

Annual Report 2003/2004



Equal Opportunity Commission

ABOUT THIS REPORT

This report aims to provide an overview of our activities during 2003/04. Section 1 provides the Commissioner's overview. Details on the Commission's education and policy initiatives and services undertaken in 2003/04 are provided in section 2. Statistical information and analysis of trends relating to enquiries and complaints are provided in section 3. Compliance with legislation and corporate governance are outlined in section 4. Details on the Commission's Performance Indicators are provided in section 5 and Financial Statements in section 6. The Commission's contribution towards the State Government's Strategic Planning Framework is provided in section 7. Some case summaries of complaints handled by the Commission are provided in the Appendix A on page 82.

This Report is available from the Publications section of the Commission's web page located at www.eoc.wa.gov.au. Printed copies may be requested from the Commission, where necessary.

FEEDBACK

As the Commission is constantly striving to improve our services, any comments, observations or queries relating to the contents of our Annual Report will be appreciated.

To provide feedback on the effectiveness of our Annual Report 2003/04, please refer to the Feedback Form in Appendix B on page 87.

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Statement of Compliance

TO THE HON JIM MCGINTY,
ATTORNEY GENERAL

I have pleasure in submitting this Annual Report for the year ended 30 June 2004 for your information and presentation to Parliament.

This report has been prepared in accordance with section 62 of the *Financial Administration and Audit Act 1985*, section 95 of the *Equal Opportunity Act 1984*, and section 31 of the *Public Sector Management Act 1994*.

I draw your attention to my overview that describes achievements for this financial period.

Yvonne Henderson
Commissioner for Equal Opportunity

31 August 2004

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Commissioner's Overview

The Commission's focus has changed somewhat this year. Whilst still investigating and seeking to conciliate complaints on all the various grounds of the Act, as well as delivering educational programmes, the Commission has become involved in a number of projects designed to address the underlying causes of discrimination, often in partnership with other agencies.

One such project involves the implementation of a programme to increase the number of and the opportunities for women, both sworn and unsworn in the Western Australia Police Service (WAPS). A two-year research project jointly funded by the University of Western Australia (UWA) and WAPS resulted in wide ranging recommendations for implementation. The Commissioner sits on an Implementation Group, along with the Commissioner for Police, two Assistant Commissioners, academics from Curtin University and UWA, and officers from the WAPS, male and female, sworn and unsworn. This group has already made major progress in developing a mentoring programme for women to assist them in their careers; in getting agreement at the highest level to changes to a rigid promotion system which requires lengthy service at rank before application could be made for promotion; greater access to training for public service women employed by the WAPS; and looking at why women officers resign from the WAPS. Tribute must be paid to former Commissioner Barry Matthews for his wholehearted support for this project and to Susan Harwood from UWA whose energy and drive has ensured that the project has remained on track, and achieved some major changes in a relatively short time period.

The Commission has also produced in collaboration with the Office of Multicultural Interests a detailed paper on Racial and Religious Vilification which will be released for public comment next year. This paper outlines legislative models adopted by other State and puts forward three options for legislation to provide criminal and civil sanctions for acts of racial and religious vilification. The Commission plans to conduct a range of forums to promote discussion of this paper to enable feedback from the community on these issues.

The Commission's involvement in the Racism and Equality Programme has grown over the past twelve months. The Commission is one of the project partners along with Office of Multicultural Interests, Department of Indigenous Affairs, Department of Premier and Cabinet, and Office of Equal Employment Opportunity.

Four government agencies are piloting the Department of Premier and Cabinet project which is designed to address racism within procedures and practices of public sector agencies; to examine recruitment and to ensure that services delivered meet the needs of the diverse range of clients that utilise the services offered by public sector agencies. This is a five-year project designed to be rolled out across the whole public sector utilising feedback from the pilot agencies.

Meanwhile the Commission's staff have continued to work on collating the report of the Investigation into Public Housing for Aboriginal and Torres Islander People. The Commission has received hundreds of written and oral submissions from individuals around the state to this Investigation and most of the material has now been analysed. Final collation, editing and formalising of recommendations is being completed.

The above projects demonstrate the commitment of the Commission to work across Government and the community to assist in removing systemic and covert discrimination where it exists. The Commission is heartened by the energy and enthusiasm it has encountered in its work with other agencies and believes that this proactive approach complements the traditional individual complaint focus of the Commission.

ENQUIRIES

The Commission receives public enquiries by telephone or in person during week days from 9:00 am to 4:00 pm.

The Commission responded to 3,839 enquiries during the 2003/04 year.

There was an increase in the number of enquirers that visited the Commission's offices, from 156 in 2002/03 to 176 in 2003/04.

COMPLAINT HANDLING

The Commission's officers closed 191 more complaints compared to the previous financial year. Of these, 28.5% were closed in 7–12 months and 32.4% in 13–18 months. At the end of the year the proportion of complaints still under investigation reduced from 54.0% in 2002/03 to 34.4% in 2003/04.

EDUCATION AND TRAINING

During the last year, there was a 13.2% increase in the number of education services provided. In addition, there was a 14.2% increase in the number of customised training sessions and a 30% increase in the number of participants. At the request of a number of organisations, two new courses were developed and introduced – *Equal Opportunity Law and the Manager's Role* and *Managing Staff Recruitment*. These new courses were well attended. Two visits were made to Christmas and Cocos Islands to continue the service delivery arrangements between the State and Commonwealth Governments.

LEGAL ASSISTANCE

The number of matters that were settled in the Equal Opportunity Tribunal with the assistance of a legal officer increased from 25 in 2002/03 to 40 in 2003/04. Since 2001/02 there has been an 81.2% increase in the number of matters handled by legal officers. Private law firms provided *pro bono* legal advice and representation to a number of complainants under an arrangement between the Commissioner and participating legal firms. The assistance provided by these firms assisted in reducing the Tribunal related workload on the Commission's Legal Officers. It is expected that this arrangement will continue next year.

ABORIGINAL HOUSING INVESTIGATION

During 2003/04 the Commissioner continued work on the investigation into the provision of public housing to Aboriginal and Torres Strait Islander people in accordance with section 80 of the *Equal Opportunity Act 1984*. As part of the investigation, the following activities were undertaken:

- ☐ Invited and received written submissions from individuals and organisations;
- ☐ established a Reference Group, chaired by Ms Pat Dudgeon, Head of the Centre for Aboriginal Studies, Curtin University of Technology;
- ☐ responded to requests from individuals and organisations to make oral submissions and took oral submissions by conducting consultations in regional and metropolitan areas;
- ☐ conducted consultations in regional areas (e.g. South West, Great Southern, Goldfields, Kimberley, Midwest/Gascoyne and Pilbara);
- ☐ conducted consultations in the metropolitan areas (e.g. Midland, Fremantle, Kwinana, Armadale, Perth, Mandurah and Mirrabooka);
- ☐ videotaped some oral submissions.

The content of all submissions received was analysed and the themes were extracted. The Commission's officers undertook research examining the experiences of Aboriginal people in the provision and maintenance of public housing and compared these with the policies of the Department of Housing and Works.

A written report on the investigation will be available later in 2004, along with a videotape which will enable wider distribution of the Commission's findings to those who have made submissions.






ANTI-RACISM STRATEGY

The Commissioner has participated in the Anti-Racism Steering Committee chaired by the Premier and been involved in the Racism in Schools Project and the Anti-Racism in the Public Sector project as outlined above.




AUSTRALIAN COUNCIL OF HUMAN RIGHTS AGENCIES (ACHRA)

The Commissioner is a member of ACHRA, a national human rights body which has commenced a project to audit human rights in Australia on an annual basis. ACHRA is currently developing the methodology to do this.

1.1 Achievements

-  An increase in the number of complaints settled through mediation and negotiation in part as a result of referral of matters by the Tribunal directly to a mediation conference, and by emphasising to complainants the advantages of negotiation over litigation.
-  In response to requests, two new courses were developed and offered - *Equal Opportunity Law and the Manager's Role* and *Managing Staff Recruitment*.
-  There was an increase in training provided to schools and technical and further education (TAFE) colleges and number of requests for repeat fee-for-service training.
-  By reviewing the complaint handling process the time taken to finalise complaints has been reduced.
-  A new logo and corporate style was designed. The 'new look' was introduced in the Commission's newsletters, brochures and other publications.





1.2 Future Directions

-  The Commission will focus its marketing and promotional activities into targeted areas to reflect complaints received, enhance the range of courses to include training trainers in the delivery of equal opportunity law sessions and training for staff in schools to delivery equal opportunity awareness programmes to students.
-  Expand the fee-for-service programs into regional areas and re-focus the Outreach program to include advocacy training for Aboriginal groups in the metropolitan area.
-  Continue to review of the complaint handling process to reduce the time taken to finalise complaints.

1.3 New Challenges

The challenges ahead are to resolve increasingly complex complaints more quickly and to work to eliminate systemic discrimination within organisations, both public and private.

Key areas of concern are:

-  women continue to experience difficulties accessing maternity leave and negotiating a return to a position comparable with the one occupied prior to leave;
-  the need for flexible work arrangements to enable female and male workers to balance their family responsibilities and their work is a major challenge;
-  the inability of the Commission to deal with allegations of racial and religious vilification; and
-  the inability of the Commission to respond to complaints of harassment by bullying particularly in the workplace.

1.4 Financial Overview

There was a 14.7% increase in the Commission's total cost of services from \$2,184,447 in 2002/03 to \$2,505,682 in 2003/04. This variation was due to an increase in salary-related expenses associated with staff movements and fixed-term appointments, a one-off payment for accrued leave entitlements to a senior officer, structured rent increase for office accommodation, and activities associated with the section 80 investigation into the provision of public housing to Aboriginal people in Western Australia.

There were no significant movements in the Commissioner's revenues from operating activities or leave liability during the year.

