

2020-21



About this report

The annual report covers the operations of the Equal Opportunity Commission.

Disclaimer

The Commission is committed to providing quality services to its customers and makes every attempt to ensure accuracy, currency and reliability of the information contained in this publication. However, changes in circumstances over time may impact on the veracity of this information.

Feedback

As the Commission is constantly striving to improve services, we welcome any comments, observations or queries relating to the contents of this annual report.

Accessibility

On request, large print or copies of this report in an alternative format can be obtained from the Equal Opportunity Commission.

Acknowledgment

The Commission acknowledges the Aboriginal peoples of Western Australia as the traditional custodians of the land on which we work and live, and recognise their continuing connection to land, water and community. We pay respect to Elders past, present and emerging.

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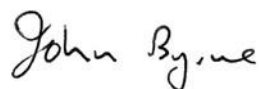
Advice: Aboriginal readers are advised that this document may contain images of people who have died.

Statement of compliance

Hon John Quigley MLA
Attorney General

In accordance with section 95 of the *Equal Opportunity Act 1984* I hereby submit for your information and presentation to Parliament, the Annual Report of the Commissioner for Equal Opportunity for the financial year ending 30 June 2021.

The Report covers the work, functions, and activities of the Equal Opportunity Commission during the reporting period.



John Byrne
Commissioner for Equal Opportunity

13 September 2021

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About us



From the Commissioner

Over the past year, discrimination and human rights have been prominent in public discourse, including the ongoing influence of the #MeToo movement focusing attention on sexual harassment and gender inequality. Racism, both overt and structural, has also been highlighted by the 'Black Lives Matter' movement. Sports teams 'taking the knee' in American football, soccer, basketball and other sports, and ongoing media reports of racial abuse has emphasised discrimination in sport and the community.

These trends are reflected in Western Australia where complaints of sexual harassment comprise over 20% of all employment related complaints in this reporting year. With regard to structural racism, Aboriginal people, who comprise 3.1% of the WA population, lodged a disproportionate 12.8% of complaints.

In dealing with these complex issues, the Commission continues to endeavour to provide a sensitive, efficient, and client-centred complaint handling process.

The demand for the Commission's community education and training services remains high, promoting awareness and providing guidance and expertise to public, community and private sector organisations on how to minimise discrimination.

More broadly, the Commission continues to build, strengthen, and deepen its collaboration with a range of related organisations. This has included working collaboratively with the State and Federal Ombudsmen, the Health and Disability Services Complaints Office, and other accountability agencies in activities such as delivering information sessions to regional and remote communities.

As with all workplaces, the Commission adapted to the COVID-19 pandemic and restrictions, adjusting how we work and what we do. Like many organisations, this included moving our operations online, when lockdowns required our staff to work from home.

In December 2020, the Commission transitioned from a stand-alone agency to be a part of the Department of Justice. The purpose was to obtain sustainable corporate services from a larger host agency. The Commission remains independent in the performance of its statutory functions under the *Equal Opportunity Act 1984* (the Act).

While the Act has been effective in addressing direct discrimination in WA in many areas for over 35 years, it has not been able to provide proper redress for entrenched systemic discrimination which exists in our community, nor for discrimination against job seekers, who continue to experience bias and discrimination in a form that is not easily revealed.

Private and public sector organisations which make diversity a priority in recruitment and service delivery produce more creative and inventive solutions, and respond more effectively to the specific needs of diverse populations. In contrast, a group made up of people with similar backgrounds and skill sets may approach a dilemma in the same way they always have.

While there has been positive progress in employing more women in senior management roles in WA, there remains limited diversity regarding race and disability. The Act contains an exception to unlawful discrimination in the form of 'measures to achieve equality' which can assist organisations to increase diversity in the grounds of sex, race, impairment, and age.

In addition, the WA Government's Policy Framework for Substantive Equality provides an analytical framework to assess and assist in modifying policies and practices to achieve substantive equality in service delivery. This framework, successfully adopted in several WA Departments, assists these agencies ensure they can achieve greater responsiveness to a diverse community.

Greater effectiveness could be obtained by amending *the Public Sector Management Act 1994* to require that all agencies strive to achieve substantive equality in delivery of their services.

The WA Government commitment to reviewing the Act is an important task being handled by the WA Law Reform Commission. The Act has remained largely unchanged since 1984, and would benefit from amendments in areas such as increasing the number of grounds, expanding the areas of life in which discrimination is unlawful, increasing the amount of compensation that can be awarded by the State Administrative Tribunal, and requiring employers to act positively to eliminate discrimination and harassment in the workplace.

I would like to thank all staff for their patience, professionalism, commitment to delivery of high-quality services and for their receptiveness to change. This year was exceptionally challenging with new accommodation at the beginning of the year, a transition of our corporate services, and the pandemic, which resulted in a significant increase in complaints and enquiries, while adjusting to working from home.

Finally, I would like to thank the Director General of the Department of Justice and staff for agreeing to the transition of the Equal Opportunity Commission to the Department and for their support and work that ensured a smooth transition.

2020-21 Snapshot



1,256 enquiries from the public answered



514,068 website page views



1,562 people received e-bulletins



564 complaints received



sexual harassment and workplace culture the most popular training course



most common complaints impairment, race and sexual harassment



179 training and education sessions held



92% of complaints submitted online or by email



48% training and education sessions were conducted in the regions



91% complaints finalised in under 12 months



2,653 people attended training and education sessions

Operational structure

Our vision

A society respectful of human rights and free from discrimination and prejudice.

Our mission

To lead in the elimination of discrimination and build a community that reflects and promotes equality of opportunity and human rights.

Responsible Minister

The Hon John R Quigley LLB JP MLA, Attorney General.

Enabling legislation

The Office of the Commissioner for Equal Opportunity was established in 1985 under Part VII, Division I of the *Equal Opportunity Act 1984* (the Act) as amended, and under the provisions of the Public Sector Management Act 1984.

The Commissioner for Equal Opportunity is appointed by the Governor.

The Act promotes equality of opportunity in Western Australia and provides remedies in respect of discrimination on the grounds and areas specified.

Administered legislation

The Commissioner for Equal Opportunity also undertakes investigations and conciliation of complaints under specified parts of the following Acts:

- *Public Interest Disclosure Act 2003 - Part 3 section 15(4)*
- *Spent Convictions Act 1988 – Part 4.*

Other key legislation impacting on the Equal Opportunity Commission's activities:

State

- *Auditor General Act 2006*
- *Financial Management Act 2006*
- *Freedom of Information Act 1992*
- *Gender Reassignment Act 2000*
- *Government Employees Superannuation Act 1987*
- *Industrial Relations Act 1979*
- *Minimum Conditions of Employment Act 1993*
- *Occupational Safety and Health Act 1984*
- *Public Interest Disclosure Act 2003*
- *Public Sector Management Act 1994*
- *Fines, Penalties and Infringement Notices Enforcement Act 1994*
- *Salaries and Allowances Act 1975*
- *State Administrative Tribunal Act 2004*
- *State Records Act 2000*
- *State Supply Commission Act 1991*
- *Workers Compensation and Injury Management Act 1981*

Commonwealth

- *Australian Human Rights Commission Act 1986*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Disability Discrimination Act 1992*
- *Age Discrimination Act 2004*
- *Fair Work Act 2009*

Organisational structure at 30 June 2021

Corporate Executive

John Byrne



Commissioner for Equal Opportunity

John commenced in the role in 2016. He was awarded a Member of the Order of Australia in the Queen's Birthday Honours in 2020.

Allan Macdonald



Manager Office of the Commissioner

Allan has been the Commission's Senior Legal Officer since 2002 and manages the Office of the Commissioner.

Diana MacTiernan



Manager Commission Services

Diana has a background in industrial relations working for unions, employers and an independent body. She has worked across the Commission since joining it in 2007 and manages Commission Services.

Organisational chart



Performance management framework

The Commissioner for Equal Opportunity's Performance Management Framework is consistent with the Government's goal of Strong Communities: Safe communities and supported families.

The Commission's work is informed by the statutory obligations under the *Equal Opportunity Act 1984*, and the activities undertaken in 2020-21 are reported in this section. The Equal Opportunity Commission delivers services through its two outcome areas:

Provision of information and advice regarding equal opportunity and human rights

- Dissemination of relevant and appropriate information on the *Equal Opportunity Act 1984*, other relevant laws and human rights issues generally.
- Provision of accurate advice on equal opportunity matters.
- Identification of discriminatory policies and practices.

Avenue of redress for unlawful discrimination and unreasonable treatment

- Investigating and attempting to conciliate complaints that fall within the jurisdiction of the *Equal Opportunity Act 1984* and other legislation administered by the Commissioner and providing assistance to complainants referred to the State Administrative Tribunal (the Tribunal) by the Commissioner.

Changes to outcome based management framework

The Commission's outcome based management framework did not change during the reporting period.

Shared responsibilities with other agencies

To improve access and sustainability of corporate services, the Equal Opportunity Commission (EOC) transitioned from a stand-alone agency to be a part of the Department of Justice on 1 December 2020. The EOC remains independent in the performance of its statutory functions under the *Equal Opportunity Act 1984*.

Our performance

Provision of information and advice

The Commission works with community members and organisations to extend understanding and skills to achieve equality. This is so individuals and organisations are aware of their responsibilities and also realise their rights. The Commission attempts to do this through:

- Involvement in community programs and events
- Responding to enquiries from individuals, government agencies, non-government organisations and private industry
- Delivering training for employers and service providers on their responsibilities and rights under the Act
- Educating community groups and individuals on their rights and responsibilities under the Act
- Identifying potentially discriminatory policies and practices and raising these with appropriate bodies.

Raising community awareness

Key strategies include:

- Raising awareness of equal opportunity and human rights issues in Western Australia through presentations, forums, guest speakers, media interviews, community information stalls and lectures using various media to promote public discussion and interest in equal opportunity issues
- Development of resources, both targeted and general information for the community about aspects of equal opportunity law and human rights in a variety of printed and electronic formats.

Website

The Equal Opportunity Commission transitioned to the WA Government website platform in August 2020.

The Commission retained the address www.eoc.wa.gov.au and in the 2020-21 financial year there were 514,068 page views which is a significant 358% increase from the previous financial year's 143,651 views.

The WA Government website platform contains general accessible information about the Equal Opportunity Act, the Commission, and the activities it undertakes.

The Commission's online complaint form and emails are now the primary avenue used to lodge complaints of unlawful discrimination, with 92% of complaints submitted through the website and by email.

E-bulletin

The Commission distributed its monthly E-bulletin to 1,562 subscribers this year.

The bulletin links back to announcements featured on the website homepage, as well as the Commissioner's column '*From the Commissioner*' which addresses topical issues regarding discrimination and harassment.

Facebook

The Commission launched its Facebook page at the end of the 2015-16 financial year to increase outreach across Western Australia and since then it has steadily increased in significance with a following of 500 by the end of 2020-21. Posts include links to the Commission's website announcements and media articles regarding discrimination and harassment.

During 2020-21 the most popular post on the Commission's Facebook page was promotion of a community survey to gauge discrimination and harassment against people in WA who use mobility devices such as gophers.

The post reached over 8,000 people and received 146 reactions, comments and shares.

WA Media Awards

This year the Commission again sponsored the Social Equity Report category at the annual WA Media Awards of the Media, Entertainment and Arts Alliance.

The winner of the 2020 Social Equity Report was Annabel Hennessy of The West Australian newspaper for her [coverage of the incarceration of domestic violence victim Jody Gore](#).

Out in the community for NAIDOC Week

The 2020-21 Mirrabooka annual NAIDOC Week event was postponed to November 2020 due to the COVID-19 pandemic.

The Commissioner and Commission staff were rostered on a stall for the event where they spoke to stall visitors about unlawful discrimination and networked with the Aboriginal community about ways to address unlawful discrimination, particularly on the grounds of race and racial harassment.

Commissioner delivers keynote address at disability conference

In November 2020, the Commissioner gave an address to open day two of the People with Disabilities WA Inaugural State Conference.

He said equal opportunity laws had been successful in achieving positive outcomes for people with a disability in the area of goods and services; however, it was a different story when it came to employment.

He said equal opportunity laws allowed his negotiations with TV, pay TV and cinema industries to get a positive outcome for him and other people whose disabilities made them reliant on captions.

"The industries knew that if negotiations failed, court action under equal opportunity legislation would succeed and force them to caption," the Commissioner said.

He said one of the reasons impairment complaints in employment were unsuccessful was because it was difficult for complainants to prove they didn't get the job because of their disability.

"These days employers are aware that they should not discriminate and are unlikely to provide evidence that they have done so," he said.

The Commissioner said people with a disability have significantly higher rates of unemployment.

"For people of working age, 50 percent of people with a disability are not seeking employment compared to 20 percent for those who do not have a disability," he said.

The Commissioner said one solution would be to change equal opportunity laws.

