist Registrar gave evidence, however the woman’s representatives at the hearing submitted that the psychologist was not an expert witness, and the parties were in dispute as to whether a Clinical Psychologist Registrar could provide a diagnosis.

Only an expert witness can express an opinion. The onus is on the party seeking to rely on the evidence to demonstrate that the witness has specialised knowledge based on training, study, or experience that allows them to give an opinion on a matter relevant to the proceeding. An opinion must be based on specialised knowledge, and a failure to demonstrate that the witness has specialised knowledge affects its admissibility, not its weight.

In this case there was no evidence of the psychologist’s qualifications, and no evidence to support the contention of impairment. The tribunal could not form a view that the woman had an attribute, and on that basis the complaint failed. Even if the psychologist was an expert, the tribunal found her evidence was so deficient that it had no weight. At the highest, the woman had anxiety.

In the event the tribunal was wrong in concluding that the woman had not established that she had the attribute of impairment, the tribunal proceeded on the basis that the woman had anxiety.

For the claims of direct discrimination the tribunal found that the comparator was another employee working in the position of Production Administrator who does not have anxiety or any characteristics of anxiety, and the circumstances are that the person has taken extended periods of personal leave and wishes to return to work. The tribunal discussed case law that establishes a two-step process for considering direct discrimination – firstly whether there has been less favourable treatment (differential treatment) and if so, what was the reason for the differential treatment (causation).

The three allegations of direct discrimination and the findings of the tribunal were:

* Requiring the woman to take three months leave instead of one month. Finding - The evidence did not support the claim that the employer required the woman to take three months leave instead of one;
* Frustrating the return to work process. Finding - Requesting further information from the psychologist regarding fitness for work and duration was not a deliberate act to delay or frustrate the woman’s return to work, and not treatment that was less favourable than a comparator; and
* Refusing to make reasonable adjustments in the nature of part-time work. Finding - there was no refusal to provide reasonable adjustments, and the approach taken by the employer was reasonably necessary to protect the health and safety of the woman.

For the case of indirect discrimination, the alleged term was a requirement to obtain medical evidence confirming the woman was fit to return to work full time duties. The tribunal found that the term was not imposed, and as to reasonableness, the tribunal took into consideration the employer’s non-delegable duty of care to ensure so far as is reasonably practicable, the health and safety of all workers.

*Curran v yourtown & Anor [2019] QIRC 059*

## Tribunal and Court decisions: Application for an interim order

### No power for the tribunal to stop the Commissioner from exercising its function

This was an application made by a complainant for an order under section 144 of the *Anti-Discrimination Act 1991*. That section allows the tribunal to make an order, before a complaint is referred to it, to stop a person from doing an act that might prejudice the investigation or conciliation of a complaint, or an order the tribunal might make after a hearing. In this case, the complainant applied for an order to prevent the Commission from lapsing a complaint.

The Commissioner had made an initial decision under the section 168 show cause process, that he considered the complaint was misconceived or lacking in substance. Under the section 168 process, the complainant then has 28 days to satisfy the Commissioner that the complaint is not misconceived or lacking in substance. The material in support of the application criticised the decision, claiming facts in dispute had been decided thereby improperly exercising a function of the tribunal, and that the decision-maker was biased.

The tribunal found that section 144, read in the context of the Act as a whole, shows that it is not the intention of the legislature that an order would be made against the Commissioner, nor that the power extended to a review, or quasi-review, of decisions of the Commissioner.

The tribunal noted that if the decision-making process undertaken by the Commission miscarries, then the appropriate avenue for redress is judicial review. The application did not seek a preservation of the status quo pending final adjudication, which is the purpose of section 144. Rather, the application sought to interfere in the exercise of a statutory function of the Commissioner.

The tribunal said the statutory scheme reflects an intent of the legislature to limit avenues of appeals from a decision of the Commissioner under section 168, and to increase the Commission’s ability to vet unmeritorious complaints. The tribunal said the applicant was attempting to impermissibly circumvent the statutory process of section 168, and found that the tribunal does not have the power to grant the order sought. The application was dismissed.