For full details please refer to the 2003/04 Financial Statements contained in the Corporate Governance and Compliance section of this report.






1.5 About The Commission

OUR VISION

The Equal Opportunity Commission aims to ensure Western Australia, as part of the international community, becomes a more just and equitable society, by advancing human rights and not tolerating discrimination.

STRATEGIC DIRECTIONS

The Equal Opportunity Commission's Strategic Directions for 2003-2004 are to:

-  develop and deliver a whole of Commission approach to Aboriginal and Torres Strait Islander people;
-  involve and engage non-government, government and business communities in the development of a human rights culture;
-  improve awareness and understanding of the role and function of the Equal Opportunity Commission;
-  use the Act proactively; and
-  improve the way the Commission works.

OUR ROLE AND FUNCTIONS

Our main role and functions are to:

promote recognition, awareness and acceptance of the principles of equal opportunity through a broad range of diverse activities including publications, education initiatives, training courses and events; and

provide accessible avenues of redress for unlawful discriminatory practices, policies and behaviour through handling complaints.

OUTCOMES AND OUTPUTS

Our two outcomes are the provision of:

1. information and advice; and
2. provide an avenue of redress where discrimination has occurred.

We achieve the first outcome through the following outputs:

1. rights based education;
2. outreach education and training;
3. fee-for-service training;
4. answering enquiries;
5. strategic policy advice;
6. review of legislation, evaluation and investigation;
7. publications; and
8. holding public forums and other information sessions.




We achieve our second outcome through the following outputs:

1. investigation of complaints;
2. complaint handling and resolution; and
3. provision of legal advice and assistance.

Report on Community Education

2.1 Promote Recognition, Awareness And Acceptance

The Equal Opportunity Commission continued to promote the objects of the *Equal Opportunity Act 1984* and enhance community awareness through a range of education initiatives and strategies. These strategies included:

-  delivering talks, information and training sessions across Western Australia including the presentation of papers and workshops at major conferences;
-  assisting employer organisations with pro-active, preventative strategies to meet their policy objectives regarding equal opportunity law; and
-  developing specialised educational materials to support education initiatives.

During 2003/04 the Commission conducted 162 education and training sessions, guest speaker engagements and Outreach programs, an increase of 13.3% from 2002/03. This increase was mainly due to increased requests from various equity groups and two visits to the Indian Ocean Territories. Details of the education sessions delivered are provided in Table 1.

Table 1:
Education Sessions, 2001/02 to 2003/04







| Description | 2001/02 | 2002/03 | 2003/04 |
|----------------------------|------------|------------|------------|
| Calendar series of courses | 14 | 26 | 17 |
| Customised courses | 75 | 42 | 48 |
| Presentations | 30 | 22 | 37 |
| Guest Speaker | 12 | 34 | 26 |
| Community Worker Forums | 6 | 9 | 1 |
| Outreach | 44 | 10 | 33 |
| Total | 181 | 143 | 162 |

There was a decrease in the calendar series of courses offered during 2003/04. This decrease is primarily due to the one-off, training course on *Sexual Orientation and Gender History* provided in 2002/03 as a result of changes to the *Equal Opportunity Act 1984*.

Information is gathered from participants in training sessions to evaluate their effectiveness. Of the 600 participants who completed the post-training questionnaires, 95.5% stated that they would be able to use what they had learnt at training in the course of their daily lives and 96.5% would recommend the Commission's training courses.

2.2 Training Programs For Employers And Service Providers

Training programs that offer small and large organisations, business and service providers pro-active, preventative strategies were conducted on a fee-for-service basis. Such training included:



-  responding to requests for customised training within individual workplaces and developing courses to meet specific organisational requirements;
-  delivering a calendar of training courses aimed at employers and service providers to increase awareness of equal opportunity law, vicarious liability, and identify discriminatory behaviour, policies and procedures;
-  assisting employers, equity and human resource practitioners develop workplace cultures that prevent discrimination, harassment and victimisation;
-  facilitating the integration of equal opportunity principles into organisational programs, policies, procedures and planning;
-  assisting employers to deal with enquiries and complaints within their organisation through contact, equity or grievance officer training; and
-  preparing summary reports of training evaluations to measure the effectiveness of training, its content, learning methodology and facilitation style.

All courses are constantly being revised and updated to meet the changing needs of clients.

2.2.1 CUSTOMISED AND SPECIALIST TRAINING

To ensure our training is developed appropriately and effective, the Commission expects organisations to complete some essential preparatory work prior to training being confirmed.

Organisations are required to have an up-to-date equal opportunity policy and grievance procedures so that:

-  the trainer can direct any employee enquiries and complaints that may be made as a result of the training to their internal procedures, should they choose this option; and
-  contact officers, grievance officers, managers and supervisors who have a role to play in handling complaints will feel confident that equal opportunity enquiries will be handled in a fair, sensitive, prompt and confidential manner, which is free from victimisation.

The Commission's officers provide informal comment and suggestions on organisations' policies and procedures to ensure that they are up-to-date and conform with the requirements of equal opportunity law.

The Commission conducted 48 customised training sessions in 2003/04 to 868 participants — a 14.2% increase from 2002/03 and 30% increase in the number of participants. Seventy per cent of training courses presented by the Commission during 2003/04 were equal opportunity awareness training for employees and managers.

The Commission delivered customised training to a wide range of organisations. Some of these organisations included:

- ☞ Catholic Education Office of Western Australia;
- ☞ Department of Justice;
- ☞ Newcrest Mining;
- ☞ Public Transport Authority of Western Australia;
- ☞ East Metropolitan Health Services;
- ☞ City of Melville;
- ☞ Pioneer Construction Materials Pty Ltd;
- ☞ St John of God Hospital;
- ☞ Association of Independent Schools;
- ☞ Murdoch University; and
- ☞ Stryker Australia Pty Ltd.

Feedback obtained from the training evaluation surveys completed at the conclusion of training sessions indicate that our programs have been well received by participants and provided practical strategies for dealing with discrimination matters in the workplace.

Some comments from these participants are provided below.

- ☞ "Excellent delivery style. I was prepared to be bored for 1½ days but was kept very interested instead."
- ☞ "Excellent – Managed to keep the audience interested and active."
- ☞ "Excellent opportunity to bring up real workplace situations and find a solution to take away."
- ☞ "A great source of information."
- ☞ "One of the better courses I have attended."
- ☞ "The Commission deals with equal opportunity matters on a daily basis and therefore has a very high knowledge and understanding of the issues which is reflected in the training."
- ☞ "First course of such a subject that I've attended so found it to be valuable, extremely informative and relevant to my workplace."
- ☞ "I arrived with not much information or knowledge but now, after this day I have the confidence to take on the role of Contact Officer."
- ☞ "Very impressed with the quality of the day."

CALENDAR SERIES OF COURSES

The Commission continued its calendar series of courses in 2003/04 with half, full-day and two-day courses attended by managers, employee relations professionals and equal opportunity practitioners. The courses included:

- ☞ *Equal Opportunity Law- An Introduction;*
- ☞ *The Contact Officer Role;*
- ☞ *Equity Complaint Handling;*
- ☞ *Contact Officer Refresher;*
- ☞ *Equity/Complaint Handling Refresher;*
- ☞ *Equal Opportunity Law and the Role of the Manager;*
- ☞ *Managing Staff Recruitment and Selection;* and
- ☞ *Contact/Grievance Officer Network.*

The most widely attended course offered by the Commission was the *Equal Opportunity Law – An Introduction* where 8 sessions were presented to 109 participants from different organisations.

Two new courses, *Equal Opportunity Law and the Manager's Role* and *Managing Staff Recruitment*, were developed in 2003/04 at the request of a number of organisations and were well subscribed. *Equal Opportunity Law and the Manager's Role* is now also offered as a customised training course for individual organisations.

Organisations that the Commission trained included participants from a range of the following industries:

- ☐ Accommodation, Cafes and Restaurants;
- ☐ Agriculture, Forestry, Fishing;
- ☐ Construction;
- ☐ Cultural and Recreational Services;
- ☐ Education;
- ☐ Electricity, Gas and Water Supply;
- ☐ Finance and Insurance;
- ☐ Government Administration;
- ☐ Government Administration – Defence;
- ☐ Health and Community Services.
- ☐ Manufacturing;
- ☐ Mining;
- ☐ Personal and Other Services;
- ☐ Corrective Services;
- ☐ Police Services;
- ☐ Unions;
- ☐ Property and Business Services; and
- ☐ Transport and Storage.

2.3 Communicating Equality Of Opportunity To Potential Complainants And The Community Sector

In 2003/04 1,414 participants attended speaking engagements and forums in 60 sessions aimed at advancing human rights and promoting the objects of the *Equal Opportunity Act*.

These training sessions are delivered free of charge to assist those most likely to experience discrimination, and their advocates to understand the scope of the law, their rights and the Commission's complaint process. Over 30% of these sessions and over half of the total number of participants involved were either students in schools or TAFE, or staff working with students.

ABORIGINAL AND TORRES STRAIT ISLANDER OUTREACH PROGRAM

Aboriginal and Torres Strait Islander people continue to face discrimination on a daily basis in many areas of public life including employment, tenancy applications and services offered to the general public. Outreach programs aim to deliver culturally appropriate education initiatives to Aboriginal people, communities, representative organisations and particular groups who face similar issues related to their geographic isolation.

Due to limited resources available in this financial year, the Commission delivered only one regional training session in the town of Kununurra. However, there have been a number of training sessions presented to various Aboriginal groups in the Perth metropolitan area.

The Commission is also in the process of developing an awareness program which will be trialed in the metropolitan area before being delivered in regional areas.

For the purposes of Outreach and to promote human rights and equal opportunity to Aboriginal and Torres Strait Islanders, the Commission again produced an Aboriginal Calendar which has been distributed throughout the State.