"In Western Australia the Law Reform Commission is reviewing the *Equal Opportunity Act 1984* and one of its terms of reference is to review the onus of proof.

"Another term of reference is to place a positive duty not to discriminate on employers," he said.

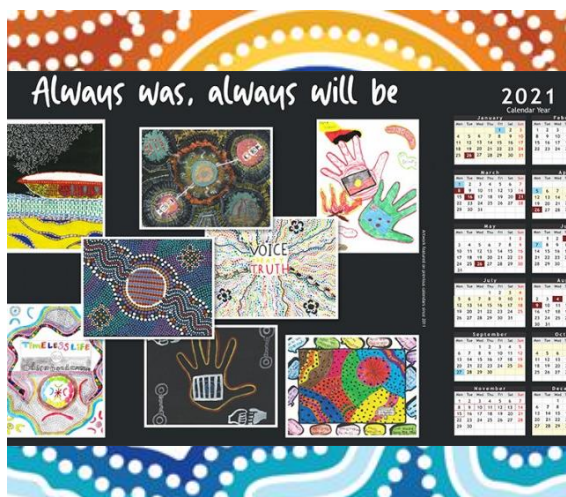


State Director NDIS Quality and Safeguards Commission Samantha Jenkinson, Dr John Byrne, Senator Jordon Steele-John

2021 Aboriginal Calendar

Due to COVID-19 pandemic restrictions no competition was held for the 2021 Aboriginal Calendar artwork.

Instead, the Commission selected artwork from previous years' competitions to complement the 2020 NAIDOC Week theme 'Always was, always will be' to produce the 2021 calendar.



New and Emerging Communities Reference Group

The New and Emerging Communities Reference Group (the Reference Group) was established in 2015 and continues to assist the Commissioner to develop coordinated and coherent strategies to address systemic discrimination experienced by people from new and emerging communities and issues such as racial harassment and direct discrimination.

The Reference Group membership includes representatives from relevant state and federal government agencies, non-government organisations, community groups and educational institutions.

The reference group met on two occasions in the past year.

Discussions included:

- How the housing shortage particularly impacts people from new and emerging communities which includes migrants, refugees and those on short-term visas
- The change of conditions to extend the Adult Migrant Education Program
- How COVID-19 impacts migrants living in WA, including the increase of domestic violence
- Access for refugees and asylum seekers to vocational education
- Health communication during the pandemic.

Annual Curtin University Debate

Every year, Commission officers participate as adjudicators for two debates at Curtin University's School of Design and Built Environment on topics related to discrimination and harassment.

In August 2020 the students debated the topics "Do measures to achieve equality in opportunity help or hinder racial tension?" and "Me Too type allegations are people being too sensitive about mere flirtation or attraction".



Diana MacTiernan discussing discrimination with students

Five years of speed mentoring

The Equal Opportunity Commission hosted its fifth Speed Mentoring event for International Women's Day with inspirational mentors from the public, private and community sectors participating this year.

The Commissioner said the event has had many success stories with past mentors choosing to continue mentoring the young women mentees beyond the event and even engaging them as interns.

"It is very pleasing to see the results of this event, because it is making a practical difference to gender equality," Dr Byrne said.

"We know female mentors and seeing women succeed in different fields are invaluable to young women starting their careers, so it is also pleasing to see so many inspirational women across so many different fields giving up their valuable time to take part in this event each year," he said.

One young woman from Mt Lawley Senior High School said she was grateful for the opportunity.

"Everyone gave really good and helpful information and it exposed me to new career pathways" she said.

Dr Byrne said the event worked well in the training room of the Commission's new accommodation at Albert Facey House.

"We are fortunate this year to be closer to public transport for those travelling into the CBD, and to have the extra space for events such as this available on the ground floor of our building," he said.



WA Auditor General Caroline Spencer mentoring students

Craig Silvey speaks about the power of stories for Isabelle Lake Memorial Lecture

Author Craig Silvey spoke about the power of stories to educate and provide hope at this year's Isabelle Lake Memorial Lecture hosted by the Equal Opportunity Commission and the University of Western Australia on 20 May 2021.

Silvey spoke about his latest novel *Honeybee* and how response to it from in and outside the transgender community has demonstrated stories can foster empathy, provide better understanding and act as a shining 'lantern' for those in need.

"...good stories challenge us and recalibrate us, and this ripples out through our gestures and through our voices, and contributes to broader social shifts," said Silvey.

Members of WA's transgender community who came to listen to Silvey speak, provided the wider audience with stories of how strongly they identified with Silvey's fictional transgender character Sam/Victoria and were moved by how she was able to overcome incredible adversity through love and support.

Silvey said the story of *Honeybee* was about support and how being surrounded by a nurturing community can essentially save a person's life.

"There was one critical determinant that emerged over and over from the depth and breadth of my research, and that was the influence of support."

"And it's apt that we speak about it tonight, because it seems to me to be a prevailing spirit and ethos that Isabelle lived by," he said.

Dr Byrne spoke about his concern that the gender history ground of the current *Equal Opportunity Act 1984* (the Act) did not provide sufficient legal protection and support to transitioning people who encounter discrimination, a factor the Telethon Kids Institute's Trans Pathways Report identified as a significant contributor to mental health issues in young transgender people.

"Young people such as the character Sam/Victoria in Craig Silvey's novel *Honeybee*, for example, would not be able to access the gender history grounds of the Act because young people are often not able to satisfy the requirements of the Gender Reassignment Board in order to receive a Gender Reassignment Certificate," Dr Byrne said.

"Without the Gender Reassignment Certificate, transgender people are unable to access the Act's gender history grounds to seek remedy for discrimination," he said.

Dr Byrne highlighted the review of the Act by the Law Reform Commission of WA (LRCWA) and encouraged the audience to follow the LRCWA website for release of the Discussion Paper and take up the invitation to make submissions.

"One of the Terms of Reference for the review is to introduce the ground of gender identity and intersex status to the Act and this is strongly supported by the Equal Opportunity Commission" he said.



Dr John Byrne, Craig Silvey, Carol Lake, Alyce Schotte, Bruce Lake and UWA Deputy Vice Chancellor Professor Tim Colmer

Human Rights Day information session

The Commission marked International Human Rights Day by holding an information session about the *Equal Opportunity Act 1984* for fellow occupants of Albert Facey House.

Senior Legal Officer Allan Macdonald and Commission Services Manager Diana MacTiernan conducted the information session which included an overview of the Act and how it impacts participants' lives in and outside the workplace.

They then went on to speak about the review of the Act being undertaken by the Law Reform Commission of WA and its potential to bring our Act in line with more modern forms of anti-discrimination legislation around the country.

Equal Opportunity Commission hosts CEO roundtable discussion

On 30 September 2020 the Equal Opportunity Commission hosted a roundtable discussion on sexual harassment for the CEOs for Gender Equity group in the training room at Albert Facey House. Australia's Sex Discrimination Commissioner, Kate Jenkins, joined the meeting remotely, to discuss the findings from the recent report, *Respect@Work: Sexual Harassment National Inquiry*, and share her extensive knowledge and recommendations for preventing sexual harassment in workplaces. Commissioner Jenkins and the CEOs also discussed initiatives they had put in place to combat sexual harassment in their organisations.

Dr John Byrne with the CEOs



Agencies working together in the IOT

In June 2021 the Equal Opportunity Commission spent two weeks in the Indian Ocean Territories (IOT) on Christmas and Cocos (Keeling) Islands providing community outreach and education to the communities there.

Community Education and Training Officer Stephen Goodall and Senior Education and Conciliation Officer Sandra Hunter joined officers from Health and Disability Service Complaints Office (HaDSCO), the WA Ombudsman and Consumer Protection on the outreach visit which gave community members the opportunity to discuss complaints and learn more about their rights and responsibilities.

"Because the Equal Opportunity Commission, HaDSCO, the WA Ombudsman and Consumer Protection all receive complaints from the public, there is a synergy between our agencies which makes community outreach very streamlined," Stephen said.

He said as the IOT were so far removed from the metropolitan area, providing a one-stop-shop helped community members better connect to essential government services.

"We ran information sessions and complaint clinics for community organisations, business enterprises and held meetings with the various government departments and both local government offices of Cocos (Keeling) Island and Christmas Island," he said.

Stephen said he looked forward to his next visit during the 2022-23 financial year.

"Christmas and Cocos Islands are so rich with diversity and because of this the issues impacting the people there are also very diverse, so it is very important we maintain a presence there to provide these essential services to those communities," he said.



Stephen Goodall and Sandra Hunter with the Christmas Island Women's Association

Enquiries

The Commission provides a telephone and face to face enquiry service each weekday from 8.30am to 4.30pm through a roster of officers of the Commission. Enquiries and complaints can also be lodged anytime by email, Facebook and the website or post.

The Commission receives a diverse range of enquiries many of which allege discrimination. Some enquirers describe situations which do not constitute unlawful discrimination as defined by the *Equal Opportunity Act 1984* (the Act), including allegations of unfair dismissal, victimisation and bullying. Commission officers attempt, where possible, to direct these enquirers to appropriate agencies to deal with their issue.

Where the situation described by an enquirer seems to fall within the jurisdiction of the Act, the enquirer is informed about the Commission's complaint handling process, or where appropriate, their options under federal anti-discrimination laws. There are some allegations of unlawful discrimination where federal legislation provides greater protections, including allegations involving students in education, or employees with impairments who need reasonable adjustments, or access to facilities. In these cases enquirers are provided with contact details for the Australian Human Rights Commission.

Enquiry summary 1

Race discrimination in Employment

An employer enquired about asking employees not to speak in a language other than English at the workplace.

Race discrimination in employment is unlawful under the Act. This includes discrimination on the ground of a characteristic that appertains generally to persons of a particular race, which includes ethnicity and national origin. Speaking a language other than English is a characteristic that generally appertains to people of non-English speaking ethnicity or national origin.

In the current financial year 6.1% of enquirers were advised to contact the Australian Human Rights Commission or an appropriate advocacy service to discuss whether the federal jurisdiction may be a more appropriate avenue for investigating their allegations.

Where allegations of unlawful discrimination are accepted by the Commissioner as complaints under the Act, they are delegated to a conciliation officer to investigate and endeavour to conciliate.

Details of the data relevant to this section are provided in Appendix A of this report.

Enquiry summary 2

Impairment discrimination in Clubs/Incorporated Associations

A playgroup committee member wanted to know if imposing a rule on children requiring proof of vaccination is considered discriminatory

Imposing a restriction on a person who cannot produce proof of vaccination is not discrimination under the Act unless the restriction is in connection with one or more grounds of discrimination under the Act. For example, if a child is not able to be vaccinated due to an impairment of some kind, then the requirement might be considered unreasonable in the circumstances.

Answering enquiries from the community

The Commission received 1,256 enquiries during 2020-21 from people who phoned the enquiry line, sent a written enquiry electronically or by hardcopy, or visited the Commission's office in person. The number of enquiries was 4.7% lower than the 1,318 enquiries received in the 2019-20 financial year.

Two thirds of all enquiries (66.2%) received in 2020-21 were by telephone.

Of the 394 written enquiries received, 88.9% were lodged via the Commission's website, email or by Facebook.

Nature of enquiries

Of the 1,256 enquiries received in 2020-21, 68.9% were about matters that fell within the jurisdiction of the Act. If an enquiry was not within the jurisdiction of the Act, where possible a referral to an appropriate state or federal agency or non-government organisation was provided.

The two most common grounds of discrimination cited by enquirers were impairment (23.4%) and race (14.1%). These grounds have consistently been the two grounds with the highest number of enquiries for the past three years. This pattern mirrors the grounds of complaints accepted for investigation, where in 2019-20 impairment and race were also the grounds on which the highest number of complaints were lodged.

There were 31 enquiries on issues related to COVID-19 in relation to the requirement to wear masks, or an individual's right to withhold medical information. Most of these were enquiries relating to impairment discrimination (48.4%), with lower numbers relating to discrimination on the grounds of age, race and family responsibility.

Enquiry summary 3

Sexual Orientation in Education

An enquirer wanted the Act amended to allow students to take action against other students who are treating LGBTI students unfairly.

Although sexual orientation discrimination in education is unlawful under the Act, it does not cover discrimination by students against other students. Further, the Act does not make discrimination on the ground of gender identity unlawful. Gender identity discrimination is unlawful under the Sex Discrimination Act 1984, but, again, not student to student. The enquirer was referred to the Australian Human Rights Commission.

Enquiry summary 4

Age discrimination in Goods, Services and Facilities

An individual wanted to know if limiting COVID-19 vaccine choices for people over the age of 60 while giving those under the age of 60 a choice amounts to age discrimination?

The enquirer was told no, as people under 60 are not able to choose either.

Note: This and similar enquiries have been referred to Australian Human Rights Commission as the allocation of vaccines is a Commonwealth Government decision.