*McAllister v Anti-Discrimination Commission Queensland [2018] QIRC 120*

## Exemption applications

During 2018-19 three decisions on applications for exemption from the operation of the Act were published. There were two decisions by the QIRC and one decision by the QCAT. In some cases, applications were not pursued after the Commission made submissions about the application.

The QIRC granted an exemption to The Women’s Legal Service Inc to allow the service to employ only women who identify as women. The Women’s Legal Service is a registered charity that provides free legal and social support to vulnerable women who have been subjected to domestic or sexual violence, usually by men. Because of the vulnerability of the clients it is necessary that everyone who works for the service are women who identify as women.[[6]](#footnote-6)

The Better Together Housing project is a web-based platform aimed at connecting women aged over 55 years who are looking to share accommodation. The QCAT granted an exemption to allow the online service to be restricted to women aged 55 years and over.[[7]](#footnote-7)

Children by Choice Association was granted an exemption to allow it to advertise for and recruit females into positions of counsellors, manager, campaign coordinator, and education and training coordinator.[[8]](#footnote-8)

## QCAT Appeal Tribunal

A party to proceedings in QCAT may appeal a decision on a question of law, and apply for leave to appeal a decision on questions of fact or questions of mixed fact and law. There were three decisions of the QCAT Appeal Tribunal published in the period.

### Complaint amended to include allegations not accepted by the Commission

A complaint made to the Commission included allegations of discriminatory conduct that had occurred outside the statutory time limit of 12 months. The Commissioner considered whether to exercise the discretion (under section 138 of the *Anti-Discrimination Act 1991*) to accept the out-of-time part of the complaint, and decided not to accept the complaint.

The rest of the complaint, about conduct within the 12 month period, was accepted; however, the complaint was not resolved through conciliation. When the complaint was referred to the tribunal, the complainant applied to amend the complaint by adding the out-of-time allegations that the Commissioner had not accepted. The tribunal allowed the complaint to be amended in this way.

On appeal, the Appeal Tribunal agreed with the tribunal at first instance that if the Commissioner does not exercise the discretion to include the out-of-time allegations in a complaint:

* the out-of-time allegations were never part of a valid complaint because there was never an entitlement to make a complaint;
* those allegations were not rejected by the Commissioner; and
* the allegations did not lapse as a result.

The Appeal Tribunal found that because the out-of-time allegations had not been rejected and had not lapsed, they were not precluded from being re-ventilated by the tribunal in exercising its discretion to amend the complaint. The Appeal Tribunal considered the unfettered discretion to allow new complaints to be incorporated into referred complaints includes a discretion to include allegations previously found by the Commissioner to have been out-of-time.

*Bond v State of Queensland [2019] QCATA 60*

### Refusal to grant injunctions pending a hearing

After a complaint of reprisal was referred to the tribunal, the complainant (who is a psychologist) applied for injunctions to lift a ban imposed by Queensland Health that prevented him from providing services for Queensland Health employees as part of the employee assistance program. The direction not to refer Queensland Health employees to the complainant had not been part of the referred complaint, however the tribunal allowed the complaint to be amended in this regard.

The tribunal considered that injunctions would in effect be a final remedy without a hearing into the question of whether the complainant had been the victim of reprisal related to a public interest disclosure he had made. The tribunal considered there was not a sufficient likelihood of success to justify reverting to the previous position where the complainant was available as a provider of psychological services in the employee assistance program.

The complainant’s appeal against the tribunal decision did no more than baldly assert that the tribunal erred in law and erred in fact. The Appeal Tribunal found that the complainant had failed to demonstrate that an appeal was necessary to correct a substantial injustice, and failed to advance any argument that there was error in the tribunal’s decision which needed to be corrected. The complainant was refused leave to appeal.

*Gobus v Cairns Hinterland Hospital and Health Service [2018] QCATA 121*

## Court of Appeal

A party may apply to the Court of Appeal for leave to appeal a decision of the QCAT Appeal Tribunal on a question of law. For work-related matters, a party may appeal a decision of the Industrial Relations Court of Queensland on the ground of error of law, or excess or want of jurisdiction. In the period, there was one decision of the Court of Appeal in a complaint under the *Anti-Discrimination Act 1991*.

There was also a decision on an appeal in a judicial review application relating to a decision of the Commissioner to reject a complaint as misconceived or lacking in substance.