ISMA ξ NATIONAL CONSULTATIONS AND LAUNCH

In response to increasing concerns by Arab and Muslim Australians post September 11, the Human Rights and Equal Opportunity Commission (HREOC) initiated the Isma ξ project to explore whether they were experiencing discrimination and vilification. In addition, HREOC was interested in examining the nature and impacts of their experiences and ascertaining why they were not reporting these incidents to complaint channels.

Although the number of formal complaints received by HREOC did not increase in 2002, the Commission heard mounting evidence from a range of members from Arab and Muslim communities about a rise in anti-Arab and anti-Muslim prejudice in Australia. Accordingly, the Isma ξ project was launched with a view to understanding and accounting for this discrepancy.






The Equal Opportunity Commission's training officers assisted HREOC in conducting consultations in WA. Across Australia a total of 1,423 people participated in 69 consultations held between April and November. In Perth there were 3 consultations with a total of 111 participants. One session was solely for women and was attended by 81 Muslim women from diverse ethnic backgrounds including Iranian, Arab, Pakistani and Somali.

On 25 June HREOC launched a report on the Isma ξ projects' findings of the national consultations. The Commission co-hosted this event in conjunction with the Office for Women's Policy and Office for Multicultural Interests.

CHRISTMAS AND COCOS ISLAND

Under a service delivery arrangement between the State and Commonwealth, the *Equal Opportunity Act* covers the Indian Ocean Territories of Christmas and Cocos Island.

During 2003/04 the Commission conducted two visits to Christmas and Cocos Islands. During these visits, the Commission:

-  participated in discussions with a range of community organisations on the provisions of the *Equal Opportunity Act* and the meanings of unlawful discrimination;
-  liaised with administrative bodies, employer groups and unions to provide an overview of the *Equal Opportunity Act*, the role and function of the Commission, vicarious liability provisions and preventative strategies for workplaces;
-  delivered customised Equal Opportunity Law, Contact and Grievance Officer training to employers and service providers;
-  handled enquiries and took potential complaints; and
-  delivered information sessions to various community groups on the provisions of the *Equal Opportunity Act*.

In order to address the specific language needs of the people of Christmas and Cocos Islands, the Commission's new publication *Unlawful Discrimination* is currently being translated into Mandarin and Malay.

NATIONAL COMMUNITY EDUCATOR'S CONFERENCE

Perth hosted the annual National Community Educator's conference in early May which was attended by equal opportunity trainers from Tasmania, Victoria, South Australia and Northern Territory anti-discrimination agencies. Throughout the 3-day conference, there were two teleconference link-ups with trainers in Queensland and the Australian Capital Territory.

An Indigenous educators meeting on the first day of the conference looked at developing protocols on how anti-discrimination agencies could best work with Indigenous staff to fully utilise their skills and knowledge.

A key initiative of the conference was to develop across-the-board minimum standards in Contact Officer training.

NEW LOGO AND CORPORATE STYLE

In 2003/04, the Commissioner engaged a graphic design consultant to design a new logo and develop a new corporate style. The Commission's new logo titled "Towards Resolution" depicts two individuals or groups aiming to come to an agreement as a result of mediation and conciliation processes. Approval has been received to co-badge the new logo with the WA Government logo. The Commissioner chose the same colours as the WA Government's logo to achieve cost efficiencies in co-badging the logos.

In addition, the Commission developed a new corporate style which is reflected in our printed publications. This new corporate style represents a collage of the Commission's target audiences – Indigenous people, people with disabilities, pregnant women, people from culturally and linguistically diverse backgrounds, families, youth and mature people.

PUBLICATIONS

The Commission continued to review and update its publications in order to provide up-to-date information about the Act. In writing material for the new publications the Commission aims to improve the content, language and style of documents for our target audiences.

To assist with the implementation of the new logo and corporate style as well as catch up with updating our publications, a second part-time public affairs officer was engaged at the Commission on a six-month contract. These officers received training in InDesign desk-top publishing software. New templates for the Commission's brochures and newsletter were designed using the new logo and corporate style. The introduction of the desk-top publishing software, provision of staff training and design of new templates were all part of the Commission's cost-effective approach to producing publications in-house and a way of improving the expediency in the production of publications.

During 2003/04 the Commission produced twelve publications. These publications included *Discrimination Matters* (our quarterly newsletter), an Indigenous calendar, brochures, training calendars/programs, guides and fridge magnets.

The Commission received 116 requests for publications.

There was an increase in the proportion of the Commission's customers, including training and presentation participants, complainants and respondents who stated that they found the Commission's publications to be useful – from 79.5% in 2002/03 to 81.9% in 2003/04.

COMMUNICATING ONLINE

The Commission's website continues to be used as a source of information about the Act and the Commission. New publications are available on the website.

All requests to the Commission for publications are referred to our website, where appropriate. The Commission referred 17.0% of enquirers to the Commission's website this year compared 15.9% the previous year.

The Commission's website received 31,077 hits this year.

The Commission's Website Committee continued work on developing a new website to comply with WA Government website guidelines, improve access for people with disabilities and incorporate the new corporate style. The Commission's internet/IT analyst will undertake website design training to assist with implementation of the new website next year.

2.3.1 SPECIAL EVENTS

The Commission established a Special Events Committee to improve the planning and staging of special events.

NATIONAL ABORIGINAL AND ISLANDER DAY OF CELEBRATION (NAIDOC) WEEK

Indigenous officers hosted a special morning tea for all staff at the Commission to celebrate NAIDOC week. Also, in partnership with Indigenous officers from the Department of Justice, staff members from these agencies were invited to attend an Indigenous lunch. Guests enjoyed eating traditional Indigenous foods such as kangaroo and damper.

INSTITUTIONAL RACISM WORKSHOP

To complement the work being undertaken by the State Government's Anti-Racism Steering Committee, the Commission, in partnership with the Office of Multicultural Interests (OMI), hosted a workshop titled "Institutional Racism: An Individual and Organisational Response" in July. The workshop was conducted by Professor Charles Husband, a leading authority on institutional racism from the University of Bradford. Professor Husband spoke about understanding ethnic diversity and the management of difference, including definitions of ethnicity and definitions of racism.

Guests invited to the workshop included senior officers from the Department of the Premier and Cabinet, WA Police Service, Department for Community Development, Department of Housing and Works, Office of Equal Employment Opportunity, Department of Indigenous Affairs, the University of Western Australia, Murdoch University, Office for Women's Policy and Curtin University of Technology.

PRIDE FAIR

For the first time the Commission held a stall at the Pride Fair Day on 28 September in Russell Square. Pamphlets and magnets were distributed at the stall and visitors were invited to spray messages about discrimination on a blank canvas on display. The Commission's officers received enquiries about discrimination mainly relating to employment and gender history.

PRIDE MARCH

Staff from the Commission also marched in the annual Pride March for the second year running, accompanied by family members, friends and representatives from the Legal Aid Commission. They carried banners with anti-discrimination messages relating to sexual orientation.

INTERNATIONAL HUMAN RIGHTS DAY

To celebrate International Human Rights Day on 10 December, the Commissioner invited Dr Veronica Brady to make a presentation at the Commission's offices. After a very personal and inspiring Noongar welcome by Ms Marie Taylor, a number of people from government, non-government and the private sector heard Veronica talk about human rights injustices around the world today. She gave a wide-ranging talk about human rights issues confronting society today and challenged the audience to look at what they could personally do to change things.

SURVIVAL DAY

For the second year the Commission had a stall at the Survival Day Indigenous Cultural Festival on 26 January. The Commission's staff answered enquiries relating to race discrimination, racial harassment and other forms of discrimination. A special Indigenous fridge magnet was produced and distributed at the event.

INTERNATIONAL WOMEN'S DAY

A capacity crowd of about 200 guests attended the Commission's inaugural International Women's Day Breakfast in the Perth Concert Hall on March 8. Ms Cindy Garlett, a Noongar woman from the Ballardong Tribe conducted an Indigenous welcome. Speakers included: anthropologist Hilary Rumley who spoke about issues from the perspective of a woman with a disability; Dr Samina Yasmeen, the Senior Lecturer and Co-Chair of International Studies Political Science and International Relations at the University of Western Australia (UWA), who provided guests with a Muslim woman's perspective; and Colleen Hayward, the Executive Policy Advisor for the Aboriginal and Torres Strait Islander Services, who spoke from the perspective of an Aboriginal woman.

JOINT LAUNCH

In partnership with the Federal Human Rights and Equal Opportunity Commission's President John von Doussa QC, the Commissioner launched an innovative digital video disc (DVD) and video in Perth, in mid-May. The DVD/video *Pathways to Resolution* is a valuable resource for individuals involved in the conciliation process. Copies of the DVD and video are available to complainants, respondents and advocates in both the Federal and State jurisdictions.

WORKPLACE BULLYING BREAKFAST

The number of workplace bullying-related enquiries received by the Commission is increasing. In partnership with UWA, the Commissioner hosted a Workplace Bullying breakfast in June. The diverse audience, including members from Perth's legal fraternity, industry, local and State Government departments, heard the guest speaker Paul McCarthy from Griffith University talk about issues such as the estimated costs of workplace bullying, the legal risks, diminishing productivity and increasing absenteeism.

WORLD REFUGEE DAY

The Commission was an active member of the World Refugee Day Planning Committee comprising a broad range of community organisations who work with refugees. World Refugee Day was held on Sunday June 20 with a street march to the Fremantle Town Hall, followed by a public meeting. Approximately 500 people heard speakers talk about a wide range of refugee issues. Speakers included Mr Michael Wright who gave his perspective as an Aboriginal man, the Hon Carmen Lawrence, Greens WA MLC Giz Watson, Fremantle Mayor Peter Tagliaferri, refugee advocate Ms Marg Le Sueur, and President of the Ethnic Communities Council, Mr Suresh Rajan. The event included music, dance, theatre, food and a range of information stalls. The Commission's stall on unlawful discrimination was well attended.