The most common areas of discrimination mentioned by enquirers in 2020-21 were consistent with the areas mentioned in previous years, with nearly half of the enquiries handled relating to the area of 'work' (45.8%). Enquiries regarding provision of goods, services and facilities were the next highest area (19.9%), followed by education (4.5%).

Figure 1: Top six grounds of enquiries received 2020-21

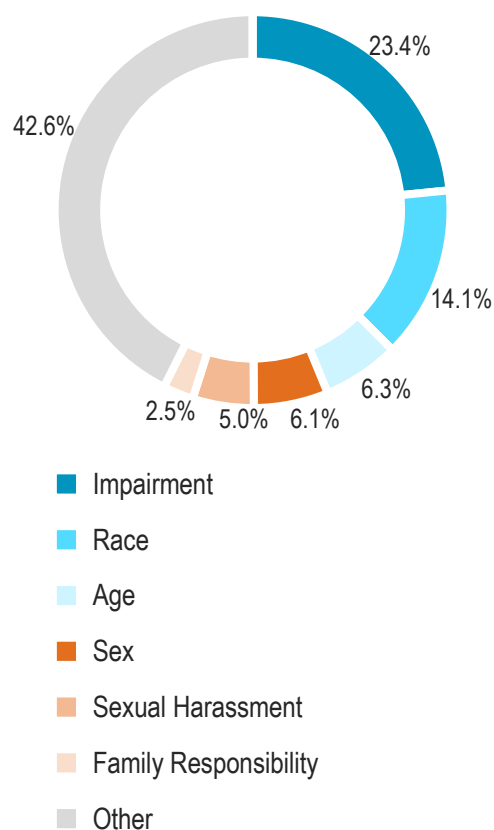
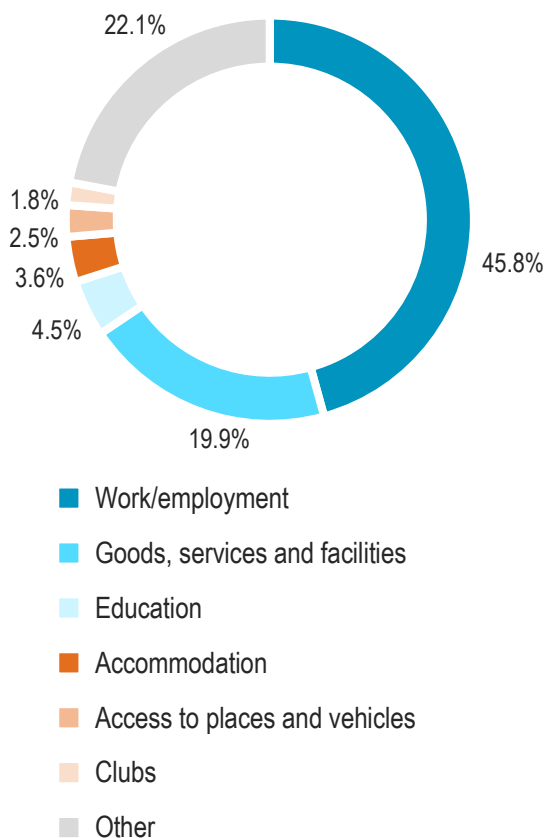


Figure 2: Top six areas of enquiries received 2020-21



Enquiry summary 5

Sexual Harassment in Employment

A 15 year-old girl alleged being sexually harassed and threatened by a 17 year-old co-worker in a fast food shop. The management were informed but nothing was done.

Sexual harassment in employment is unlawful under the Act. An employer can be held vicariously liable for the unlawful conduct of its employees, unless the employer took all reasonable steps to prevent the conduct.

Enquiry summary 6

Race discrimination in Employment

A male chef of Asian background alleged the head chef at his workplace treated him and other male colleagues of Asian background less favourably than he treated those of a non-Asian background, and single females.

It is unlawful for an employer to discriminate against its employees on the grounds of race or sex. The Act does not recognise intersectionality, which is a combination of one or more attributes, for example, race and sex. Consequently, two complaints would need to be lodged with the EOC - one on the ground of race, the other on the ground of sex.

In 2020-21 a majority of the enquiries were from individuals (83.3%) including 4.6% from prisoners. Other enquiries were from public sector organisations (6.7%), and the remainder included the following enquirers:

- Private enterprise (4.9%)
- Non-government organisations (2.8%)

Of the individual enquirers, 47.1% were from women and 41.1% from men, and 2 enquirers identified as intersex, with the remainder where gender was not recorded (9.9%).

Over seventy percent of all enquiries (76.4%) were people reporting allegations of discrimination or requesting information about potential complaints. Other enquiries related to employers and potential respondents seeking information about their responsibilities under the Act (7.6%), and a smaller number of enquirers requested copies of Commission publications (3.6%).

Of the 1,256 enquiries received, 77% related to the Act and were answered, while 19.3% were referred to organisations including:

- WA Government departments or agencies (7.1%)
- The Australian Human Rights Commission (6.1%)
- Non-government organisations, mainly community legal centres (4.5%)
- Unions and peak employer bodies (1%)

The remainder of enquiries (3.2%) were matters including correspondence where no address or identifying information was provided.

Enquiry summary 7

Pregnancy discrimination in Employment

A parent enquired on behalf of their daughter who worked for a real estate agent and is six months pregnant. She alleged that her employer yelled at her and told her to resign.

Pregnancy discrimination in employment is unlawful under the Act, however, pregnancy must be one of the reasons for the alleged less favourable treatment. A dispute between an employer and an employee that does not involve one or more grounds of discrimination is not unlawful under the Act.

Enquiry summary 8

Breastfeeding discrimination in Employment

A woman alleged discrimination under the ground of breastfeeding after her request for a lock on her door so she could express breast milk in private was refused by her employer. The woman's male colleagues barged in on several occasions, including when she had her breast exposed, even though she has put a 'Do Not Enter' sign on her door.

Discrimination on the ground of breastfeeding is unlawful under the Act, including in the area of employment. The Act makes it unlawful for an employer to subject an employee to a detriment on the ground of breastfeeding or bottle feeding.

Enquiry summary 9

Age discrimination in Goods, Services and Facilities

A financially self-sufficient homebuyer in his 70s wanted to purchase a property. He alleged that lenders were declining his loan application because of his age.

While age discrimination is covered under the Act, the federal National Credit Code compels lenders to consider age among other factors when assessing capacity to repay. The individual was referred to the Australian Human Rights Commission, as the Age Discrimination Act 2004 has federal jurisdiction.

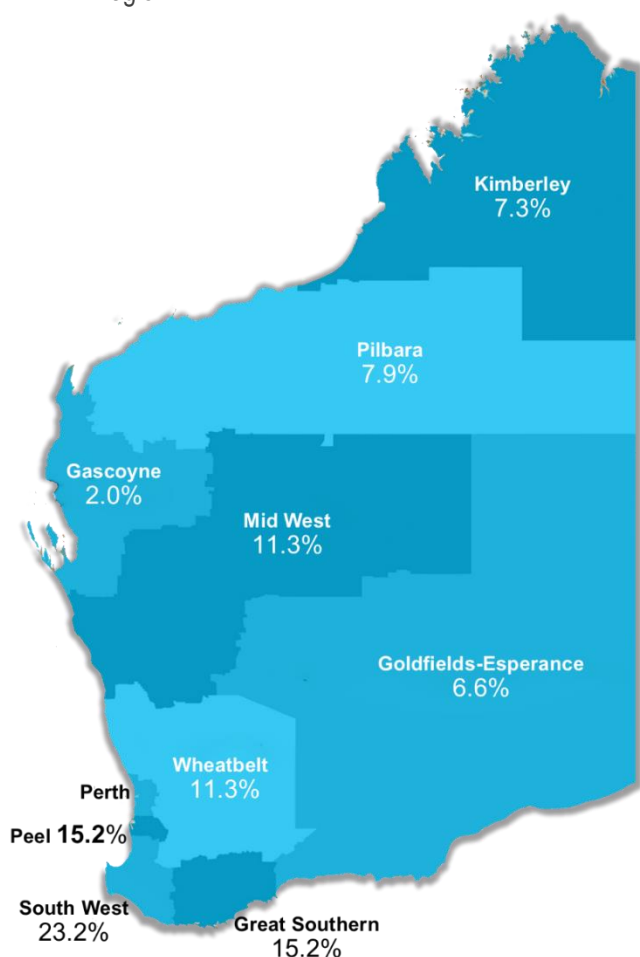
Residence of enquirers

Six hundred and forty seven enquirers nominated Western Australia (WA) as a place of residence, and of these 74.7% lived in the Perth metropolitan region and 23.3% lived outside the metropolitan region, and 2.0% lived in the Indian Ocean Territories.

Of the WA enquirers from non-metropolitan regions, 23.2% lived in the South West region, 15.2% in the Peel and the Great Southern regions, 11.3% in the Wheatbelt, 7.9% in the Pilbara, and 7.3 % in the Kimberley. Smaller numbers of enquirers lived in other regions of WA.

Figure 3: Regional enquiries received 2020-21

Map of WA with percentages of enquirers by region



Enquiry summary 10

Impairment discrimination in Employment

A young man who is profoundly deaf secured a job on a mine site but the subcontractor withdrew the offer after risk assessment even though mining company had put him through induction and was happy to employ him.

It is unlawful to discriminate against a person applying for a job on the ground of that person's impairment, unless the employer or contractor can demonstrate that the person would either not be able to do the job, or in order to carry out the work, would require services or facilities which would impose an unjustifiable hardship on the employer or contractor.

Enquiry summary 11

Racial Vilification in Goods, Services and Facilities

A man alleged his neighbour directed a racial insult at his four year-old son, and threatened to physically assault his children.

The Act does not provide protection against racial vilification in public spaces. The enquirer was informed that the Racial Discrimination Act 1975 makes racial vilification unlawful, and was referred to the Australian Human Rights Commission.

Enquiry summary 12

Bullying in Employment

An individual who worked in the retail industry alleged that they were being bullied by their manager.

The enquirer was referred to the Fair Work Commission as the Act does not cover bullying as a ground of discrimination.

Community education and training

The Commission has a small team of experienced community education and training officers who raise awareness about equal opportunity, human rights and legal obligations to promote the objects of the Act. This is done through the adoption of best practice models in:

- Organisational training
- Community education on equal opportunity and human rights
- Working with stakeholder groups on specific projects
- Community development work with groups that have specific needs, such as new and emerging migrants and refugees.

Fee for service training

Training which is provided on a fee for service basis is delivered in two categories: Mixed profile and Customised.

Mixed profile training is where courses are publicly advertised, and participants may come from a range of organisations.

Customised training is for an organisation which requests a course to be run exclusively for its staff and the course is adapted to meet the needs of the organisation.

In 2020-21 participants in fee for service and mixed profile training were drawn from public sector organisations, local government, the private sector and community organisations.

There were 83 sessions of fee for service training in the 2020-21 year reaching 1217 participants. This was an increase on the number of sessions held in 2019-20 of 70 sessions. This increase was due in part to courses which were re-scheduled after being cancelled due to COVID-19 restrictions.

The Commission reviews and updates training material on an ongoing basis to ensure course content remains relevant. The Commission has continued to test and refine new ways to provide whole-of-organisation training aimed at supporting workplace cultures which are inclusive and free of discriminatory practices.

In 2020-21 the course with the highest number of participants was *Sexual Harassment and Workplace Culture* with 410 participants, followed by *Equal Opportunity Law and Workplace Culture* with 304 participants.

Other courses have been developed and refined to meet industry specific or niche issue specific training need such as courses tailored for sports clubs, and courses such as *Bystander to Upstander*, which provides skills and confidence to allow bystanders to intervene in a situation where they observe a person being harassed or discriminated against.

Evaluation

Participants who enrol to attend fee for service training are requested to complete a pre-training questionnaire to measure their level of knowledge of the Act.

Perceptions before training

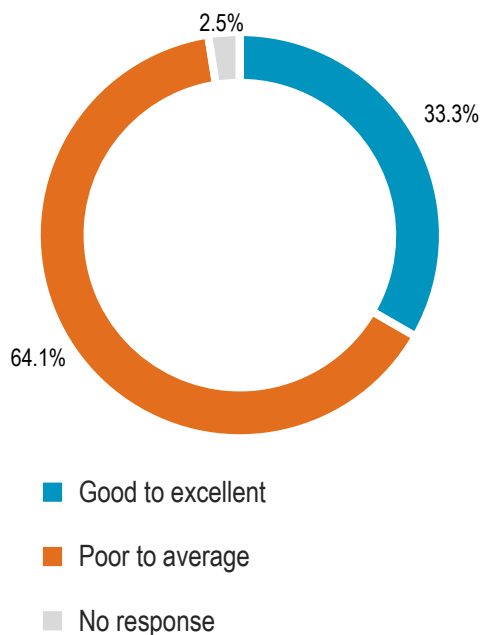
Participants are asked their current level of knowledge about:

- *the Equal Opportunity Act*
- *what unlawful discrimination is*
- *what can be done about it?*

Of the participants who responded to these three questions:

- 66.7% said they had a 'poor to average' knowledge of the Act;
- 59.7% said they had a 'poor to average' knowledge of what unlawful discrimination is; and
- 66.2% they had a 'poor to average' knowledge of what could be done about this.