### Meaning of ‘in the course of work’

This was an appeal from a decision of the QCAT Appeal Tribunal about the liability of an employer for sexual harassment by a man engaged to provide after-hours caretaking services at a hotel. The man was required to be on-call between 10pm and 6am to provide various services, and in return he was permitted to occupy a unit in the hotel rent free. With his agreement, an arrangement was made for a woman who was to start work at another hotel in the group, to share the unit. After the first night, the woman woke at 5am to find the man naked in her bedroom and he indecently assaulted her. She told him to stop and to leave the room, and she broke down crying.

The woman made a complaint of sexual harassment against the man, his employer, and her employer (the woman’s employer was a wholly owned subsidiary of the man’s employer). The complaint against the woman’s employer was settled, and the complaint against the man and his employer proceeded to hearing. At the hearing (which the man did not attend), there was no issue that the man had sexually harassed the woman. The issue at the hearing, and on appeal, was whether the sexual harassment happened ‘in the course of work’ so as to make the man’s employer vicariously liable.

Leave was granted to appeal on the ground that there had been an error of law in the finding that the conduct had occurred in the course of work within the meaning of the vicarious liability provision of the Anti-Discrimination Act. The employer argued that the word ‘work’ in the phrase ‘in the course of work’ connotes only active obligations, and that the employer was not liable when the man was simply on-call.

The Court looked at the purposes of the Act and the purpose of the vicarious liability provision, and concluded that ‘in the course of work’ should be given a broader construction, and that ‘work’ comprehends a more general meaning of ‘employment’ or ‘job’ rather than being confined to activities.

The Court suggested that even on a more narrow construction the employer may still be liable, because by being in the unit, the man was fulfilling his contractual obligation to be in or near the hotel. His obligation to be vigilant for situations that could cause a safety risk was as much a part of his work under the contract for services as was his obligation to respond to calls.

The Court said it is inappropriate to construe the Anti-Discrimination Act by analogy with common law principles about the vicarious liability of an employer for the negligent or intentional criminal acts of an employee. The expression ‘in the course of work’ should not be confined to analogies from the law of vicarious liability in tort. In light of its text and statutory purpose the words ‘in the course of work’ should be construed broadly.

*Oaks Hotels and Resorts Limited v Knauer & Ors [2018] QCA 359*

### Test for rejecting a complaint as misconceived or lacking in substance

The Commissioner had rejected complaints of race and religious belief discrimination after concluding that an inference of discrimination was improbable and therefore the complainants had not established a sufficient connection between the attributes and the conduct.

The Court of Appeal said this approach was wrong, and it appeared the delegate had decided the complaint, which is not part of the Commissioner’s functions under the *Anti-Discrimination Act 1991*. The Court said that where one or more inference is reasonably open on the indicated circumstances, it is not for the Commissioner, when forming an opinion under section 139 of the Act, to decide which inference is more probable; that is a matter within the exclusive province of the tribunal.

The Court also said that at the lodgement stage, there is no requirement for the complaint to be supported with evidence. The obligation is to provide reasonably sufficient details to indicate a contravention. The question for the Commissioner to consider is whether the details provided with the complaint, if proved at a hearing of the tribunal, are indicative of a contravention that is neither misconceived nor lacking in substance.

A complaint will be ‘misconceived’ if it is based on a false conception or notion (such as discrimination on the basis of an attributed that is not protected by the Act) and ‘lacking in substance’ where the detail provided in the complaint fails to point to conduct that is capable, if proved, of amounting to a contravention under the Act.

Because rejection of a complaint will deprive the complainant of a hearing, it must clearly appear that the complaint is misconceived or lacking in substance before the requisite opinion may reasonably be formed.

*Toodayan v Anti-Discrimination Commissioner Queensland [2018] QCA*

# Corporate governance

Corporate governance is the manner in which an organisation is controlled and governed in order to achieve its strategic goals and operational objectives. It is the cornerstone of sound stewardship and effective management.

Queensland Audit Office, 1999

## Governance framework

The ADCQ’s governance framework supports transparent, accountable decision-making by establishing clear lines of authority and requiring monitoring and reporting of operational performance. It is the mechanism through which our strategic goals can be achieved and is based on the following principles:

* effective vision, leadership, and strategic direction;
* transparency and disclosure of decision-making processes;
* clear lines of responsibility and accountability;
* participation in the governance process by employees.