Report On Conciliation Services

3.1 Handling Enquiries And Complaints

The Commission's staff provide enquirers with explanations about the *Equal Opportunity Act*, unlawful discrimination as defined under the Act, the complaint handling process, rights and responsibilities of complainants and respondents, community education and information on other services provide by the Commission.




In addition, Commission's staff investigate complaints of alleged discrimination and harassment that fall within the jurisdiction of the Act. Where possible, complaints that are investigated and appear to fall within the jurisdiction of the Act are referred for conciliation.

This section:

-  describes the number and nature of enquiries and complaints handled by the Commission;
-  provides the demographic profiles of complainants and respondents; and
-  details how complaints were finalised and resolved.

3.2 Answering Enquiries

The Commission received 3,839 enquiries from members of the public during 2003/04. Of these:



-  3,027 (78.8%) were made by telephone;
-  636 (16.6%) were made in writing; and
-  176 (4.6%) were made in person.

When compared with the previous financial year, the number of telephone and written enquiries decreased by 24.5% and 17.8% respectively during 2003/04. There was a 12.8% increase in the numbers of enquirers who visited the Commission from 156 in 2002/03 to 176 in 2003/04.

WHO MADE ENQUIRIES AND WHAT WERE THEY ABOUT?

The enquiries received were predominately from individuals but were also made by government departments, non-government organisations, private businesses, students and trade unions.

Of the 3,839 enquiries received in 2003/04:

-  1,979 (51.5%) were made by women; and
-  1,372 (35.7%) were made by men.

Moreover, of these 3,839 enquiries received in 2003/04, 2,460 (64.1%) were about matters that fell within the jurisdiction of the *Equal Opportunity Act*. The remaining 35.9% of enquiries included concerns that did not fall within the scope of laws administered by the Commissioner. Where possible, a referral to an appropriate agency or organisation was provided to these enquirers.

Of the majority of the enquiries that fell within the jurisdiction of the Equal Opportunity Commission:

- 1,349 (35.1%) concerned allegations or reports of discrimination;
- 1,252 (32.6%) were requests for advice on rights from potential complainants;
- 246 (6.4%) requested information and advice on responsibilities and obligations under the legislation; and
- 367 (9.6%) requested an explanation of equal opportunity legislation.

Table 2 provides details of enquiries by ground. Consistent with trends in previous years the most common grounds of unlawful discrimination raised were as follows:

- 525 (13.7%) impairment enquiries;
- 481 (12.5%) race enquiries;
- 245 (6.4%) age enquiries;
- 242 (6.3%) sex enquiries; and
- 239 (6.2%) sexual harassment enquiries.

Table 2:
Enquiries by Ground, 2001/02 to 2003/04

| Ground | 2001/02 | % | 2002/03 | % | 2003/04 | % |
|--------------------------------|---------|-------|---------|-------|---------|-------|
| Age | 378 | 5.6 | 6 | 5.6 | 245 | 6.4 |
| Family Responsibilities/Status | 244 | 3.6 | 4 | 3.9 | 166 | 4.3 |
| Gender History | 17 | 0.3 | 41 | 0.8 | 19 | 0.5 |
| Gender Identity | 0 | 0.0 | 11 | 0.2 | 6 | 0.2 |
| Impairment | 606 | 9.0 | 648 | 13.1 | 525 | 13.7 |
| Marital Status | 40 | 0.6 | 38 | 0.8 | 29 | 0.8 |
| Political conviction | 23 | 0.3 | 13 | 0.3 | 18 | 0.5 |
| Pregnancy | 259 | 3.8 | 168 | 3.4 | 133 | 3.5 |
| Race | 592 | 8.7 | 555 | 11.2 | 481 | 12.5 |
| Racial Harassment | 21 | 0.3 | 23 | 0.5 | 18 | 0.5 |
| Racial Vilification | 0 | 0.0 | 15 | 0.3 | 17 | 0.4 |
| Religious Conviction | 59 | 0.9 | 60 | 1.2 | 50 | 1.3 |
| Sex | 358 | 5.3 | 284 | 5.7 | 242 | 6.3 |
| Sexual Harassment | 383 | 5.7 | 255 | 5.2 | 239 | 6.2 |
| Sexual Orientation | 1115 | 16.5 | 168 | 3.4 | 52 | 1.4 |
| Spent Conviction | 44 | 0.7 | 34 | 0.7 | 24 | 0.6 |
| All grounds | 515 | 7.6 | 400 | 8.1 | 333 | 8.7 |
| Other | 2114 | 31.2 | 1764 | 35.7 | 1242 | 32.4 |
| Total | 6768 | 100.0 | 4486 | 100.0 | 3839 | 100.0 |

Table 3 provides details of enquiries by area. The most common areas of public life where enquirers sought information about unlawful discrimination were:

- ☞ 2,100 (54.7%) employment;
- ☞ 403 (10.5%) goods services and facilities; and
- ☞ 199 (5.2%) accommodation.

Table 3:
Enquiries by Area, 2001/02 to 2003/04

| Area | 2001/02 | % | 2002/03 | % | 2003/04 | % |
|--------------------------------|---------|-------|---------|-------|---------|-------|
| Employment | 3259 | 48.2 | 2633 | 53.3 | 2100 | 54.7 |
| Access to Places and Vehicles | 44 | 0.7 | 51 | 1.0 | 42 | 1.1 |
| Accommodation | 220 | 3.3 | 213 | 4.3 | 199 | 5.2 |
| Education | 158 | 2.3 | 182 | 3.7 | 136 | 3.5 |
| Clubs | 88 | 1.3 | 67 | 1.4 | 43 | 1.1 |
| Goods, Services and Facilities | 620 | 9.2 | 607 | 12.3 | 403 | 10.5 |
| Sports | 15 | 0.2 | 27 | 0.5 | 14 | 0.4 |
| Land | 3 | 0.0 | 8 | 0.2 | 3 | 0.1 |
| All Areas | 1509 | 22.3 | 472 | 9.6 | 322 | 8.4 |
| Other | 852 | 12.6 | 681 | 13.8 | 577 | 15.0 |
| Total | 6768 | 100.0 | 4941 | 100.0 | 3839 | 100.0 |

3.3 Written Enquiries Versus Complaints

All correspondence received by the Commissioner for Equal Opportunity is first assessed as a 'written enquiry' or 'potential complaint'.

After a 'written enquiry' has been received, the Commissioner sends a reply to the enquirer. If the information contained in the enquirer's correspondence is insufficient, additional information is requested. In some cases, after additional information has been received, the Commission's officers may re-assess the correspondence as a 'potential complaint' if allegations made fall within the jurisdiction of the *Equal Opportunity Act*.

The Commission's officers complete an assessment of 'potential complaints' to determine if the allegations made fall within the jurisdiction of the *Equal Opportunity Act*.

If there is insufficient information provided to make an assessment but the issues raised probably fall within the jurisdiction of the Act, additional information is requested from the potential complainant.

The Commissioner will then consider all of the information provided and decide whether the correspondence can be accepted as a 'formal complaint', in accordance with the relevant provisions of the Act.

If the correspondence falls outside the Commission's jurisdiction, a letter is sent explaining the reasons why the matter raised does not fall within jurisdiction of the *Equal Opportunity Act*. Where possible, the letter will refer the enquirer to an appropriate organisation for assistance.

The Commission received 636 written enquiries in 2003/04, of which 427 (67.1%) were dealt with by the Commission's officers, 118 (18.5%) were referred to an appropriate government department or non-government organisation, and 32 (5.0%) were converted into complaints. Table 4 provides details of written enquiries converted to formal complaints.

Table 4:
Written Enquiries Converted to Formal Complaints by the
Commissioner, 2001/02 to 2003/04

| | 2001/02 | % | 2002/03 | % | 2003/04 | % |
|--------------------------|---------|-----|---------|-----|---------|-----|
| Converted to a Complaint | 38 | 2.2 | 44 | 5.7 | 32 | 5.0 |
| Total | 38 | 2.2 | 44 | 5.7 | 32 | 5.0 |

3.4 Handling Complaints

In 2003/04 a total of 1,053 complaints were handled by the Commission, which included 466 new complaints received, and 587 complaints carried forward from 2002/03, as shown in Table 5 on page 19.

There was a 26.8% decrease in the number of new complaints received from 637 in 2002/03 to 466 in 2003/04. The decrease mainly related to complaints on the grounds of race and impairment lodged in the areas of goods and services, and accommodation. This reduction is likely to be a result of the Commissioner's investigation into the provision of public housing to Aboriginal people in Western Australia. Many individuals lodged submissions to the investigation raising concerns of alleged discrimination that would otherwise have been handled as complaints.

While the number of new complaints received during this year decreased, the number of complaints that were closed increased by 38.2% - from 500 in 2002/03 to 691 in 2003/04. Of the 1,053 complaints handled, 691 (65.6%) were closed, an increase of 191 from 2002/03. A major focus was to resolve complaints which had remained open for longer than twelve months.

The remaining 362 (34.4%) complaints handled were still under investigation at the end of the financial year.

Table 5:
Number of Complaints Handled, 2001/02 to 2003/04

| Complaints Handled | 2001/02 | % | 2002/03 | % | 2003/04 | % |
|---|-------------|--------------|-------------|--------------|-------------|--------------|
| Complaints carried over from previous financial years | 393 | 38.3 | 450 | 41.4 | 587 | 55.7 |
| Complaints Received | 634 | 61.7 | 637 | 58.6 | 466 | 44.3 |
| Total Handled | 1027 | 100.0 | 1087 | 100.0 | 1053 | 100.0 |
| Complaints Closed | 577 | 56.2 | 500 | 46.0 | 691 | 65.6 |
| Complaints still under investigation | 450 | 43.8 | 587 | 54.0 | 362 | 34.4 |

GROUNDS AND AREAS OF COMPLAINTS

Table 6 on page 20 provides details of complaints by ground. During 2003/04 the most common grounds of alleged unlawful discrimination cited in complaints were as follows:

- 106 (22.7%) impairment;
- 104 (22.3%) race;
- 58 (12.4%) sexual harassment; and
- 57 (12.2%) sex.