Figure 4: Participants' knowledge prior to training for 2020-21



Prior to attending training, some participants said they hoped to:

- gain more knowledge about treating all people with respect
- expand my knowledge on the EO Act so I can make a difference within our organisation with our Graduates Trainees, apprentices and other staff
- gain greater awareness of workplace procedures and processes and the less obvious subtle discrimination situations.

Perceptions after training

Participants are also asked to complete a post training evaluation. After attending the training course, participant perceptions of having a 'good to excellent knowledge and understanding about equal opportunity' had increased from just over 30% before the course, to 93.4% after.

Of the 892 people who participated in fee for service training sessions, 844 (94.6%) completed a post-course evaluation. The outcome of these evaluations indicated a consistently high level of satisfaction with the education and training experience.

When asked if the participants would recommend the Commission's training courses to their

colleagues, 91.9%, said they would. Some participant comments on Commission training courses were: '

Contact Officer Role

- A lot of content covered in a fun way, plenty of practical examples to test knowledge
- Very satisfied with presentation, facilitators style 10/10 and would recommend to attend
- Informative, great resources, knowledgeable trainer, helpful exercises practical

Equal Opportunity Essentials for Workplaces

- All employees should be on the same page with expectations on behaviour

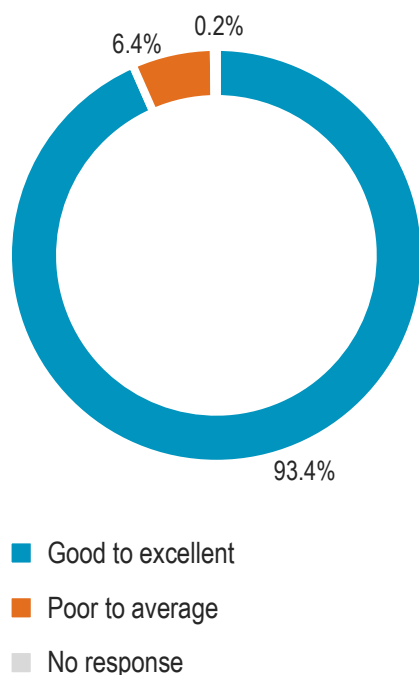
Sexual Harassment - Know where the line is

- I think this should be a standard training element within all organisations
- Sexual harassment happens often. Everyone should know where the line is and how to deal with it

Equal Opportunity and Diversity

- A really good reminder of how to behave at work and at home
- Interesting to hear the thoughts of others on certain topics and the differences we have

Figure 5: Participants' knowledge after training for 2020-21



Perceptions about training staff

Feedback indicated that 97.6% of participants thought the Community Education officer's facilitation style and delivery was very effective. Participants said the trainers were:

Sexual Harassment

- Very satisfied with presentation, facilitators style 10/10 and would recommend to attend
- In person training facilitated by an expert trainer expanded my knowledge and understanding

Equal Opportunity Law and Workplace Culture

- Very useful content learnt some concepts that I was not aware of in terms of EEO
- The trainer seemed a nice and relatable person. Actually was good to have a male facilitator

Equal Opportunity Essentials for Managers and Supervisors

- Trainers were fantastic, very knowledgeable and fun building great course
- Presenters were informative, great resources, knowledgeable trainer, helpful exercises, practical

Rights based education

Community education officers delivered rights based sessions to community groups, not-for-profit organisations, and other groups. Rights based training serves a valuable function in educating minority groups including Aboriginal people, people with disability, migrants, refugees, young people and others who may not be fully aware of the protections available under the Act, or their obligations towards others.

Ninety one rights-based sessions were delivered in 2020-21 in Perth and regional WA which was marginally higher than the previous year.

Rights based sessions included:

- *Equal Opportunity Law – Awareness:* Sessions were conducted with agencies including the Wheatbelt Community Resource Centre, North metropolitan TAFE, South metropolitan TAFE, Advocacy WA Bunbury and Explorability
- *Sexual Harassment - Know Where the Line Is:* Sessions were conducted with University of Western Australia Guild and Colleges, and other organisations.
- *Dealing with sexual harassment complaints:* Sessions were conducted with Legal Practice Board WA, Western Australian Local Government Association
- *Equal Opportunity Law – Information Session:* Sessions were conducted with Merredin Community Resource Centre, Curtin University and other organisations.

Equal opportunity in sport

In 2020-21 the Commission continued:

- Sponsorship of the Australian Institute of Sport's Play by the Rules website and program
- Being a point of contact for sports associations and clubs for enquiries relating to discrimination law
- Presenting to sports clubs where particular issues have arisen
- Presented three Member Protection Information Officers training sessions with staff from the City of Bunbury, Department of Local Government Sport and Cultural Industries, and the City of Busselton.

Uni students debate protection for people with impairments

In August 2020 students from Curtin University's Built Environment faculty debated the following topics:

- "Do measures to achieve equality in equal opportunity help or hinder racial tension?" and
- "Me Too type allegations are people being too sensitive about mere flirtation or attraction".

Commission staff Diana MacTiernan, Sarah Johnston and Mike Harte adjudicated debates between the student panels. Following the debates, the Commission staff provided an overview of the *Equal Opportunity Act 1984* in one session and after the debate on sexual harassment a Know the Line session.

Outreach program in Regional WA

The Commission has a state-wide mandate to reach regional areas and has a three-year plan which aims to cover four regions each year. Trips to the more distant regions of WA are usually for a duration of approximately a week and involve two Community education officers travelling together for reasons of occupational health and safety and to get better coverage in the region. Regions closer to the metropolitan area may involve a single officer making a two or three-day round-trip.

Trips usually aim to include a mixture of fee for service and rights based sessions. In the past year the Commission has continued to provide several sessions free of charge when usually a fee would apply. This is because an increasing number of government and private sectors organisations have limited discretionary education and training budgets.

The Commission is also contracted from time to time by organisations to provide on-site fee for service training in regional and remote areas. This has assisted the Commission to undertake trips additional to the regional plan, and where possible, to conduct additional training, networking, and community development activities in these regions.

Regional visits provide valuable insights into issues that affect diverse communities throughout WA.

South West

One community education officer travelled to Bunbury in September and December 2020 and March and June 2021 to conduct fee for service and rights based training. This included the popular *Equal Opportunity Essentials* course aimed at people with a general interest in discrimination issues, and multiple sessions *Equal Opportunity Law – Awareness and Member Protection Information Officer Workshops*, as well as *Sexual Harassment and Workplace Culture* courses.

Meetings were also held with community organisations, including Aboriginal organisations in Bunbury and Busselton.

Pilbara

In June 2021 a community education officer travelled to the Pilbara to Karratha and Roebourne, met with community groups and delivered courses on *Sexual Harassment and Workplace Culture*.

Goldfields

In May 2021 a Community Education officer travelled to Kalgoorlie Boulder to deliver training on *Sexual harassment & Workplace Culture*.

Mid West

In August and October 2020 and May 2021 community education officers travelled to the Midwest to meet community organisations and service providers in Geraldton and Mullewa.

Several rights based sessions were conducted in these towns. In addition, the Commission delivered a course in Geraldton on Equal Opportunity Law and Workplace Culture.

Wheatbelt

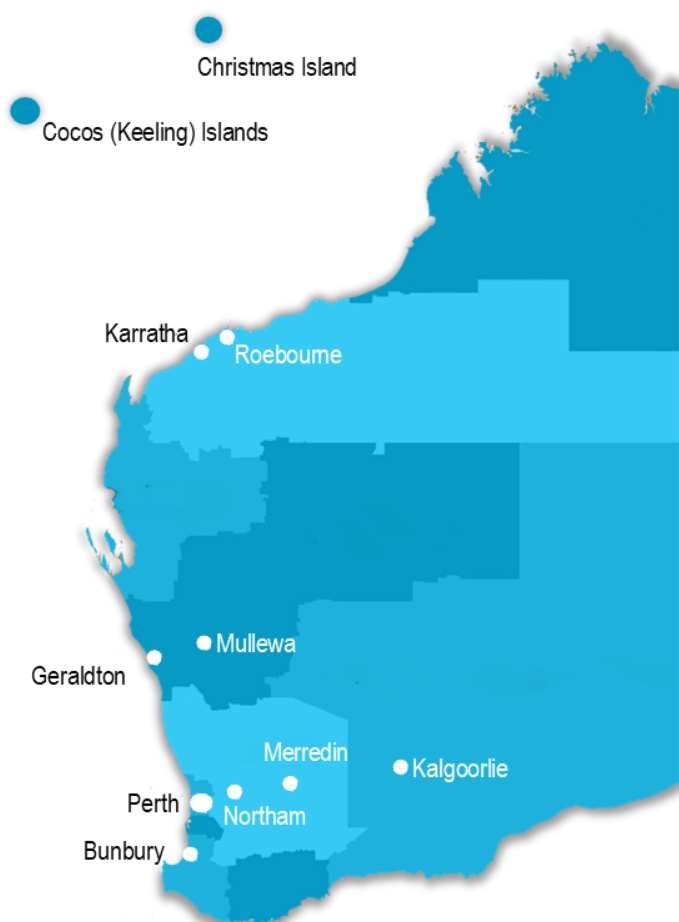
Community education officers travelled to Northam and Merredin in March 2021 and delivered courses on Equal Opportunity Law – Awareness. This outreach program was conducted in conjunction with other accountability agencies including the Ombudsman and the Health and Disability Services Office (HaDSCO).

Digital outreach

The COVID-19 pandemic has raised awareness about the benefits and cost effectiveness of conducting online meetings using Skype, Teams and similar social media platforms.

In April 2021 the Commission, in conjunction with the Ombudsman, HaDSCO and other accountability agencies, held an online state wide consultation and information sharing session with Aboriginal people and other minority groups.

Figure 6: Regional visits for 2020-21



Indian Ocean Territories

The Equal Opportunity Commission conducted an outreach trip to the Indian Ocean Territories (IOT) from 15 to 25 June 2021. This outreach work is conducted in accordance with the current Service Delivery Arrangement (SDA) with the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications.

This trip was in lieu of the biennial community outreach trip which was cancelled in March 2020 due to COVID-19 travel restrictions.

Two Commission officers in partnership with officers from the Ombudsman Western Australia, the Department of Mines, Industry Regulation and Safety – Consumer Protection, and the Health and Disability Services Complaints Office (HaDSCO), conducted various activities on Christmas Island and Cocos (Keeling) Islands.

Combined information forums and complaint clinics, organisational and community meetings, and private enquiry appointments were held with community members of Christmas and Cocos Islands. The collaborative model enabled organisations and community members to access a wide variety of information from the partnering agencies and ensure that questions could be readily answered by the appropriate agency. The officers conducted 27 meetings with members of the diverse and unique communities of Christmas and Cocos Islands.

Avenue of redress for unlawful discrimination

Handling complaints

Nature of complaints

The Commissioner will investigate a complaint of unlawful discrimination if a person alleges they have been discriminated against under a section of the *Equal Opportunity Act 1984* (the Act). Unlawful discrimination may have occurred where a person alleges they have been treated less favourably because of one or more of the 16 grounds of unlawful discrimination under the Act (see table 12), and in one or more of the areas of public life listed in the Act. Some grounds of discrimination do not apply in some areas of public life, therefore allegations with a ground but without an appropriate area, cannot be accepted for investigation.

In addition to the grounds of discrimination referred to above, there are other matters which are unlawful in WA and can be investigated. These include victimisation, where a person is subjected to some detriment for asserting their rights under the Act or lodging a complaint of unlawful discrimination or agreeing to be a witness.

In addition, there are two other grounds of unlawful discrimination arising from other WA Acts, which confer jurisdiction to the Commissioner to investigate, conciliate or refer to the State Administrative Tribunal (the Tribunal) for determination:

- i) Victimisation for making a disclosure under the *Public Interest Disclosure Act 2003*
- ii) Discrimination on the ground of a spent conviction in employment-related areas under the *Spent Convictions Act 1988*.

Where a potential complainant has not clearly identified a ground and area of complaint, they are supplied with information about what constitutes unlawful discrimination under the Act and asked to further clarify their matter in order for it to become a complaint.

In any matter accepted as a complaint, before the matter can progress, the complainant needs to provide a minimum level of substance to the allegation.

Once the Commissioner is satisfied there is sufficient substance, the allegation is put to the respondent/s who will be requested to provide a response. If deemed appropriate, a conciliation conference will be held.

If conciliation does not provide a resolution to the complaint and the complaint is not dismissed, the Commissioner will refer it to the Tribunal and the complainant may request assistance from the Commissioner to progress the matter there.