These principles ensure that the ADCQ maintains its focus on:

* meeting its statutory responsibilities under the Act;
* effective and efficient performance management;
* improving service delivery through a process of engagement with key stakeholders; and
* reporting on performance.

While the ADCQ is independent of government, it is accountable to the Queensland Parliament through the Attorney-General and Minister for Justice.

## Managing the ADCQ

Accountability for the ADCQ’s operations under the Financial Accountability Act 2009 resides solely with the Commissioner as the Accountable Officer.

The Commissioner is appointed under section 238 of the *Anti-Discrimination Act 1991* for a term of no longer than seven years. ADCQ employees are appointed under the Public Service Act 2008.

Two committees have been established to support the Commissioner in achieving the strategic goals and operational objectives of the ADCQ. They are the Executive Leadership Team (ELT) and the Leadership Group.

The ELT supports the Commissioner by providing advice in the following areas:

* establishing priorities;
* developing an overarching fiscal strategy;
* maintaining the corporate governance framework;
* overseeing major initiatives and projects;
* managing external relationships;
* setting corporate performance objectives;
* fostering an appropriate corporate culture that supports the Commission’s values and code of conduct;
* ensuring business continuity; and
* providing the strategic focus for corporate communications and marketing.

The members of the ELT are:

* Anti-Discrimination Commissioner (Chair);
* Deputy Commissioner (Deputy Chair);
* Director, Complaint Management; and
* Director, Engagement and Corporate Services.

The Leadership Group is a sub-committee of the ELT. The group is responsible for providing advice to the Commissioner in the following areas:

* overseeing strategic and operational planning processes to ensure that strategies, goals and performance measures address overarching priorities;
* monitoring performance to ensure services are being delivered to the required level and quality;
* driving the identification and establishment of best practice in all aspects of service delivery;
* monitoring the effectiveness of governance practices including policies and procedures;
* allocation and management of resources;
* ensuring the integrity of reporting systems and that appropriate systems of internal control are in place to manage risk;
* ensuring there are adequate processes in place to comply with statutory reporting requirements;
* ensuring that planning and performance management processes are based on an understanding of operational issues and constraints; and
* maintaining relationships and partnerships with stakeholders.

The members of the Leadership Group are:

* Anti-Discrimination Commissioner (Chair);
* Deputy Commissioner (Deputy Chair);
* Director, Complaint Management;
* Director, Engagement and Corporate Services;
* Principal Lawyer;
* Manager, Far North Queensland Region;
* Manager, North Queensland Region;
* Manager, Central Queensland Region;
* Manager, Brisbane Complaint Team;
* Aboriginal & Torres Strait Islander Community Engagement Coordinator; and
* Senior Communications Officer.

## Commission staff

The ADCQ maintains offices in Brisbane, Cairns, Townsville and Rockhampton. At 30 June 2019, we employed 35 full-time equivalent permanent and temporary staff. The proportion of permanent staff increased from 88 to 89 per cent over the last year. The permanent staff retention rate during 2018–19 was 97 per cent. The permanent staff separation rate was 3 per cent.

ADCQ is committed to maintaining a diverse and inclusive workplace where the contributions of all staff are valued. Strategies that have been implemented to promote diversity and inclusion include: support of flexible work arrangement like part time work and working from home; provision of a parenting room; provision of highly accessible workplaces where possible; establishment of a Healthy Workplaces Program with a focus on mental health; clear induction and performance management policies; professional development of all staff on a continuing basis; and, adoption of a model of service delivery that encourages the creation of multi-disciplinary teams.

The success of these strategies can be seen in the most recent Working for Queensland survey where the responses of staff were very positive. Some of the key responses in the survey include:

* 98% of responses to questions relating to support for diversity and inclusion were positive;
* 89% of responses indicated use of some form of flexible work arrangement over the course of the year;
* 89% of responses indicated a positive assessment of their workgroups;
* 76% of responses indicated that the commission was innovative; and
* 88% of responses indicated that staff were empowered to do their work.

Overall the survey continues the trend in past surveys of respondents having a very positive view of working for the commission.