There has been an 8.7% increase in the number of complaints lodged in the area of employment – from 265 in 2002/03 to 288 in 2003/04. In addition, the number of complaints alleging race discrimination in the area of employment increased by 82.3% - from 17 to 31 in the same period. Table 7 on page 20 provides details of complaints by area.

Complaints in the areas of goods, services and facilities and accommodation declined from the previous year particularly those made on the grounds of race, impairment and sex.

As mentioned previously, the decline in complaints in these areas can be attributed to the Commissioner's investigation into the provision of public housing to Aboriginal People in Western Australia.

Table 6:
Complaints by Ground, 2001/02 to 2003/04

| Ground | 2001/02 | % | 2002/03 | % | 2003/04 | % |
|-------------------------|------------|--------------|------------|--------------|------------|--------------|
| Age | 36 | 5.7 | 28 | 4.4 | 39 | 8.4 |
| Family Responsibilities | 20 | 3.2 | 19 | 3.0 | 15 | 3.2 |
| Family Status | 9 | 1.4 | 13 | 2.0 | 9 | 1.9 |
| Gender History | 1 | 0.2 | 0 | 0.0 | 0 | 0.0 |
| Impairment | 143 | 22.6 | 174 | 27.3 | 106 | 22.7 |
| Marital Status | 29 | 4.6 | 42 | 6.6 | 7 | 1.5 |
| Political conviction | 1 | 0.2 | 1 | 0.2 | 0 | 0.0 |
| Pregnancy | 28 | 4.4 | 29 | 4.6 | 20 | 4.3 |
| Race | 164 | 25.9 | 154 | 24.2 | 104 | 22.3 |
| Racial Harassment | 11 | 1.7 | 9 | 1.4 | 10 | 2.1 |
| Religious Conviction | 11 | 1.7 | 9 | 1.4 | 4 | 0.9 |
| Sex | 77 | 12.1 | 83 | 13.0 | 57 | 12.2 |
| Sexual Harassment | 80 | 12.6 | 56 | 8.8 | 58 | 12.4 |
| Sexual Orientation | 0 | 0.0 | 4 | 0.6 | 6 | 1.3 |
| Spent Conviction | 0 | 0.0 | 0 | 0.0 | 0 | 0.0 |
| Victimisation | 24 | 3.8 | 16 | 2.5 | 31 | 6.7 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

Table 7:
Complaints by Area, 2001/02 to 2003/04

| Area | 2001/02 | % | 2002/03 | % | 2003/04 | % |
|--------------------------------|------------|--------------|------------|--------------|------------|--------------|
| Employment | 270 | 42.6 | 265 | 41.6 | 288 | 61.8 |
| Access to Places and Vehicles | 5 | 0.8 | 25 | 3.9 | 20 | 4.3 |
| Accommodation | 189 | 29.8 | 126 | 19.8 | 31 | 6.7 |
| Education | 15 | 2.4 | 11 | 1.7 | 17 | 3.6 |
| Clubs | 1 | 0.2 | 5 | 0.8 | 0 | 0.0 |
| Goods, Services and Facilities | 133 | 21.0 | 204 | 32.0 | 108 | 23.2 |
| Victimisation | 21 | 3.3 | 1 | 0.2 | 2 | 0.4 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

COMPLAINTS OF VICTIMISATION

As well as receiving complaints on the various grounds under the Act, the Equal Opportunity Commission receives complaints of victimisation lodged under section 67 of the *Equal Opportunity Act*. This section of the Act renders it unlawful to threaten, or subject a person to any detriment because they have made a complaint of discrimination or propose to make a complaint of discrimination.

It is also unlawful to victimise someone who has provided information or proposes to provide any information or documents to the Commission's officers whilst they are performing any function under the Act.

Victimisation may also occur if someone is shown to have suffered any detriment because they have agreed to appear or have appeared as a witness before the Equal Opportunity Tribunal and if someone attempts to assert the rights of another person under the Act, or has made an allegation that a person has done something that is unlawful under the Act.

The number of complaints on the ground of victimisation almost doubled – from 16 in 2002/03 to 31 in 2003/04. Refer to Table 6 on page 20. Of these 31 victimisation complaints, 28 were in the area of employment.

3.5 Who Lodged Complaints?

GENDER OF COMPLAINANTS

Details of complaints by ground and gender of complainants are provided in Table 8 on page 22. Consistent with previous years, a large proportion of complaints were lodged by women (63.7%) compared to men (34.5%).

The most common grounds on which women lodged complaints included:

- 51 impairment;
- 51 sex;
- 50 sexual harassment; and
- 48 race.

The most common grounds on which men lodged complaints included:

- 54 impairment;
- 49 race; and
- 20 age.

The number of complaints lodged by men and women on the grounds of impairment, race and age were fairly similar. However, women lodged a higher number of complaints than men as follows:

- 51 of the 57 complaints on the ground of sex;
- 50 of the 58 complaints on the ground of sexual harassment;
- 22 of the 31 complaints on the ground of victimisation; and
- 5 of the 6 complaints on the ground of sexual orientation.

Table 8:
Complaints by Ground and Gender of Complainants, 2003/04

| Ground | Female | Male | Mixed Group | Total | % |
|-------------------------|-------------|-------------|-------------|--------------|--------------|
| Age | 19 | 20 | 0 | 39 | 8.4 |
| Family Responsibilities | 12 | 3 | 0 | 15 | 3.2 |
| Family Status | 8 | 1 | 0 | 9 | 1.9 |
| Gender History | 0 | 0 | 0 | 0 | 0.0 |
| Impairment | 51 | 54 | 1 | 106 | 22.7 |
| Marital Status | 6 | 1 | 0 | 7 | 1.5 |
| Political Conviction | 0 | 0 | 0 | 0 | 0.0 |
| Pregnancy | 20 | 0 | 0 | 20 | 4.3 |
| Race | 48 | 49 | 7 | 104 | 22.3 |
| Racial Harassment | 3 | 7 | 0 | 10 | 2.1 |
| Religious Conviction | 2 | 2 | 0 | 4 | 0.9 |
| Sex | 51 | 6 | 0 | 57 | 12.2 |
| Sexual Harassment | 50 | 8 | 0 | 58 | 12.4 |
| Sexual Orientation | 5 | 1 | 0 | 6 | 1.3 |
| Spent Conviction | 0 | 0 | 0 | 0 | 0.0 |
| Victimisation | 22 | 9 | 0 | 31 | 6.7 |
| Total | 297 | 161 | 8 | 466 | 100.0 |
| % | 63.7 | 34.5 | 1.7 | 100.0 | |

The Commission also collects information from complainants, on a voluntary basis, about their age, ethnicity, occupation, whether they speak a language other than English at home and whether they have a disability.

A total of 408 of the 466 complainants surveyed returned completed questionnaires yielding a response rate of 87.6% (error rate of 1.71%).

AGE OF COMPLAINANTS

Table 9 on page 23 provides details of complainants by age. In the survey responses, 44 (9.4%) complainants indicated they were below 20 years of age — an increase from 28 in 2002/03.

This rise could be a result of an increase in rights-based training conducted this year by the Commission to students in high schools and TAFE colleges.

Similar to previous years, 197 (42.3%) complainants stated they were aged between 20—39 years and 112 (24.0%) were aged between 40—64 years of age.

Of the 408 complainants who returned questionnaires, 45 (9.6%) declined to provide information on their age.

Table 9:
Complainants by Age, 2003/04

| Age | 2001/02 | | 2002/03 | | 2003/04 | |
|---|------------|--------------|------------|--------------|------------|--------------|
| | Number | % | Number | % | Number | % |
| 0 - 14 | 5 | 0.8 | 3 | 0.5 | 12 | 2.6 |
| 15 - 19 | 20 | 3.2 | 25 | 3.9 | 32 | 6.9 |
| 20 - 39 | 344 | 54.3 | 333 | 52.3 | 197 | 42.3 |
| 40 - 64 | 155 | 24.4 | 164 | 25.7 | 112 | 24.0 |
| 65+ | 17 | 2.7 | 6 | 0.9 | 10 | 2.1 |
| Not applicable | 0 | 0.0 | 6 | 0.9 | 0 | 0.0 |
| No survey returned or did not respond to question | 93 | 14.7 | 100 | 15.7 | 103 | 22.1 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

BIRTHPLACE AND ETHNICITY OF COMPLAINANTS

Table 10 on page 24 provides details of complainants by birthplace.

In 2003/04, of the complainants who were surveyed and provided information about their birthplace:

- 📄 274 (58.8%) indicated they were born in Australia;
- 📄 11 (2.4%) indicated they were born in the Middle East;
- 📄 10 (2.1%) indicated they were born in Eastern Europe – an increase from 4 (0.6%) in 2002/03; and
- 📄 50 (10.7%) indicated they were born in the United Kingdom and Ireland - an increase from 39 in 2002/03.

Of the complainants who responded to the survey, 5 (1.1%) declined to answer the question relating to their birthplace.