Should the Commissioner determine the complaint is to be dismissed under section 89 of the Act as lacking in substance, vexatious, frivolous or misconceived, the complainant has the right to require the matter be referred to the Tribunal for determination. In this case the complainant is responsible for their legal costs.

Numbers of complaints

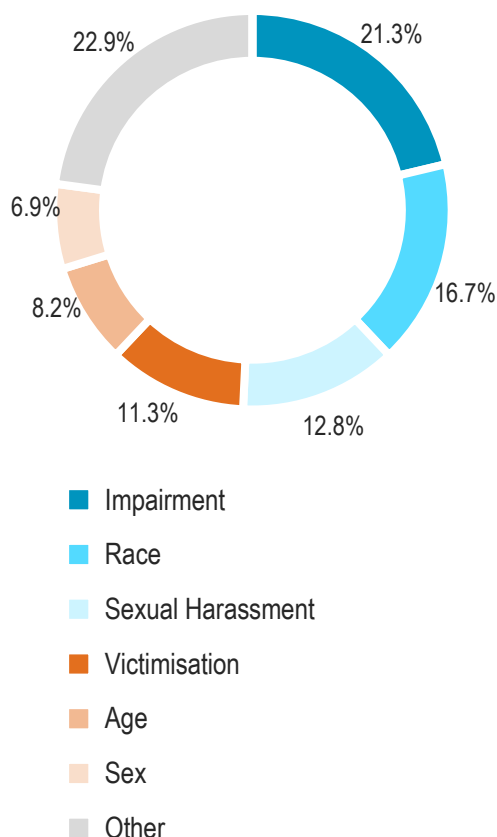
In 2020-21 the Commission received 564 new complaints. This is a 38% increase on the 410 complaints received in 2019-20. When looked at over a 30-year period, the number of complaints received has risen and fallen over time with the lowest annual number of lodged complaints being 240 received in 1987-88 and the highest being 795 in 2011-12 (see Appendix B).

These fluctuations reflect factors including the economic cycle, the pandemic and in some years, such as 2011-12, a result of increased activity by some advocacy agencies. Over this period there have also been different methodologies in accepting complaints, which affects numbers.

Of the various grounds of unlawful discrimination under the Act, complaints of impairment discrimination have remained the highest for many years, followed by race.

In the past year, the highest number of complaints received was again impairment discrimination (21.3%), followed by race (16.7%), sexual harassment (12.8%), and victimisation (11.3%). Figure 7 shows the six highest grounds received.

Figure 7: Top six grounds of complaints received 2020-21



Complaint summary 1

Impairment discrimination in employment

A woman alleged imputed impairment discrimination following withdrawal of a job offer after the labour hire company learnt she had a previous Workers' Compensation injury, from which she had fully recovered.

Outcome: At conciliation the complainant was offered financial compensation but she said "No, that was not the intent of this complaint". The CEO apologised for what had happened and said a new manager would be placed in the Perth office. The woman was advised she would also be offered additional suitable work.

Employment includes seven categories, with the largest category consisting of employees and applicants. Employment is the area of public life which has the highest number of allegations of unlawful discrimination and in 2020-21 a total of 62.6% of all complaints related to employment. The area with the second highest number of complaints was the provision of goods and services with 21.2% (Figure 8). The number of complaints relating to work was similar to the previous financial year, but the percentage of complaints relating to goods and services increased by over 18% from 73 complaints to 119 in 2020-21. This increase coincided with COVID-19 restrictions which caused disputes over the wearing of masks in shops, clubs and other public places.

Figure 8: Top six areas of complaints received 2020-21

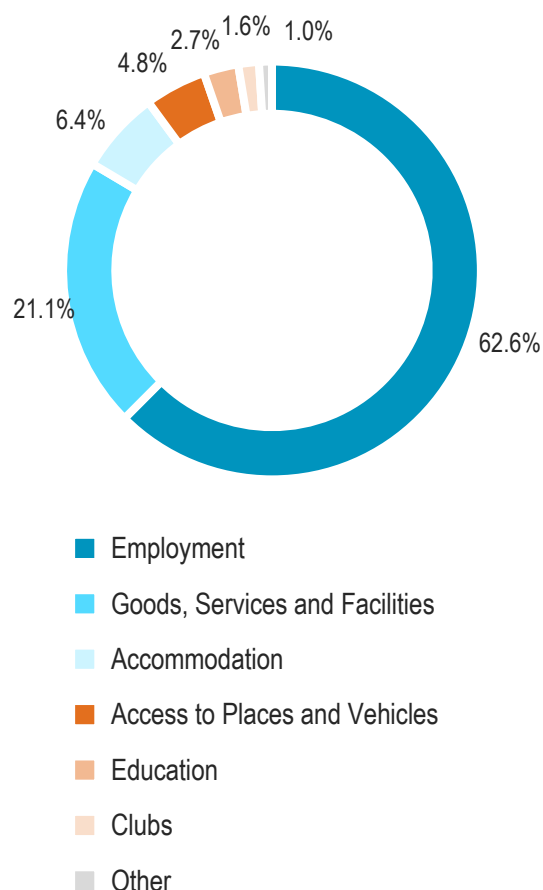
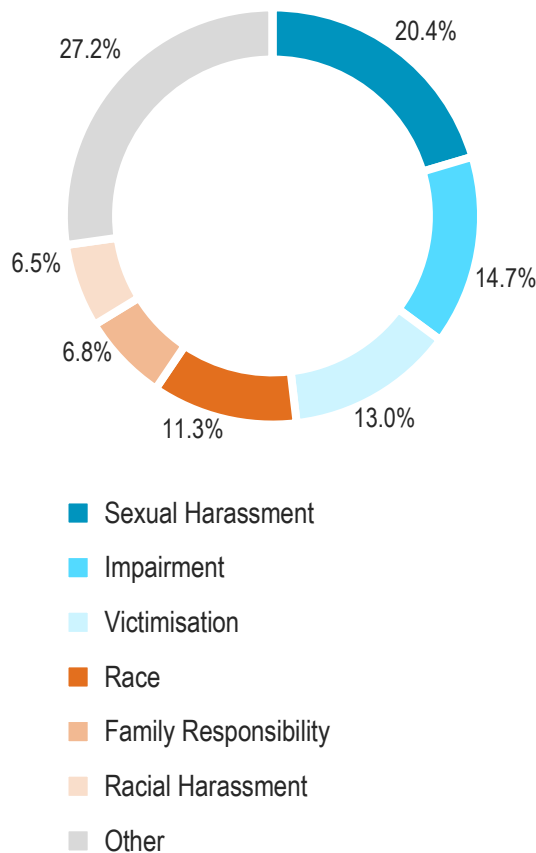


Figure 9 shows the six highest grounds on which complaints are lodged in the area of 'work'.

The highest number of work related complaints were lodged on the ground of sexual harassment (72) which was 20.4% of work related complaints.

The second highest number of work related complaints were on the ground of impairment (52), lodged by people with physical, mental, sensory or other impairments, as well as complainants with an injury.

Figure 9: Top six grounds in work 2020-21



Lodgement of complaints

The Act requires complaints to be in writing, and written complaints can be lodged by email, in person, by post or via the Commission's website. Complainants who have difficulty writing may be assisted by the Commission. Complaints may be in any language and their translation to English is arranged by the Commission as required.

In 2020-21 lodgement of complaints on the Commission's website was 92.2% of complaints, a

significant increase on the 81.7% lodged in the previous year.

The number of complaints delivered by post and by hand continued a historical trend declining this year to 7.8% from the 18.3% in 2019-20.

Complaint summary 2

Sex discrimination in employment

A woman complained a financial institution's policy to only provide loans to people with a full-time job was discriminatory to women, who are overrepresented in the part-time workforce. The woman said she is a permanent employee, who would earn more than a full-time apprentice, but she was not able to access the loan as she is part-time. When the woman approached the institution, she was advised she would be ineligible for the loan, regardless of her income, solely due to her part-time status.

Outcome: The Respondent agreed to update credit policies and procedures and disseminate this information nationally and confirmed in the future they saw no reason why loan applications from part-time workers would be treated differently to those who work full-time.

Complaint summary 3

Sexual harassment in employment

A woman alleged sexual harassment against a colleague and her employer. The allegations included inappropriate sexual comments which were reported to the HR department. However, the complainant was not satisfied with the outcome of the internal investigations at her workplace therefore decided to lodge a complaint with the Commission.

Outcome: The complaint against the individual was resolved with a written letter of apology. The complaint against the employer was conciliated with a settlement which included a financial compensation of \$5000.

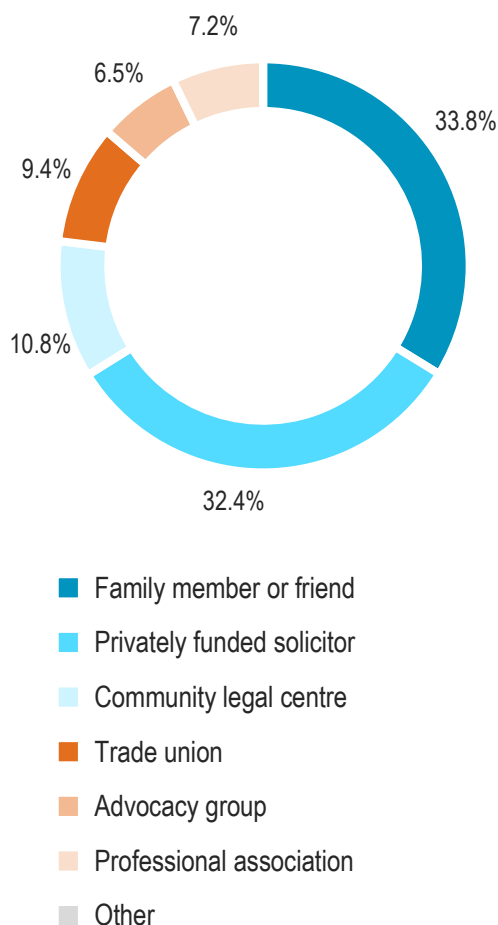
Representation by lawyers or others

As in past years, most complainants (75.4%) were not represented at any stage of the complaint handling process, from the preparation of the complaint statement, through to the resolution of the complaint.

Of the 139 matters where complainants were represented, the highest proportion, 33.8%, were represented by family or friends, 32.4% by privately funded solicitors, and community legal centres represented 10.8%.

Figure 10 shows the breakdown of all complainants who were represented.

Figure 10: Complainant representation 2020-21



Complaint summary 4

Sexual harassment in employment

A man alleged he was sexually harassed by a male work colleague at an end of year party, by being offered an intimate sex act, and on other occasions was emailed sexual propositions. He alleged sexual harassment and victimisation because his employer failed to investigate the allegations and victimised him further by investigating a counter allegation lodged against him.

Outcome: The matter resolved with the man re-located to a different section of the organisation where he had no contact with the workplace where he was in conflict with other staff over the sexual harassment allegations.

Complainants

The Commission receives complaints primarily from individuals, and occasionally from groups, who allege unlawful discrimination has occurred in Western Australia according to the grounds and areas of the Act.

This section looks at the demographic characteristics of the people who have lodged complaints. This data is routinely collected from complainants to assist the Commission to identify trends and continually improve its complaint handling service.

Characteristics of complainants

Gender

In 2020-21 a higher number of women lodged complaints (55.7%) compared to men (44.0%) and one complainant identified as non-binary. This is consistent with previous years.

Whilst the total number of complaints lodged is relatively even between men and women on grounds such as race, impairment and racial harassment, there are gender variations with some grounds.

For example, pregnancy and breastfeeding are, with rare exceptions, gender specific to women, and in the current financial year, six complaints were lodged on these grounds.

Other grounds where there are significant variations include sexual harassment (women 60 complaints, men 12) and sex (women 30 complaints, men 9). One ground where historically more men than women lodge complaints is age where in 2020-21 men lodged 28 complaints compared to 18 by women.

Complaint summary 5

Race discrimination in employment

An African woman, who was nearly due to receive long service leave, was shocked when police turned up at her home to investigate an allegation she had been stealing equipment from her workplace. She said she was 'racially profiled' by being falsely accused of stealing at work and lodged a complaint of race discrimination.

The woman was so distressed by the accusation she resigned her job.

Outcome: The employer apologised and asked her to return to her work, but she declined. She was paid compensation of \$1804 and provided a written apology.

Birthplace

As in past years, most complaints were lodged by people born in Australia (64.6%). This figure includes Aboriginal and Torres Strait Islander people who lodged 12.8% of all complaints.

Two hundred complaints (35.4%) were lodged by people born outside Australia, which is slightly above the proportion of the Western Australian overseas born population (32.3%) according to the 2016 Census.

Of 200 complaints lodged by people born overseas, the highest number were from people born in the following countries: United Kingdom (32), India (16), New Zealand (14), Zimbabwe (9) and Egypt (8).