The commission implemented a minor restructure as part of its transition to becoming the Queensland Human Rights Commission from 1 July 2019. The outcome of the restructure can be seen in Appendix D: Organisational Structure.

Table 12: Staff groups (rounded)

|  |  |
| --- | --- |
| **Group** | **Employees** |
| Executive management  | 3 |
| Legal  | 1 |
| Corporate support | 3 |
| Information technology | 1 |
| Conciliation | 10 |
| Community relations | 8 |
| Regional services  | 9 |
| **Total** | **35** |

Graph 1: Employee profiles

## Shared services

The ADCQ has service level agreements with the Department of Justice and Attorney-General and Queensland Shared Services for the provision of financial, human resource, internal audit and processing services. These arrangements benefit the ADCQ by providing a cost-effective processing environment and access to a greater range of skills than it can maintain internally given its size, and allows the organisation to focus on core business.

## Statutory obligations

### Ethical behaviour

Prior to 1 June 2011 the ADCQ developed a Code of Conduct in accordance with the requirements of the Public Service Ethics Act 1994. The code provided guidance on the way staff should behave in the workplace, and when representing the ADCQ outside the workplace, clearly explaining the standard of conduct expected of all employees.

Amendments to the Public Service Ethics Act 1994 (PSEA) in 2010 included the introduction of the Code of Conduct for the Queensland Public Service (the Code), applicable to all public service agencies. The Public Sector Ethics Amendment Regulation (No. 1) 2011 included the ADCQ in the definition of a public service agency, meaning that the Code applied to the ADCQ from 1 June 2011.

The Code applies to every person employed by the ADCQ and breaches of the Code may be subject to appropriate disciplinary action as outlined in the Public Service Act 2008.

### Client complaints

Seven complaints about ADCQ service delivery were received during 2018-19 – compared to five in 2017-18. All complaints were resolved or partially resolved. All complaints were investigated and managed in accordance with the policy and timeframes of the commission and none indicated the existence of any systemic problems.

## Information systems and recordkeeping

The ADCQ recognises the significant value of its information resources to the achievement of corporate goals. Controls are implemented and monitored to safeguard the integrity, availability and confidentiality of information in order to maintain business continuity. Recordkeeping policies and systems are being reviewed to ensure they meet the accountability requirements of the *Public Records Act 2002*, as well as other whole-of-government policies and standards, including Information Standard 40: Recordkeeping.

## Internal and external audit

Internal audit services are provided on an “as needed” basis to the ADCQ under a service level agreement with the Department of Justice and Attorney-General. The size of the ADCQ is such that a formal Audit Committee is not required. The responsibilities associated with internal audit and the maintenance of an appropriate internal control framework are discharged by the Executive Leadership Team.

A copy of the external audit report and certificate of our financial statements are supplied with this report. The Auditor-General’s delegate has provided an unqualified certificate indicating the ADCQ’s compliance with financial management requirements and the accuracy and fairness of the financial statements.

## Risk management

The ADCQ’s risk management framework ensures risk is managed as an integral part of decision-making, planning and service delivery. This practice aims to reduce vulnerability to internal and external incidents that limit the ADCQ’s ability to achieve strategic objectives and deliver services to the community. Key aspects of the risk management framework include:

* maintenance of an effective system of internal control;
* regular reporting of identified risks to the Executive Leadership Team;
* physical security of ADCQ assets including security access to premises;
* maintenance of security over access to information through network security;
* investment in new information technology infrastructure; and
* media monitoring and risk evaluation.

The standard operating environment of the commission is Windows 10 and Office 2016 and all core software is supported by appropriate support agreements and software assurance. The commission has migrated from laptops to Surface Pro 4s to reduce costs, enhance mobility and allow for business continuity in the event of natural disasters.

The commission has migrated to a “cloud” based provision of computing and telecommunication services. This approach reduces risks associated with in-house management of computing services and also reduces cost.

The responsibilities associated with risk management are discharged by the Executive Leadership Team.

## Consultancies, overseas travel and language services

ADCQ did not engage any consultants during 2018–19.

ADCQ staff did not undertake any overseas travel in 2018-19.