Table 10:
Complainants by Birthplace, 2001/02 to 2003/04

| Birthplace | 2001/02 | | 2002/03 | | 2003/04 | |
|---|------------|--------------|------------|--------------|------------|--------------|
| | Number | % | Number | % | Number | % |
| Australia - Non Aboriginal | 185 | 29.2 | 173 | 27.2 | 186 | 39.9 |
| Australia - Aboriginal | 280 | 44.2 | 270 | 42.4 | 88 | 18.9 |
| Eastern Europe | 1 | 0.2 | 4 | 0.6 | 10 | 2.1 |
| Middle East | 6 | 0.9 | 15 | 2.4 | 11 | 2.4 |
| Southeast Asia | 12 | 1.9 | 12 | 1.9 | 10 | 2.1 |
| Southern and East Africa | 3 | 0.5 | 15 | 2.4 | 5 | 1.1 |
| Southern Asia | 10 | 1.6 | 11 | 1.7 | 14 | 3.0 |
| United Kingdom | 39 | 6.2 | 39 | 6.1 | 50 | 10.7 |
| Other | 16 | 2.5 | 12 | 1.9 | 29 | 6.2 |
| Not applicable | 0 | 0.0 | 6 | 0.9 | 0 | 0.0 |
| No survey returned or did not respond to question | 82 | 12.9 | 80 | 12.6 | 63 | 13.5 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

COMPLAINANTS BY OCCUPATION

Table 11 provides details of complainants by occupation. In response to the question about occupation, 135 (29.0%) complainants stated they were in paid employment and 114 (24.5%) indicated they were looking for work.

Table 11:
Complainants by Occupation, 2001/02 to 2003/04

| Occupation | 2001/02 | | 2002/03 | | 2003/04 | |
|---|------------|--------------|------------|--------------|------------|--------------|
| | Number | % | Number | % | Number | % |
| Looking for work | 86 | 13.6 | 102 | 16.0 | 114 | 24.5 |
| Student | 39 | 6.2 | 41 | 6.4 | 43 | 9.2 |
| Retired | 4 | 0.6 | 11 | 1.7 | 7 | 1.5 |
| Pensioner | 48 | 7.6 | 34 | 5.3 | 23 | 4.9 |
| Homemaker | 34 | 5.4 | 39 | 6.1 | 25 | 5.4 |
| In paid employment | 110 | 17.4 | 128 | 20.1 | 135 | 29.0 |
| Not applicable | 0 | 0.0 | 6 | 0.9 | 0 | 0.0 |
| No survey returned or did not respond to question | 313 | 49.4 | 276 | 43.3 | 119 | 25.5 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

COMPLAINANTS WITH A DISABILITY

Details of complainants by disability are provided in Table 12. In 2003/04, 106 (22.7%) complainants alleged impairment as a ground of discrimination compared to 174 (27.3%) in the previous financial year.

Of the 466 complainants, 68 (14.6%) indicated they had a disability, 41 (8.8%) did not respond to the question and 58 (12.4%) did not complete the survey.

Table 12:
Complainants by Disability, 2001/02 to 2003/04

| Disability | 2001/02 | | 2002/03 | | 2003/04 | |
|---|---------|-------|---------|-------|---------|-------|
| | Number | % | Number | % | Number | % |
| Yes | 160 | 25.2 | 222 | 34.9 | 68 | 14.6 |
| No | 380 | 59.9 | 323 | 50.7 | 299 | 64.2 |
| Not applicable | 0 | 0.0 | 6 | 0.9 | 0 | 0.0 |
| No survey returned or did not respond to question | 94 | 14.8 | 86 | 13.5 | 99 | 21.2 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

3.6 RESPONDENTS TO COMPLAINTS

INDUSTRY SECTOR AND SIZE OF RESPONDENT ORGANISATIONS

Using classifications developed by the Australian Bureau of Statistics we collect information on the industry of organisations against which complaints are lodged. This information assists us to produce publications, conduct seminars and develop relevant training programs that are industry specific.

Table 13 on page 26 shows the main industries about which complaints were received. In 2003/04, respondents with the highest number of complaints were from the following industries:

- 82 (17.6%) from the Retail Trade;
- 67 (14.4%) from Property and Business Services;
- 37 (7.9%) from Cultural and Recreational Services;
- 37 (7.9%) from Health and Community Services; and
- 33 (7.1%) from Accommodation Cafes and Restaurants.

Table 13:
Complaints by Industry, 2001/02 to 2003/04

| Industry Type | 2001/02 | | 2002/03 | | 2003/04 | |
|--|------------|--------------|------------|--------------|------------|--------------|
| | Number | % | Number | % | Number | % |
| Accommodation/Cafes/Restaurants | 27 | 4.3 | 36 | 5.7 | 33 | 7.1 |
| Agriculture/Forestry/Fishing | 5 | 0.8 | 8 | 1.3 | 3 | 0.6 |
| Communication Services | 9 | 1.4 | 5 | 0.8 | 1 | 0.2 |
| Construction | 12 | 1.9 | 7 | 1.1 | 11 | 2.4 |
| Cultural and Recreational Services | 28 | 4.4 | 16 | 2.5 | 37 | 7.9 |
| Education - Pre, School and Post | 27 | 4.3 | 34 | 5.3 | 30 | 6.4 |
| Finance and Insurance | 12 | 1.9 | 22 | 3.5 | 25 | 5.4 |
| Health and Community Services | 39 | 6.2 | 45 | 7.1 | 37 | 7.9 |
| Manufacturing | 29 | 4.6 | 18 | 2.8 | 23 | 4.9 |
| Mining | 14 | 2.2 | 19 | 3.0 | 26 | 5.6 |
| Personal and Other Services including corrective and police services | 37 | 5.8 | 40 | 6.3 | 47 | 10.1 |
| Property and Business Services | 261 | 41.2 | 243 | 38.1 | 67 | 14.4 |
| Retail Trade | 81 | 12.8 | 77 | 12.1 | 82 | 17.6 |
| Transport and Storage | 31 | 4.9 | 44 | 6.9 | 14 | 3.0 |
| Wholesale Trade | 5 | 0.8 | 5 | 0.8 | 12 | 2.6 |
| Other Industry | 17 | 2.7 | 18 | 2.8 | 18 | 3.9 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

Table 14 on page 27 provides details of complaints by size of organisation. Analysis of respondent's industries by organisation size indicates:



-  a 64.3% decline in the number of respondent organisations with 500 or more employees decreased from 348 (54.6%) in 2002/03 to 124 (26.6%) in 2003/04; and
-  a 24.6% increase in the number of respondent organisations with 5–19 employees from 81 (12.7%) in 2002/03 to 101 (21.7%) in 2003/04.

Table 14:
Complaints by Size of Respondents' Organisation,
2001/02 to 2003/04

| Size of Organisation | 2001/02 | | 2002/03 | | 2003/04 | |
|----------------------|---------|-------|---------|-------|---------|-------|
| | Number | % | Number | % | Number | % |
| Less than 5 | 28 | 4.4 | 23 | 3.6 | 23 | 4.9 |
| 5 - 19 | 77 | 12.1 | 81 | 12.7 | 101 | 21.7 |
| 20 - 99 | 64 | 10.1 | 86 | 13.5 | 105 | 22.5 |
| 100 - 499 | 46 | 7.3 | 81 | 12.7 | 58 | 12.4 |
| 500+ | 369 | 58.2 | 348 | 54.6 | 124 | 26.6 |
| Not known | 50 | 7.9 | 18 | 2.8 | 55 | 11.8 |
| Total | 634 | 100.0 | 637 | 100.0 | 466 | 100.0 |

3.7 How Complaints Were Finalised

Complaints are finalised in a number of ways. They may be withdrawn, dismissed, lapsed, conciliated, or referred to the Equal Opportunity Tribunal.

Table 15:
Outcome of Complaints Closed, 2001/02 to 2003/04

| Outcome of Complaints Closed | 2001/02 | | 2002/03 | | 2003/04 | |
|--|---------|-------|---------|-------|---------|-------|
| | Number | % | Number | % | Number | % |
| Dismissed | 64 | 11.1 | 56 | 11.2 | 38 | 5.5 |
| Lapsed | 150 | 26.0 | 75 | 15.0 | 358 | 51.8 |
| Withdrawn | 88 | 15.3 | 90 | 18.0 | 41 | 5.9 |
| Conciliation | 177 | 30.7 | 148 | 29.6 | 150 | 21.7 |
| Referred to Equal Opportunity Tribunal | 98 | 17.0 | 131 | 26.2 | 104 | 15.1 |
| Total Complaints Closed | 577 | 100.0 | 500 | 100.0 | 691 | 100.0 |

WITHDRAWN COMPLAINTS

Complainants choose to withdraw their complaints for a number of reasons. In some instances complainants do not have not sufficient evidence to substantiate their claims of unlawful discrimination, and on that basis decide not to proceed with their complaint. In other cases complainants choose to withdraw their complaint where they have been satisfied with actions taken. There was 54.4% decrease in the number of complaints that were withdrawn from 90 in 2002/03 to 41 in 2003/04.

DISMISSED COMPLAINTS

Under the *Equal Opportunity Act*, the Commissioner may dismiss complaints that are found to be lacking in substance, frivolous, vexatious or misconceived. Each year a small proportion of complaints are dismissed. In 2003/04, 38 (5.5%) complaints were dismissed compared to 56 (11.2%) in the previous year.

LAPSED COMPLAINTS

Complaints are considered to have "lapsed" when complainants abandon their complaint, or do not wish to proceed with it and have not advised the Commissioner, in writing, as required under the *Equal Opportunity Act*. In some instances the Commissioner has been unable to maintain contact with the complainant and after a period of time the complaint lapses. Before the Commissioner makes a decision to lapse a complaint, the Commission's officers attempt to initiate contact either by letter or telephone, or a combination of both. In other cases complainants do not continue with their complaints once they are able to resolve the dispute themselves. Others are satisfied with the Commissioner's correspondence to the respondent and the respondent's explanation. Some complainants are disheartened by the onus of proof, which requires that complainants must support their allegations with evidence such as witnesses' statements and documents.

A number of complaints are lapsed each year. The number of lapsed complaints increased from 75 (15.0%) in 2002/03 to 358 (51.8%) in 2003/04. Due to the increasing number of public housing complaints the Acting Commissioner instructed additional complaint files for the grounds of sex and marital status and area of goods, services and facilities to be added to any race and impairment complaint file received from April to December 2002. Accordingly, the increase in lapsed complaints is due to this change in processing complaints received.