When complainants born outside of Australia are categorised by geographical regions, the greatest number came from Europe, including the UK and Ireland (30.8%), followed by Africa and the Middle East (29.7%), and Asia (23.1%). Fewer complainants were born in NZ and Oceania (9.3%) and the Americas (6.0%).

While the proportion of complainants from Europe remained similar to the previous financial year, there was a 7.2% increase in complaints from Africa and the Middle East, and a 6.9% reduction in complaints from people born in Asia.

Language

Sixty-seven complainants (11.9%) specified they spoke a language other than English at home. Of this group, the highest percentage were Arabic speakers (14.9%), followed by Spanish (9.0%) and Bangla (7.5%).

Accredited interpreters were used as required in meetings and conferences. Accredited translators were engaged when complaint statements and other documents were submitted in languages other than English or when there was a need to translate documents into a complainant's preferred language.

While no Aboriginal and Torres Strait Islander complainants stated they spoke a language other than English, demographic data indicates some complainants were likely to speak 'Aboriginal English', and in some instances one or more Aboriginal languages.

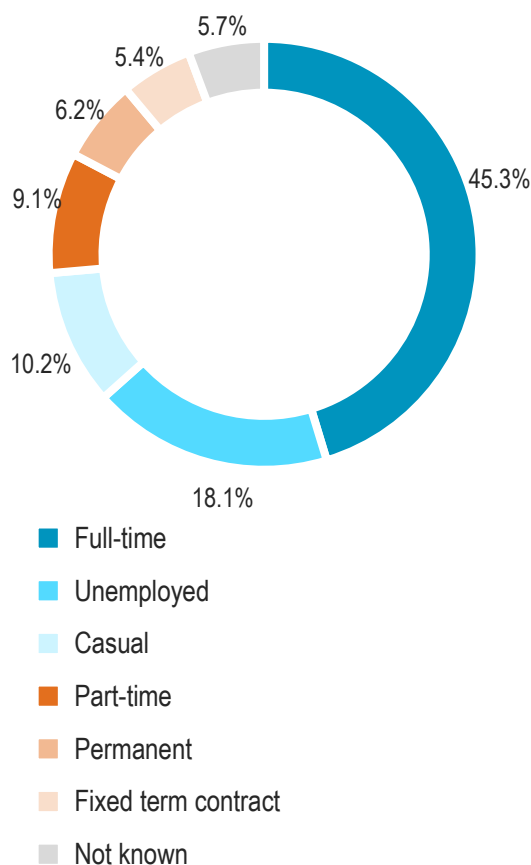
Employment status

Of the 564 complaints received in the current year 248, or 44.0%, listed their work status as 'in paid employment', 27.0% said they were 'looking for work', and 9.4% were 'students'.

These figures are similar to past years.

Details of other employment categories are provided below.

Figure 11: Complainant employment status 2020-21



Complaint summary 6

Age discrimination in employment

After 43 years of service a man received a redundancy capped at 52 weeks and claimed age discrimination as a younger employee with 17 years of service would get the same redundancy.

Outcome: The complaint was dismissed as misconceived and lacking in substance as there was no evidence of direct and indirect discrimination as redundancies are payments for 'future inconvenience, hardship and loss of income' not a reward for past service..

Age

The highest number of complaints were lodged by people aged 35-44 years (25.7%), followed by 45-54 years (21.3%) and 25-34 years (18.4%). A small number of complaints were lodged on behalf of people under 12 years of age (2.1%), or by people over 75 years (0.4%).

There were some differences in grounds of discrimination lodged according to age. The list below provides the highest ground(s) of discrimination lodged by each age group:

- 0-12 years – impairment 58.3%
- 13-17 years – age 30%, religious conviction 20% and sexual harassment 20%
- 18-24 years – sexual harassment 44% and race 20%
- 25-34 years – impairment 21.2%, race 14.4% and sexual harassment 11.5%
- 35-44 years – impairment 22.1% and race 17.2%
- 45-54 years – impairment 23.3% and race 17.5%
- 55-64 years – impairment 21.7% and race 17.4%
- 65-74 years – age 44.4% and race 18.5%
- 75+ years – age 100 %.

Complaint summary 7

Impairment discrimination in employment

During a COVID-19 lockdown a woman alleged she was denied access to a store because she refused to wear a mask which was a state-wide health requirement at that time.

She claimed she had a medical condition that exempted her from wearing a mask, and when asked to produce this exemption by a number of staff members she refused saying her medical information was “none of their business” - and she was denied entry.

The woman was advised the complaint would progress once she established her impairment and provided medical certification confirming she was unable to wear a mask and a medical certificate stating she had an exemption.

Outcome: Following the request for the woman to provide this information, she failed to make contact and the complaint was lapsed and subsequently closed.

Of the complainants who lodged complaints on the ground of impairment, 47.5% related to a physical impairment, 32.5 % to a mental health/psychosocial condition, and 7.5% to an intellectual impairment. Allegations related to vision related impairments comprised 2.5% of impairment complaints, and complainants who were deaf or hard of hearing comprised 2.5%.

Residence of complainants

Over 72.2% of complainants lived in the metropolitan area.

Of the 127 WA complaints lodged by people living outside the metropolitan areas, the largest percentage lived in Peel (29.1%), the South West (17.3%), Goldfield Esperance (14.2%) and the Great Southern (11.0%).

There was a significant increase in the number of complaints from the Goldfields Esperance region from 4.9% in 2019-20, to 14.2% in 2020-21. These complainants were lodged against both private and public sector organisations in the region.

The overall increase in the number of complaints lodged by people outside the metropolitan area is a positive outcome given that the office and staff of the Commission are based in Perth, and resources to conduct outreach programs in regional and remote WA are limited.

Complainants with impairments

This year 19.3% of complainants stated they had an impairment, but only a subset of these complainants lodged complaints on the ground of an impairment.

The Act defines ‘impairment’ to include anyone with a physical, intellectual or mental impairment, a person who has had an impairment in the past, or someone assumed (imputed) to have an impairment. The Act also defines short-term and chronic medical conditions and injuries as being an ‘impairment’.

In 2020-21, 564 complaints were received and of these 120 were on the ground of impairment (21.3%). Of these impairment complaints, 62.6% were in the area of employment and 21.1% were in the area of the provision of goods services and facilities.

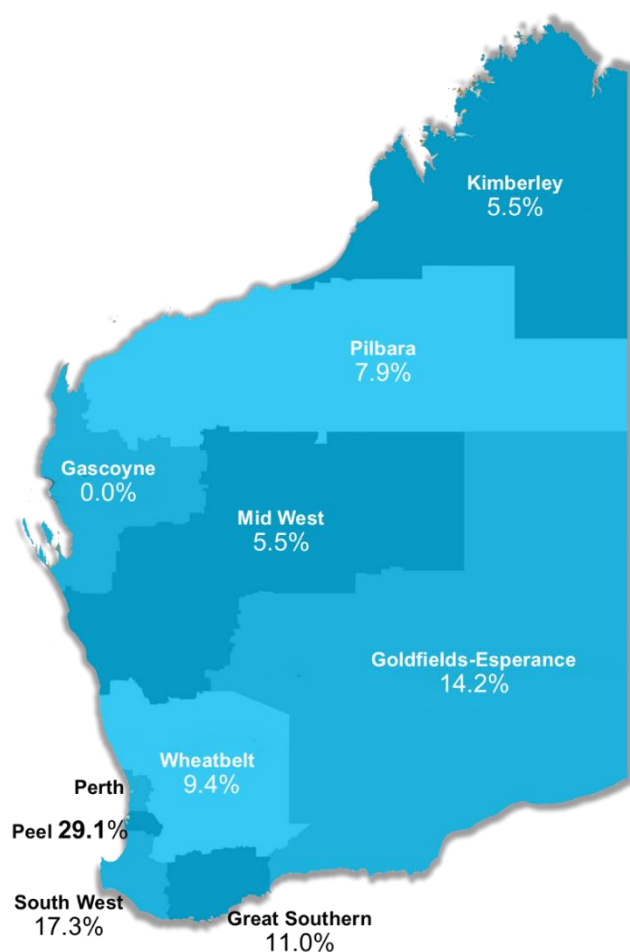
Complaint summary 8

Breast feeding discrimination in employment

A woman who had a breastfed baby, was told she could not bring her baby to a scheduled mediation session as, “babies are too disruptive”.

Outcome: In conciliation the organisation agreed to make available private facilities for mothers who wish to breastfeed or express, at any time during appointments, and amended its letters to reflect this service.

Figure 12: Regional complaints received 2020-21



Complaint summary 9

Religious conviction discrimination in employment

A Muslim woman worked as a cleaner for a large organisation with a team of other cleaners. She applied for leave to celebrate Eid, but this was denied in spite of no other people in her section having days off over that period.

The woman alleged race, racial harassment and religious conviction discrimination in the area of employment.

Outcome: The matter resolved with leave being granted to celebrate Eid.

Complaint summary 10

Age and race discrimination in accommodation

An Australian woman in her 40s booked accommodation at a youth hostel on-line. When the hostel learnt she was Australian and over 40 they cancelled her booking. The woman alleged age and race discrimination.

Outcome: The hostel actively participated in the conciliation conference and undertook to change the on-line booking platforms to remove limitations on Australians or people of any age.

The complaint resolved with an apology and a change in policy to remove discriminatory provisions.

Characteristics of respondents

This year the two industry groups with the highest number of complaints were *Accommodation & Food Services*, and *Mining*, at 12.2%, followed by *Health Care and Social Assistance* at 10.8%.

Other respondent groups included:

- Rental, Hiring and Real Estate Services (9.9%)
- Public administration and safety (9.6%)
- Retail Trade (8.5 %)

Over two thirds of all complaints were lodged against private sector employers and service providers (65.1%), ranging from large ASX-listed corporations to small businesses. This outcome is consistent with past years.

Complaints against public sector employers and service providers, including state government agencies and local government, comprised 27.8%. This is consistent with past years.

Complaint summary 11

Impairment discrimination in employment

In the midst of the COVID-19 outbreak a man with a visual disability phoned a ticketing agency to book tickets for two concerts. He encountered delays and alleged impairment discrimination when he was unable to book Companion Card tickets for his support worker for two concerts.

The booking agency advised it had shut its national call centre due to COVID-19 travel and proximity restrictions, and the difficulties encountered by the man was caused by untrained state based staff who dealt with the man's phone booking and who were not familiar with companion cards.

Outcome: The complaint resolved during a conference held on zoom due to the Covid Lock down, with the booking agency refunding the price of two concert tickets, providing a written apology and advising its initiatives to improve disability services.

Complaint summary 12

Pregnancy discrimination in employment

When a woman announced she was pregnant she was removed from an acting position and placed in a lower paid position. As a result, during her 12 weeks maternity leave she was paid at a lower rate.

The matter resolved with the employer agreeing to re-imburse the woman \$3468, that being the difference in pay for the higher acting rate.

Complaints resolution

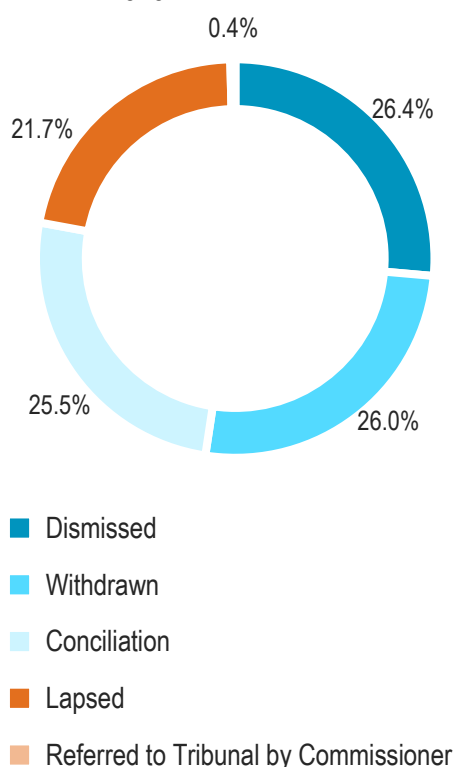
The Act specifies a complaint can be finalised in one of the following ways:

- **Resolved by conciliation** when both complainant and respondent achieve a mutually agreed outcome
- **Withdrawn** by the complainant at any time. This may occur based on the initial response from the respondent, election to move to another jurisdiction, or an inability to provide evidence
- **Lapsed** by the Commissioner if there is no response to attempts to contact the complainant, or if the person does not provide information to actively pursue the complaint
- **Referred to the State Administrative Tribunal** by the Commissioner if the complaint cannot be conciliated and the Commissioner determines there is an arguable case
- **Dismissed** by the Commissioner if it is lacking in substance, misconceived, vexatious or frivolous. A complainant can in writing require that a dismissed complaint be referred to the Tribunal.

Figure 13 shows a total of 466 complaints were closed in the 2020-21 financial year. Of these, 119 complaints were resolved through conciliation (16.0%), whilst 123 were dismissed (16.5%), 121 were withdrawn by complainants (16.2%), and 101 were lapsed (13.5%).