ADCQ incurred approximately $8,500 in costs for interpreter and translator services in 2018-19. Interpreters were engaged on 42 occasions providing the following interpretation services:

* Arabic x 4
* Auslan x 7
* Mandarin x 6
* Spanish x 10
* Korean x 7
* Thai x 1
* Tamil x 1
* Tigrinya x 1
* Somali x 1
* Chinese x 2
* Amharic x 1
* Punjabi x 1

## Early retirement, redundancy and retrenchment

The ADCQ made no payments of this nature during 2018-19.

The above information relating to consultancies, overseas travel and language services is also available at <https://data.qld.gov.au>.

# Summary of financial information

## Summary of financial information overview

The operating result for the ADCQ for 2018–19 was a surplus of approximately $60,000.

The surplus was mainly due to delays in finalising investments to support the implementation of the *Human Rights Act 2019*.

Performance in the remaining budget areas was sound.

The major activities undertaken during the year include:

* Transitioning to the Queensland Human Rights Commission in preparation for its commencement on 1 July 2019 which involved a minor restructure, rebranding, the development of educational and promotional resources as well as system changes to support new functions;
* Fitting out the new Cairns Regional Office;
* Co-hosting the biennial Mabo Oration with QPAC;
* Managing a significant increase in complaint numbers whilst achieving most targets.

The financial effects of these major activities are provided in detail in the audited financial statements provided with this report and on the ADCQ’s website (www.qhrc.qld.gov.au).

## The ADCQ’s financial position

The financial position provides an indication of the ADCQ’s underlying financial health, or net worth, at 30 June 2019. This provides a measure of our equity level. ADCQ’s assets at 30 June 2019 were $1.6 million and liabilities were $0.5 million, resulting in a total equity of $1.1 million. The increase in net worth is the largely the result of delays in finalising investments to support the implementation of the *Human Rights Act 2019*. These investments will be finalised in the 2019-20 financial year. The ADCQ’s financial position remains strong.

Graph 2: Net worth

## Financial performance

The Income Statement shows the total income for 2018–19 as $6.082 million and expenditure as $6.022 million. The ADCQ finished the year with an operating surplus of approximately $60,000. The surplus mainly relates to delays in finalising investments to support the implementation of the *Human Rights Act 2019*.

## Income

The ADCQ derives most of its income from the Queensland Government, through a grant paid by the Department of Justice and Attorney-General. The ADCQ also generates funds through investment of surplus cash in interest bearing deposits and the provision of training on a fee-for-service basis.

Graph 3: Source of funds 2018–19

## Expenses

Total operating expenses for 2018–19 were $6.022 million. The largest expense category is employee-related costs, which account for almost 67.8 per cent of total expenses. The second biggest category is supplies and services, which accounts for 29 per cent.

Graph 4: Application of funds

## Comparison to Budget and Actual

Budget and Actual performance together with explanatory notes are provided in detail in Note E1 of the audited financial statements provided with this report and on the ADCQ’s website (www.qhrc.qld.gov.au).

## Assets

Total assets increased from $1.3 million at 30 June 2018 to $1.6 million at 30 June 2019. This change is largely the result of delays in finalising investments to support the implementation of the *Human Rights Act 2019* thus increasing the cash balance. Current assets are valued at $0.5 million and are available to meet current liabilities, which are valued at $0.5 million. The ADCQ remains well positioned to meet all its obligations as they fall due.

Graph 5: Asset portfolio

Graph 6: Liability composition

# Financial statements

## [Certification of financial statements](#_Toc230068497)

The certification of financial statements accompanies the annual report or can be viewed at www.qhrc.qld.gov.au.

## Independent auditor’s report

The independent auditor’s report accompanies the annual report or can be viewed at [www.qhrc.qld.gov.au](http://www.qhrc.qld.gov.au).