CONCILIATED COMPLAINTS

Complaints can be resolved through conciliation. There are a number of options available for conciliating a complaint, including the parties attending a formal conciliation conference, participating in a teleconference or negotiation through the exchange of letters and telephone conversations. Sometimes the complainant and respondent meet privately and come to an agreement themselves. In some circumstances the Commissioner can require the parties to attend a conference. Wherever possible a face-to-face conciliation conference between the parties is held, facilitated by an officer of the Commission.

The aim of a conciliation conference is to allow the parties an opportunity to discuss the complaint, the issues that led to it and attempt to help the parties find a fair, ethical and equitable way of resolving it. A conciliation conference provides an opportunity for the parties to reach an understanding, although not necessarily agreement, about what happened.

Conciliation can provide an opportunity for the parties to reach a mutual agreement in a non-legal setting, settle the complaint confidentially and cost-effectively, and bring the dispute to an end.

Of the 691 complaints closed this year, 150 (21.7%) were conciliated.

TYPES OF ARRANGEMENTS IN CONCILIATED COMPLAINTS

The kinds of arrangements that can be negotiated during the conciliation of complaints include:

- introducing or improving equal opportunity practices;
- providing staff training programs on equal opportunity and discrimination;
- compensating for a specific loss, e.g. income;
- compensating for pain, suffering, hurt and humiliation;
- making and receiving an apology; and
- making something available that was previously refused such as, accommodation, admission to a course, access to a shop or nightclub.

It is common for one or more of these outcomes to be negotiated in conciliation.

In 2003/04 the most common types of arrangements negotiated in the conciliation of complaints included:

- 69 (30.0%) monetary settlements;
- 37 (16.1%) apologies;
- 26 (11.3%) private settlements;
- 24 (10.4%) policy changes; and
- 22 (9.5%) education/EEO programs.

CASES OF COMPLAINTS HANDLED

As part of the Commission's community education focus, case studies of complaints handled by the Commission are provided in Appendix A on page 82. These case studies demonstrate the various outcomes of the complaints lodged with the Commission.

COMPLAINTS REFERRED TO THE TRIBUNAL

Referral of complaints to the Equal Opportunity Tribunal can occur in one of two ways. The Commissioner may refer a complaint or the complainant may self refer the complaint. The Commissioner may refer a complaint to the Tribunal where she is of the view that the complaint cannot be resolved by conciliation, or has attempted to resolve the complaint by conciliation but has been unsuccessful, or is of the opinion that the nature of the complaint is such that the matter should be referred to the Tribunal. In 2003/04 the Commissioner referred 93 (8.8%) complaints to the Tribunal.

Where a complaint has been dismissed by the Commissioner the complainant may, within 21 days of the notice of dismissal, require the Commissioner to refer the complaint to the Tribunal. In 2003/04 an additional 11 (1.0%) complaints were referred to the Tribunal by request from the complainant.

TIME TAKEN TO CLOSE COMPLAINTS

Table 16 provides details of the time taken to close complaints. Of the 691 complaints closed in 2003/04, 202 (29.2%) were closed within six months and 197 (28.5%) were closed within twelve months.

There was a major increase in the number of complaints finalised within 13–18 months from 31 (6.2%) in 2002/03 to 224 (32.4%) in 2003/04. The reason for this increase is largely due to the efforts of the Commission's officers to progress older matters that had not been finalised. A significant majority of the older matters were finalised during this year. A total of 191 more complaints were finalised this year compared to the previous financial year.

Table 16:
Time Taken to Finalise Complaints, 2001/02 to 2003/04

| Outcome of Complaints Closed | 2001/02 | | 2002/03 | | 2003/04 | |
|------------------------------|------------|--------------|------------|--------------|------------|--------------|
| | Number | % | Number | % | Number | % |
| 0 - 6 months | 249 | 43.2 | 269 | 53.8 | 202 | 29.2 |
| 7 - 12 months | 202 | 35.0 | 177 | 35.4 | 197 | 28.5 |
| 13 - 18 months | 83 | 14.4 | 31 | 6.2 | 224 | 32.4 |
| 19 - 24 months | 34 | 5.9 | 14 | 2.8 | 62 | 9.0 |
| 2 years or more | 9 | 1.6 | 9 | 1.8 | 6 | 0.9 |
| Total | 577 | 100.0 | 500 | 100.0 | 691 | 100.0 |

In addition to attempting to finalise older matters, the Commission's complaint handling processes have been reviewed to assist parties to move through the process more expediently.

3.8 Provision Of Legal Assistance

Legal assistance was provided to complainants whose complaints the Commissioner referred to the Equal Opportunity Tribunal for determination. The Commissioner only provides assistance in relation to complaints she considers as having substance under the provisions of the *Equal Opportunity Act*. The number of legal matters handled is shown in Table 17 on page 30. A 'matter' means a single inquiry by the Equal Opportunity Tribunal into all complaints made by one or more complainants.

TABLE 17
Number of Matters by Legal Assistance 2001/02 to 2003/04

| Legal Assistance | 2001/02 | | 2002/03 | | 2003/04 | |
|---|---------|-------|---------|-------|---------|-------|
| | Number | % | Number | % | Number | % |
| Number of matters referred by the Commissioner and carried over from previous financial years | 22 | 34.4 | 39 | 41.9 | 58 | 50.0 |
| Number of appeals to the Supreme Court and carried over from previous financial years | 1 | 1.6 | 0 | 0.0 | 0 | 0.0 |
| Number of matters referred by the Commissioner each financial year | 41 | 64.1 | 53 | 57.0 | 55 | 47.4 |
| Number of interim appeals and writ of summons received each financial year | 0 | 0.0 | 1 | 1.1 | 3 | 2.6 |
| Total number of matters handled each financial year | 64 | 100.0 | 93 | 100.0 | 116 | 100.0 |

Following the trend of recent years, a 24.7% increase was recorded for 2003/04 in the number of matters handled by the Commission's legal officers compared to the previous year, up from 93 to 116. The number of matters brought forward from the previous year also continued to rise, up from 39 in 2002/03 to 58 in 2003/04.

The number of matters referred by the Commissioner to the Equal Opportunity Tribunal under section 93 of the Act did not change much from the previous year, from 53 to 55. The increase in the number of matters handled overall is a consequence of the corresponding increase in the number of matters brought forward from the previous year. A total of 55 matters remained outstanding at the end of 2003/04, slightly less than the 58 matters brought forward. It is expected therefore that legal officers will handle a similar number of matters overall in 2004/05 as they did in 2003/04.

The Commission has maintained its relationship with a number of private law firms, which provide *pro bono* legal assistance to selected complainants in the Equal Opportunity Tribunal. This arrangement has helped to reduce the workload of the Commission's legal officers, whilst enabling private practitioners to acquire skills in advocating for complainants.

The figures in Table 18 demonstrate that the Commission's legal officers continued to place a priority on resolving complaints through negotiated settlements and mediation conferences, with effective results. This priority has been necessary in order to manage and contain the number of matters outstanding at the end of the financial year. The total number of matters that were settled in 2003/04 with the assistance of a legal officer rose from 25 in the previous financial year to 40. As a result, the number of matters outstanding at the end of the year did not increase significantly over the previous year.

TABLE 18
Outcomes of Matters by Legal Assistance 2001/02 to 2003/04

| Outcome of Matters | 2001/02 | | 2002/03 | | 2003/04 | |
|--|-----------|--------------|-----------|--------------|------------|--------------|
| | Number | % | Number | % | Number | % |
| Withdrawn | 0 | 0.0 | 1 | 1.1 | 4 | 3.4 |
| Settled before hearing by Legal Officers | 6 | 9.4 | 7 | 7.5 | 17 | 14.7 |
| Settled at Tribunal mediation by Legal Officers | 14 | 21.9 | 18 | 19.4 | 23 | 19.8 |
| Upheld by the Tribunal | 2 | 3.1 | 1 | 1.1 | 4 | 3.4 |
| Dismissed by the Tribunal | 2 | 3.1 | 2 | 2.2 | 3 | 2.6 |
| Discontinued Assistance | 0 | 0.0 | 5 | 5.4 | 8 | 6.9 |
| Number of matters heard and decided by the Supreme Court | 0 | 0.0 | 0 | 0.0 | 1 | 0.9 |
| Number of Writ of Summons and Interim Appeals finalised | 1 | 1.6 | 1 | 1.1 | 1 | 0.9 |
| Total number of matters finalised | 25 | 39.1 | 35 | 37.6 | 61 | 52.6 |
| Number of matters referred by the Commissioner and outstanding at the Tribunal and Supreme Court | 39 | 60.9 | 58 | 62.4 | 55 | 47.4 |
| Total number of matters handled each financial year | 64 | 100.0 | 93 | 100.0 | 116 | 100.0 |

The demand for assistance provided by the Commission's legal officers in 2004/05 is expected either to remain at a similar level experienced in 2003/04, or increase further, as outstanding matters are joined by new complaints referred to the Equal Opportunity Tribunal. There was a 81.2% increase in the number of matters that were handled, from 64 in 2001/02 to 116 in 2003/04. A strong emphasis on negotiation and mediation by legal officers will continue into 2004/05, as these are clearly the most beneficial and effective methods of disposing of complaints.

Report on Corporate Governance and Compliance

4.1 Compliance With Relevant Written Laws

There are a number of Acts that govern or affect our operations. This section briefly describes these Acts and our compliance with other specific laws.

ENABLING LEGISLATION

The Office of the Commissioner for Equal Opportunity is established under Part VII, Division I of the *Equal Opportunity Act 1984*.

The Commissioner for Equal Opportunity is appointed by the Governor and is the Accountable Officer under the *Financial Administration and Audit Act 1985*.