The remaining two matters were Commissioner referred to the Tribunal pursuant to section 93 of the Act for investigation (0.3%). These outcomes are broadly similar to the outcome of complaints in past years.

Figure 13: Outcome of complaints closed 2020-21



Conciliated complaints

Where possible complainants and respondents are encouraged to seek to resolve the complaint through a mutually agreed set of outcomes.

Figure 14 shows the outcomes of the complaints which were conciliated. Many of these conciliated complaints were resolved with more than one outcome, for instance a monetary settlement, a policy change and an apology.

Settlements involving a monetary settlement remained largely unchanged from previous years with 23.7% this year compared to 20.7% in the previous year. The second most common outcome was an apology with 17.9%, comparable to 17.4% in the previous year.

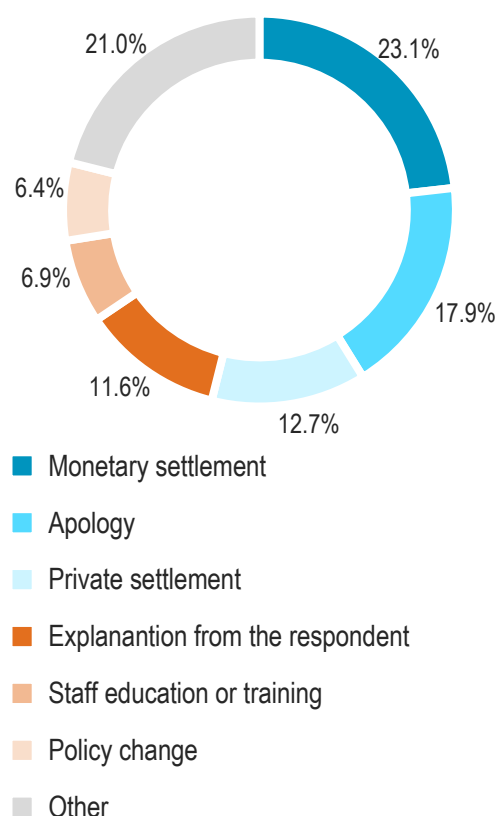
One feature of the Commission's conciliation process is to bring complainants and respondents together in a non-adversarial environment to determine if a complaint can be resolved. A respondent's explanation allows some complainants to decide their matter has been resolved. In the current financial year 11.6% of complaints resolved when the complainant accepted the respondent's explanation about the alleged discrimination.

Time taken to resolve complaints

The Commission aims to investigate and conciliate or finalise complaints in a timely manner without compromising the ability of all participants to be treated fairly and achieve satisfactory outcomes.

In 2020-21 a total of 91.0% in were finalised in under 12 months, a result similar to the previous year's outcome. The average length of time taken to resolve complaints was 5.4 months.

Figure 14: Conciliated outcomes of complaints closed 2020-21



Job Applicants

In 2020-21, the Commission finalised 38 complaints from people alleging discrimination when they had applied for a job or position. Of these complaints, 14 alleged discrimination on the ground of impairment, five on the ground of race and four on the ground of age. The remainder alleged on 9 other grounds. Most of these complaints were from people applying for jobs external to the organisations, with only a small number applying for transfers or promotions within organisations.

Of these complaints 71% were withdrawn, lapsed or dismissed. This high rate may be due to the difficulty job applicants have in proving discrimination has occurred. Often, complainants provide some, but not conclusive, evidence that discrimination may have occurred because it is very difficult to prove when they are only provided with limited information as part of the job application process.

The Act currently requires complainants to establish on the balance of probability that discrimination may have occurred, so the burden of proof lies with complainants. However, as complainants are not always in a position to provide evidence they are faced with a dilemma about continuing with a complaint. Consequently, complaints on the ground of race have very high rates of withdrawal at 40%. Similarly, complaints on the ground of age and impairment have high rates of withdrawal at 25% and 21.4% respectively. The lack of transparency during job application processes results in an imbalance of power for complainants and can cause complaints to be withdrawn.

Complaint summary 14

Impairment discrimination in goods, services and facilities

A woman took her son to get a haircut. The boy had an impairment which prevented him from sitting in a chair. When she got to the barber, they required him to sit in a chair by himself, and they would not allow him to sit on his mother's knee while having his hair cut.

Outcome: The Respondent updated their policy on children, including flexibility when dealing with children with impairments.

Complaint summary 13

Impairment discrimination in employment

A woman with limited strength and movement in right side arising from congenital condition applied for a job as a home care assistant. She was unsuccessful and lodged a complaint alleging impairment discrimination and said the medical assessment for the position she went for unfairly excluded her from the position and the test was not practical. She said she had worked in similar positions before and continues to do so.

Outcome: The employer responded that while they believed the test was not discriminatory, they had modified it, changed assessors and also changed the grading system.

Complaints referred to the State Administrative Tribunal

Where a complaint has not been resolved, a case report is provided to the Commissioner by the conciliation officer. The Commissioner may then refer a complaint to the Tribunal.

Referral of complaints to the Tribunal can occur in one of two ways.

- (i) Referral by the Commissioner under section 93 of the Act, where:
 - The complaint cannot be resolved by conciliation
 - Attempts to resolve the complaint by conciliation have been unsuccessful
 - The Commissioner is of the opinion the nature of the complaint is such that the matter should be referred to the Tribunal.
- (ii) Referral under section 90 of the Act if the complaint was dismissed, and at the request of the complainant.

The Commissioner must provide assistance to complainants who request the Commissioner to refer their complaints to the Tribunal under section 93 of the Act. This is generally done by assigning one of the Commission's legal officers to assist and represent the complainant. The Commissioner does not provide assistance where matters have been referred under section 90(2), that is, complaints which have been dismissed by the Commissioner and self-referred by complainants. In the Tribunal, complainants can choose to represent themselves or engage their own lawyers to represent them, regardless of how a complaint is referred to the Tribunal.

When a matter is referred to the Tribunal for final determination, the complainant is referred to as the 'applicant' under *the State Administrative Tribunal Act 2004*.

Role of legal officers

The legal officers' day to day activities include assessing potential complaints of unlawful discrimination lodged with the Commission, providing advice to the Commissioner and conciliation officers regarding complaints under investigation, and preparing responses to exemption applications lodged in the Tribunal.

The legal officers prepare submissions on equal opportunity and human rights issues to both state and federal inquiries, review the Commission's publications, and draft ministerial and other correspondence in relation to legal matters.

From time to time legal officers provide advice and guidance to State Government agencies in relation to issues such as recruiting and retaining staff by using the measures intended to achieve equality exceptions under the Act.

Legal officers also make presentations on the application of the Act to employers, tertiary institutions, community organisations, government agencies and others.

Legal case summary

Family status discrimination

A young woman applied for a job at a local food outlet where her older sister worked.

She signed a contract as a casual ongoing employee, and completed a day's work, at which point the owner instructed the Manager not to employ her because he did not want to employ family members of existing staff.

The young woman lodged a complaint of discrimination on the ground of family status, stating her employment had been terminated solely because she had a relative working there.

The respondent claimed its decision to end the young woman's employment was because one of his four shops had employed a whole family, and when there was a problem with one member of the family, all members of that family walked out. As a result of the walk-out, the owner was left with no staff in that outlet. He did not want that to happen again, which was his rationale for terminating the young woman's employment.

When the complaint was not resolved during conciliation, the Commissioner referred it to the State Administrative Tribunal (the Tribunal), with legal assistance. The matter settled during mediation in the Tribunal, with the respondent agreeing to pay compensation of \$2000 in full and final settlement of all matters related to the complainant's employment.

Significant issues

Current and emerging issues and trends

Sexual harassment

The issue of sexual harassment continues to be the basis of significant activity for the Commission's complaint handling and community education sections. This is reflected in the consistently high numbers of harassment complaints lodged by individuals, and ongoing requests from organisations seeking support to strengthen their capacity to identify and respond to this unwelcome workplace safety issue.

The release of the Australian Human Rights Commission's (AHRC) landmark report, 'Respect@Work: The National Inquiry into Sexual Harassment in Australian Workplaces' in March 2020, was a timely if confronting reminder to employers that sexual harassment should never be ignored or excused.

The AHRC spent two years on the inquiry, receiving 460 submissions from government agencies, business groups, community bodies, and victims of harassment, while conducting 60 consultations across Australia. The report makes 55 recommendations, chief amongst them the urgent need to shift Australia from a reactive, complaint-based approach, to one that legally requires employers to undertake preventative measures in the workplace.

The Commission supports the AHRC's recommendations and can report that in 2019-20, 44% of the Commission's fee for service training was about sexual harassment and the workplace. This figure, although much higher compared to the proportion of fee for service training sessions conducted in previous years, is not surprising, given the increased attention that workplace sexual harassment has received since the #MeToo movement commenced in late 2017.

The definition of sexual harassment in the *Equal Opportunity Act 1984* (the Act) has remained unchanged since the Act commenced operation in 1985, save for an amendment in 1993 that made it possible to lodge a complaint against an alleged

harasser employed by a different employer to the complainant. But the test for sexual harassment, especially the requirement to prove a detriment following the taking of objection to the harassment, has not changed. It is outdated and hard for the complainant to prove.

The Commission strongly supports a new definition of sexual harassment under the Act, like those found in the other states and territories, and in the federal *Sex Discrimination Act 1984*.

Impacts of COVID-19

At the beginning of the pandemic false assumptions about various races being potentially infected with COVID-19 led members of the public to make enquiries and lodge race discrimination complaints with the Commission however, as the pandemic progressed these complaints and enquiries were replaced with enquiries and complaints about COVID restrictions impacting on vulnerable members of the community.

In Western Australia, individuals and organisations raised issues with the Commission about mask wearing restrictions negatively impacting on people with an impairment.

The Commission took media enquiries and in addition, received 53 complaints and enquiries of this nature.

Future issues for the Commission are expected to focus on mandatory vaccinations impacting people with impairments and the Commission's legal team has undertaken research to develop appropriate responses to these types of enquiries and complaints.

Racial harassment

Racial harassment complaints rose from just over 3% last financial year to 5.9% in 2020-21.

This could in part be due to false suspicions and fears in the community about the pandemic affecting particular races; however at the beginning of 2020-21 the #BlackLivesMatter campaign became public globally following the death of George Floyd at the hands of police in the US which may have raised awareness about race issues here in Western Australia.

The Review of the *Equal Opportunity Act 1984*

An emerging issue for the Commission is the much-anticipated review of the *Equal Opportunity Act 1984* being undertaken by the WA Law Reform Commission (LRC). The Act has not been substantially amended since the early 1990s which has left it lagging behind more modern anti-discrimination legislation around the country.

The Commission will make a submission to the review and has been actively encouraging its stakeholders to also make submissions.

Among important amendments the Commission will be asking the LRC to consider is amending the onus of proof, so that the respondent has some responsibility to demonstrate their actions and omissions were not a result of direct or indirect discrimination.

Disclosures and legal compliance

Ministerial directives

No ministerial directives were received during the reporting period.

Other legal requirements

The Equal Opportunity Commission transitioned from a stand-alone agency to be a part of the Department of Justice on 1 December 2020, however remains independent in the performance of its statutory functions under the *Equal Opportunity Act 1984*.

See the Department of Justice 2020-21 Annual Report for further information on:

- Other financial disclosures
- Other governance disclosures
- Disability Access and Inclusion Plan outcomes
- Compliance with Public Sector Standards and Ethical codes
- Substantive equality
- Occupational Safety, Health and Injury Management
- Board and committee remuneration.
- Record Keeping Plan
- Key Performance indicators

Appendices

Appendix A: enquiry and complaint tables

Table 1: Enquiries received by ground

	2020- 21	%	2019- 20	%
Age	79	6.3	74	5.6
Breastfeeding	7	0.6	3	0.2
Bullying	31	2.5	25	1.9
Family responsibility	32	2.5	30	2.3
Family status	15	1.2	14	1.1
Gender history	7	0.6	5	0.4
Gender identity	13	1.0	11	0.8
Impairment	294	23.4	306	23.2
Marital status	7	0.6	2	0.2
Political conviction	6	0.5	1	0.1
Pregnancy	28	2.2	31	2.4
Publication of name in fines enforcement registry website	5	0.4	5	0.4
Race	177	14.1	180	13.7
Racial harassment	14	1.1	8	0.6
Racial vilification	2	0.2	8	0.6
Religious conviction	22	1.8	17	1.3
Religious vilification	2	0.2	1	0.1
Sex	76	6.1	60	4.6
Sexual harassment	63	5.0	66	5.0
Sexual orientation	17	1.4	13	1.0
Spent conviction	11	0.9	12	0.9
Victimisation PID	5	0.4	2	0.2
All grounds	86	6.8	120	9.1
Other	88	7.0	109	8.3
Not applicable	169	13.5	215	16.3
Total	1256	100	1318	100

Table 2: Enquiries received by area

	2020 -21	%	2019 -20	%
Access to places and vehicles	31	2.5	24	1.7
Accommodation	45	3.6	48	3.6
Clubs	22	1.8	20	1.5
Education	56	4.5	60	4.6
Employment	575	45.8	586	44.5
Goods, services and facilities	250	19.9	236	17.9
Land	0	0.0	1	0.1
Public place	5	0.4	10	0.8
Superannuation and Insurance	3	0.2	0	0
Sport	6	0.5	7	0.5
All areas	70	5.6	102	7.7
Other	50	4.0	63	4.8
Not applicable	143	11.4	161	12.2
Total	1256	100	1318	100

About the complainant

Complainants were asked a series of questions when completing the complaint form, the results are shown below.