# Appendix A: Compliance checklist

|  |  |  |
| --- | --- | --- |
| **Summary of requirement** | **Basis for requirement** | **Annual report reference** |
| Letter of compliance | A letter of compliance from the accountable officer or statutory body to the relevant Minister/s | ARRs — section 7 | Page 3 |
| Accessibility | Table of contentsGlossary | ARRs — section 9.1 | Page 2Appendix B |
| Public availability | ARRs — section 9.2 | Page 1 |
| Interpreter service statement | Queensland Government Language Services PolicyARRs – section 9.3 | Page 1 |
| Copyright notice | Copyright Act 1968ARRs — section 9.4 | Page 1 |
| Information licensing  | QGEA — Information Licensing ARRs — section 9.5 | Page 1 |
| General information | Introductory Information | ARRs — section 10.1 | Page 4 |
| Machinery of Government changes | ARRs — section 10.2, 31 and 32 | N/A |
| Agency role and main functions | ARRs — section 10.2 | Page 6 |
| Operating environment | ARRs — section 10.3 | Page 6 |
| Non-financial performance | Government objectives for the community | ARRs — section 11.1 | Page 5 |
| Other whole-of-government plans / specific initiatives | ARRs — section 11.2 | Page 11 |
| Agency objectives and performance indicators | ARRs — section 11.3 | Page 8 |
| Agency service areas, and service standards | ARRs — section 11.4 | Page 8 |
| Financial performance | Summary of financial performance | ARRs — section 12.1 | Page 49 |
| Governance – management and structure | Organisational structure | ARRs — section 13.1 | Appendix D |
| Executive management | ARRs — section 13.2 | Page 42 |
| Government bodies (statutory bodies and other entities) | ARRs — section 13.3 | N/A |
| Public Sector Ethics Act 1994 | Public Sector Ethics Act 1994ARRs — section 13.4 | Page 46 |
|  | Queensland public service values | ARRs — section 13.5 | Page 5 |
| Governance – risk management and accountability | Risk management | ARRs — section 14.1 | Page 47 |
| Audit committee | ARRs — section 14.2 | Page 47 |
| Internal audit | ARRs — section 14.3 | Page 47 |
| External scrutiny | ARRs — section 14.4 | N/A |
| Information systems and recordkeeping | ARRs — section 14.5 | Page 47 |
| Governance – human resources | Strategic workforce planning and performance | ARRs — section 15.1 | Page 44 |
| Early retirement, redundancy and retrenchment | Directive No.04/18 Early Retirement, Redundancy and RetrenchmentARRs — section 15.2 | Page 47 |
| Open Data | Statement advising publication of information  | ARRs — section 16 | Page 47 |
| Consultancies | ARRs — section 33.1 | https://data/qld.gov.au |
| Overseas travel | ARRs — section 33.2 | https://data/qld.gov.au |
| Queensland Language Services Policy | ARRs — section 33.3 | https://data/qld.gov.au |
| Financial statements | Certification of financial statements | FAA — section 62FPMS — sections 42, 43 and 50ARRs — section 17.1 | Page 52Appendix G |
| Independent Auditors Report | FAA — section 62FPMS — section 50ARRs — section 17.2 | Page 44Appendix F |

FAA *Financial Accountability Act 2009*

FPMS Financial and Performance Management Standard 2009

ARRs Annual Report Requirements for Queensland Government Agencies

# Appendix B: Glossary of terms

|  |  |
| --- | --- |
| **Term** | **Description** |
| the Act | the *Anti-Discrimination Act 1991* (Qld) |
| ADCQ | Anti-Discrimination Commission Queensland |
| complaint | Means a complaint made under the Act. A complaint must:* be in writing
* set out reasonably sufficient details to indicate an alleged contravention of the Act
* state the complainant’s address for service
* be lodged with, or sent by post to the Commissioner.

A person is only entitled to make a complaint within one year of the alleged contravention of the Act. |
| conciliation | A conciliation conference is a meeting to help parties resolve a complaint. It is the main way in which complaints are resolved. A conciliator from the ADCQ contacts the parties and manages the conciliation conference. Complaints that cannot be resolved through the conciliation process may be referred to the Queensland Civil and Administrative Tribunal for a public hearing to decide whether there has been a breach of the *Anti-Discrimination Act 1991*, and decide any compensation. |
| Commission | Anti-Discrimination Commission Queensland |
| direct discrimination  | Direct discrimination on the basis of an attribute happens if a person treats, or proposes to treat, a person with an attribute less favourably than another person without the attribute is or would be treated in circumstances that are the same or not materially different. |
| Executive Leadership Team | The Executive Leadership Team is one of the key strategic advisory bodies of the ADCQ. It supports the Commissioner in providing the strategic direction as part of the overall corporate governance framework and oversees the Commission’s strategic performance. |
| indirect discrimination | Indirect discrimination on the basis of an attribute happens if a person imposes, or proposes to impose, a term with which a person with an attribute does not or is not able to comply; and with which a higher proportion of people without the attribute comply or are able to comply; and that is not reasonable. |
| Leadership Group | The Leadership Group is a sub-committee of the Executive Leadership Team (ELT). It supports the Commissioner by ensuring that operational activity aligns with the strategic direction of the ADCQ as set by the ELT. |
| QCAT | Queensland Civil and Administrative Tribunal |
| QIRC | Queensland Industrial Relations Commission |
| vicarious liability | If a person’s workers or agents contravene the Act in the course of work or while acting as agent, both the person and the worker or agent, are jointly and severally civilly liable for the contravention, and a proceeding under the Act may be taken against either or both. It is a defence to a proceeding for a contravention of the Act if the respondent proves, on the balance of probabilities, that the respondent took reasonable steps to prevent the worker or agent contravening the Act. |

# Appendix C: Complaint handling process

Complaint not accepted. Complainant advised of reasons for non-acceptance and referred to a more relevant agency.

Written complaint received, acknowledged, and assessed — generally within 28 days.

Complaint accepted. Parties notified and respondent given opportunity to provide written response, or request early conference. Date set for compulsory conference — generally within 6 weeks of notification.

Complainant provides further information to show complaint comes under the Act.

ff

f

ff

Compulsory conference held.

within 28 days,

Complainant has option to refer complaint to the tribunal\* for hearing and determination, binding on all parties.

Settlement reached by all parties. Agreement signed and filed with the tribunal\*, and is enforceable as if it is an order of the tribunal.

Complaint rejected, based on further information.

Early conference held when requested by respondent and all parties agree.

 agree.

No settlement reached at conference and further negotiations unable to resolve the complaint.

Complaint closed.

\* From 1 March 2017, for work-related matters the tribunal is the Queensland Industrial Relations Commission, and for all other matters the tribunal is the Queensland Civil and Administrative Tribunal.

# Appendix D: Organisational structure

*­­­*

**Anti-Discrimination Commissioner**

**Regional Offices**

Teams located in Rockhampton, Townsville & Cairns deliver a combination of complaint management, training and community engagement services throughout their regions.

**Complaints Team**

The Brisbane-based complaints team provides complaint management and enquiry services.

**Legal Research & Policy Team**

This team provides executive support and legal services; develops human rights policy and undertakes research on human rights issues.

**Director, Complaint Management**

**Deputy Commissioner**

**Director, Engagement & Corporate Services**

**Engagement & Corporate Services Team**

This team has responsibility for the provision of training and engagement activities, marketing and communications, administrative, financial, human resource, information technology, facilities and governance services.

# Appendix E: Map of areas visited in 2018-19

## Locations of training delivered in 2018-19



### Far North Queensland

Cloncurry

Innisfail

Mareeba

Mt Isa

Cairns and surrounds

### North Queensland

Bowen

Glenden

Hughenden

Mackay

Townsville and surrounds

### Central Queensland

Biloela

Bundaberg

Middlemount

Tieri

Rockhampton and surrounds

### South-east Queensland

Caboolture

Dalby

Gold Coast

Gympie

Hervey Bay

Ipswich

Sunshine Coast

Toowoomba

Brisbane and surrounds

# Appendix F: Certified financial statements

1. *Anti-Discrimination Act 1991*, section 175 [↑](#footnote-ref-1)
2. *Anti-Discrimination Act 1991*, section 113 [↑](#footnote-ref-2)
3. *Anti-Discrimination Act 1991*, section 144 [↑](#footnote-ref-3)
4. *Anti-Discrimination Act 1991*, section 169 [↑](#footnote-ref-4)
5. *Anti-Discrimination Act 1991*, section 228 [↑](#footnote-ref-5)
6. Re The Women’s Legal Service Inc [2019] QIRC 060 [↑](#footnote-ref-6)
7. Sundale Limited [2019] QCAT 83 [↑](#footnote-ref-7)
8. Re Children by Choice Association Inc. [2018] QIRC 153 [↑](#footnote-ref-8)