In which country were you born?

Table 3: Birthplace of complainant

	2020 -21	%	2019 -20	%
Born in Australia	364	64.5	237	57.8
Born outside Australia	182	32.3	160	39.0
No survey returned/unspecified	18	3.2	13	3.2
Total	564	100	410	100

What is the main language spoken at home?

Table 4: Language of complainant

	2020 -21	%	2019 -20	%
Other	67	11.9	34	8.3
English	482	85.5	364	88.8
No survey returned/unspecified	15	2.7	12	2.9
Total	564	100	410	100

Do you consider yourself to have an ethnic background?

Table 5: Ethnic background of complainant

	2020 -21	%	2019 -20	%
Yes	162	28.7	123	30.0
No	384	68.1	272	66.3
No survey returned/unspecified	18	3.2	15	3.6
Total	564	100	410	100

Which of the following age group do you belong?

Table 6: Age of complainant

	2020-21	%	2019-20	%
0 – 12	12	2.1	5	1.2
13 – 17	10	1.8	10	2.4
18 – 24	50	8.9	33	8.0
25 – 34	104	18.4	77	18.8
35 – 44	145	25.7	96	23.4
45 – 54	120	21.3	85	20.7
55 – 64	69	12.2	62	15.1
65 – 74	27	4.8	16	3.9
75+	2	0.4	7	1.7
No survey returned/unspecified	25	4.5	19	4.6
Total	564	100	410	100

Which of the following best describes you currently?

Table 7: Work status of complainant

	2020-21	%	2019-20	%
Homemaker	32	5.7	11	2.7
In paid employment	248	44.0	172	42.0
Looking for work	152	27.0	100	24.4
Pensioner	32	5.7	43	10.5
Retired	13	2.3	9	2.2
Student	53	9.4	45	11.0
No survey returned/unspecified	34	6.1	30	7.3
Total	564	100	410	100

Do you have an impairment that results in a permanent disability?

Table 8: Disability of complainant

	2020-21	%	2019-20	%
Yes	109	19.3	109	26.6
No	439	77.8	278	67.8
No survey returned/unspecified	16	2.9	23	5.6
Total	564	100	410	100

Table 9: Complainant residence

	2020-21	%	2019-20	%
Metropolitan	407	72.2	312	76.1
Non-metropolitan	127	22.5	81	19.8
Other state/overseas	3	0.5	9	2.2
Not specified	27	4.8	8	2.0
Total	564	100	410	100

Table 10: Complainant represented

	2020-21	%	2019-20	%
Advocacy group	9	1.6	5	1.2
Community legal centre	15	2.7	24	5.9
Family member or friend	47	8.3	62	15.1
Privately funded solicitor	45	8.0	18	4.4
Professional association	10	1.8	5	1.2
Trade union	13	2.3	9	2.2
Not represented	425	75.4	287	70.0
Total	564	100	410	100

About the complaint

Table 11: How the complainants lodged their complaints

	2020-21	%	2019-20	%
Email	128	22.7	73	17.8
Fax	0	0	4	1.0
Hand	18	3.2	37	9.0
Post	26	4.6	34	8.3
Web	392	69.5	262	63.9
Total	564	100	410	100

Table 12: Complaints received by ground

	2020-21	%	2019-20	%
Age	46	8.2	36	8.8
Breastfeeding	2	0.4	0	0.0
Family responsibility	24	4.3	15	3.7
Family status	6	1.1	8	2.0
Gender history	1	0.2	0	0.0
Impairment	120	21.3	82	20.0
Marital status	3	0.5	5	1.2
Political conviction	5	0.9	1	0.2
Pregnancy	18	3.2	6	1.5
Publication of name in fines enforcement registry	0	0	1	0.2
Race	94	16.7	75	18.3
Racial harassment	33	5.9	14	3.4
Religious conviction	14	2.5	5	1.2
Sex	39	6.9	29	7.1
Sexual harassment	72	12.8	57	13.9
Sexual orientation	9	1.6	9	2.2
Spent conviction	2	0.4	2	0.5
Victimisation	64	11.3	64	15.6
Victimisation PID	12	2.1	1	0.2
Total	564	100	410	100

Table 13: Impairment complaints received – disability of complainant

	2020-21	%	2019-20	%
Blind and vision impairment	3	2.5	1	1.2
Deaf and hearing	3	2.5	1	1.2
HIV or other organisms	0	0	1	1.2
Imputed impairment	4	3.3	6	7.3
Intellectual disability	9	7.5	15	18.3
Mental health/psychosocial	39	32.5	35	42.7
Physical disability	57	47.5	20	24.4
Not specified	5	4.2	3	3.7
Total	120	100	82	100

Table 14: Complaints received by area

	2020-21	%	2019-20	%
Access to places and vehicles	27	4.8	11	2.7
Accommodation	36	6.4	26	6.3
Clubs	9	1.6	14	3.4
Education	15	2.7	18	4.4
Employment	353	62.6	265	64.6
Goods, services and facilities	119	21.1	73	17.8
Sport	5	0.9	2	0.5
Victimisation	0	0	1	0.2
Total	564	100	410	100

Table 15: Employment complaints received – employment status of complainant

	2020-21	%	2019-20	%
Casual	36	10.2	49	18.5
Fixed-term contract	19	5.4	9	3.4
Full-time	160	45.3	114	43.0
Part-time	32	9.1	4	1.5
Permanent	22	6.2	19	7.2
Unemployed	64	18.1	58	21.9
Other	3	0.8	1	0.4
Not specified	0	0	11	4.2
Total	352	100	265	100

About the respondents

Table 16: Respondent industry

	2020-21	%	2019-20	%
Accommodation and food services	69	12.2	31	7.6
Administrative and support services	23	4.1	19	4.6
Agriculture, forestry and fishing	0	0	1	0.2
Arts and recreation services	40	7.1	21	5.1
Construction	27	4.8	8	2.0
Education and training – school, tertiary other education	40	7.1	39	9.5
Electricity, gas, water and waste services	2	0.4	8	2.0
Financial and insurance services	8	1.4	13	3.2
Health care and social assistance	61	10.8	53	12.9
Information media and telecommunications	4	0.7	3	0.7
Manufacturing	3	0.5	6	1.5
Mining	23	4.1	31	7.6
Professional, scientific and technical services	23	4.1	7	1.7
Public administration and safety	54	9.6	28	6.8
- Correctional and detention services	29	5.1	9	2.2
- Police services	22	3.9	16	3.9
Rental, hiring and real estate services	56	9.9	33	8.0
Retail trade	48	8.5	54	13.2
Transport, postal and warehousing	14	2.5	12	2.9
Wholesale trade	12	2.1	10	2.4
Other services	6	1.1	7	1.7
Not specified	0	0	1	0.2
Total	564	100	410	100

Table 17: Respondent identity

	2020-21	%	2019-20	%
Club	12	2.1	11	2.7
Non-government organisation	24	4.3	17	4.1
Private enterprise	367	65.1	251	61.2
State government department/agency/authority/local	157	27.8	125	30.5
Trade union	0	0	0	0
Other	4	0.7	6	1.5
Total	564	100	410	100

Table 18: Size of organisation

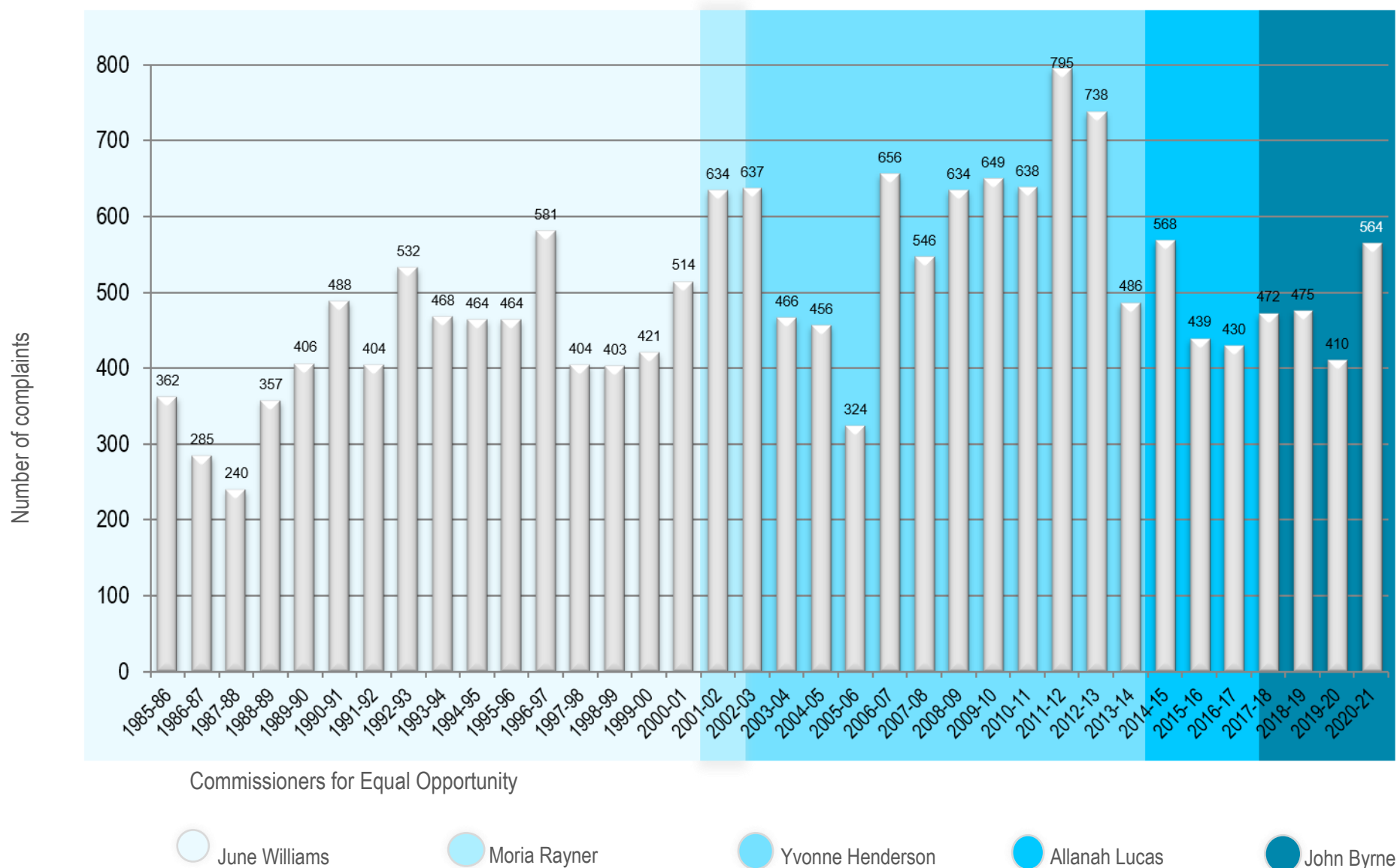
	2020-21	%	2019-20	%
Less than 5	7	0.4	3	0.4
5 - 19	37	4.7	25	4.7
20 - 99	110	15.4	58	15.4
100 - 499	68	13.2	85	13.2
500+	187	41.4	137	41.4
Not specified	155	24.9	102	24.9
Total	564	100	410	100

How complaints were handled

Table 19: Outcome of complaints closed

	2020-21	%	2019-20	%
Conciliated	119	25.5	82	20.7
Dismissed	123	26.4	96	24.2
Lapsed	101	21.7	79	19.9
Withdrawn	121	26.0	136	34.3
Referred to Tribunal by Commissioner	2	0.4	4	1.0
Total	466	100	397	100

Appendix B: complaints received from 1985 to 2021



Note: 2000/01 financial year the Commission ceased co-operative arrangements with the Australian Human Rights Commission, the figures shown from 1985/86 to 1999/00 are the total number of complaints received.

Further enquiries

Commission staff deal with any general concerns or queries about rights and responsibilities under equal opportunity laws.

You can ring us for information on:

Telephone numbers

Telephone: 9216 3900

Toll Free: Freecall from landline non-metro 1800 198 149

You can also email us:

Electronic access

Internet: www.eoc.wa.gov.au

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