LEGISLATION ADMINISTERED

The Commissioner administers the *Equal Opportunity Act 1984* (as amended in 1988, 1992 and 2001) – Parts I-VII and X.

Enquiries concerning Commonwealth human rights and anti-discrimination laws are referred directly to the Commonwealth Human Rights and Equal Opportunity Commission located in Sydney, New South Wales.

LEGISLATION AFFECTING THE COMMISSION'S ACTIVITIES

In the performance of its functions, the Equal Opportunity Commission complies with the following relevant State and Commonwealth written laws.

State

-  *Disability Services Act 1993;*
-  *Electoral Act 1907;*
-  *Financial Administration and Audit Act 1985;*
-  *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;*
-  *Salaries and Allowances Act 1975;*
-  *Spent Convictions Act 1988;*
-  *State Records Act 2000;*
-  *State Supply Commission Act 1991; and*
-  *Workers Compensation and Rehabilitation Act 1981.*

Commonwealth

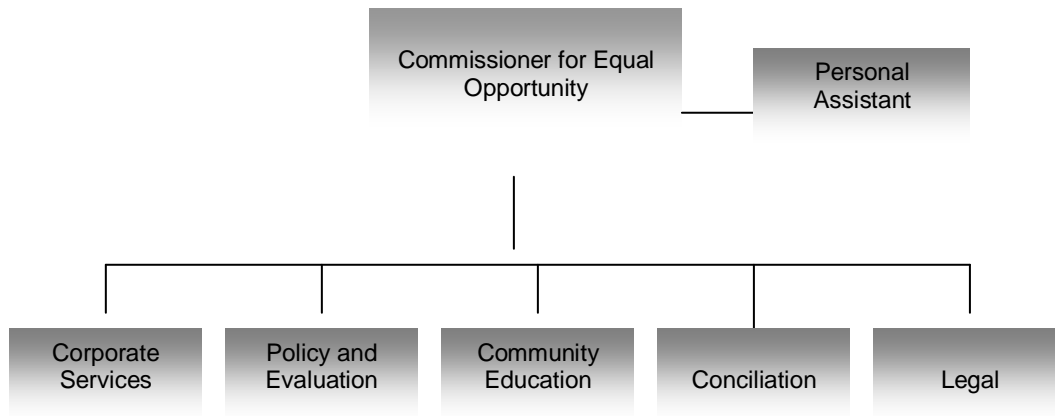
- 📄 *Age Discrimination Act 2004;*
- 📄 *Disability Discrimination Act 1992;*
- 📄 *Human Rights and Equal Opportunity Act 1986;*
- 📄 *Racial Discrimination Act 1975;*
- 📄 *Sex Discrimination Act 1984; and*
- 📄 *Workplace Relations Act 1996.*

ORGANISATIONAL STRUCTURE

The Commission’s organisational structure is presented in Figure 1.

Figure 1

The Equal Opportunity Commission’s Organisational Structure



The functions of the Commission’s sections is provided in Table 19.

Table 19:

Functions of the Commission

| | |
|-----------------------|--|
| Community Education | Promotes equal opportunity through training, presentations and outreach programs. |
| Conciliation | Handles complaints and enquiries alleging discrimination. |
| Corporate Services | Manages administration, financial and human resources. |
| Legal | Provides legal advice and assistance |
| Policy and Evaluation | Identifies discriminatory practices, develops strategic policy options, conducts research and evaluations, produces publications and manages information technology. |

4.2 Legislative And Governance Compliance

4.2.1 MEETING THE NEEDS OF WESTERN AUSTRALIANS

The Commission has a commitment to customer service. Our Customer Service Charter states:

“Our aim is to help you in a friendly and efficient way. We will offer you fair and accurate advice and will endeavour to respond to your needs as promptly as possible. Your complaints and inquiries will be treated in confidence.”

The Commission meets the requirements of the: Disability Service Plan Outcomes, Plan for Women Outcomes, Equal Employment Opportunity Outcomes, Language and Cultural Diversity Outcomes and Youth Outcomes by:

- ☐ actively supporting the principles and practices of equal opportunity;
- ☐ ensuring that services provided by the Commission are fully accessible to people with disabilities and their families and carers;
- ☐ encouraging feedback from the public regarding our service delivery; and
- ☐ employing a diverse range of people, in a variety of positions.

Details of special initiatives and programs targetting our customer groups are presented below.

DISABILITY SERVICE PLAN OUTCOMES

In order to meet the needs of our diverse customers key publications are available in audio format and Translation Interpreter Services are used in presentations and complaint handling as required. The Commission also engaged the WA Deaf Society to deliver training on use of teletypewriter (TTY) machines and communicating with people with hearing impairments.

The Commission refers enquirers and complainants to appropriate disability advocacy and support services, where required.

During 2003/04 the Commission continued to use the video *A Class Divided* in its *Equal Opportunity Law* training sessions. This video has been captioned to accommodate people who are deaf or hard of hearing.

Conciliation officers used the Human Rights and Equal Opportunity Commission’s video *Pathways to Resolution* with text to assist people with hearing impairments in the conciliation process.

When working with hearing impaired people conciliation officers follow the client’s direction regarding their preferred choice of type of interpreter. Conciliators frequently use phone and face-to-face interpreters in the complaint handling and conciliation process.

To enhance knowledge and skills, conciliation officers participated in a staff development day where an advocate for people with mental illness provided a session on strategies for working effectively with people who have a mental illness.

In February, the senior legal officer made a presentation on ‘The Rights of People who Stutter’ as part of the workshop session Employment and Discrimination at the 2004 World Congress for People Who Stutter.

The Commissioner was a member of the Office of Equal Employment Opportunity's Chief Executive Officer (CEO) Diversity Forum People with Disabilities Sub-Group. The Sub-Group was established to identify barriers to the employment and retention of people with disabilities in the public sector and inform the development of a disability employment strategy.

The manager policy and evaluation was awarded a Public Sector Fellowship by the Department of the Premier and Cabinet, Curtin University and the Institute of Public Administration WA Division to undertake a 13-week project titled "Determinants to the Employment and Retention of People with Disabilities in the WA Public Sector".

PLAN FOR WOMEN OUTCOMES

As part of its commitment to promoting equal opportunities and equality for women, the Commission's officers provided training on *Sexual Orientation and Gender History* and *Equal Opportunity Law and Diversity* for the Office for Women's Policy. In addition, presentations were made to the Business and Professional Women of WA and Women in Leadership Conference. The Commissioner is on the WA Police Service's Spirit Project team established to redress gender imbalance within the WA Police Service.

EQUAL EMPLOYMENT OPPORTUNITY OUTCOMES

During 2003/04 the Commission provided training to several organisations on issues relating to equal employment opportunities, including *Staff Recruitment and Selection*, *Equal Opportunity Law and the Manager's Role*, *Equal Employment Obligations*, *Equal Employment Law and Diversity*, *Managing Discrimination in the Workforce*, and *Obstacles in the Gendered Workplace*.

CULTURAL DIVERSITY AND LANGUAGE SERVICES

In a training session for students in Auslan and Deaf studies at Leederville TAFE, the trainer worked with an Auslan interpreter to accommodate the needs of the participants to present a session on the role and function of the Commission.

Commission trainers have worked with Farsi interpreters in delivering equal opportunity information to groups of people from Afghanistan.

The Commission's *Unlawful Discrimination* brochure is currently being translated into Mandarin and Malay to accommodate the needs of the people in the Indian Ocean Territories of Christmas and Cocos Islands.

Clients can submit complaints, responses and other documents in languages other than English. These documents are professionally translated.

In addition, correspondence to enquirers, complainants and respondents are translated into languages other than English, as required.

Conciliators frequently use phone and face-to-face interpreters in the complaint handling and conciliation process.

YOUTH OUTCOMES

During 2003/04 1,414 participants attended speaking engagements and forums in 60 sessions aimed at advancing human rights and promoting the objects of the Equal Opportunity Act. These training sessions are delivered free of charge to assist those most likely to experience discrimination, and their advocates, to understand the scope of the law, their rights and the Commission's complaint process. Of these training sessions 36.6% and over half of the total number of participants involved either students in schools or TAFE, or staff working with various groups of young people e.g. Youth Affairs Council WA and South Metropolitan Youth Link. In addition, the Commission's officers made presentations on issues relating to 'public space' for youth.

4.2.2 EVALUATIONS

No major evaluations were conducted during 2003/04. However, each year, the Commission sends surveys to some customers to ascertain feedback on service delivery, such as complainants, respondents and participants in training programs. Refer to item 4.4 Output Based Management on page 42. for some results of these surveys.

4.2.3 INFORMATION STATEMENT

The Equal Opportunity Commission receives, produces, and retains a range of documents, relevant to the Commission's statutory and administrative functions. These documents include:

- ☐ written complaints, and responses to complaints, with attached documentation;
- ☐ correspondence related to complaint-handling, administrative matters, and government affairs;
- ☐ legal documents and correspondence; and
- ☐ administrative documentation and educational materials.

The Commission's educational materials, newsletters, annual report, and occasional reports into various discrimination issues, are currently available free of charge to the public, in print form or online. Other documents fall under the *Freedom of Information Act 1992* (FOI). A request to view documents or amend personal information subject to FOI must be made in writing to the Commissioner. The Commission's senior legal officer can be contacted on (08) 9216 3900 for assistance in relation to an FOI request.

For the year ending 30 June 2004, the Commission received one application for access to information in accordance with FOI. Access was granted in an edited form.

Under section 167 of the *Equal Opportunity Act 1984*, the Commissioner cannot disclose private information acquired about a person by reason of her office unless the disclosure is in the exercise of a power or duty under the Act. Such information is also exempt under FOI.

4.2.4 REPORTING AND RECORD KEEPING PLAN

The Equal Opportunity Commission has prepared a draft Recordkeeping Plan, which was submitted to the State Records Office for evaluation before the deadline of 8 March 2004. In future annual reports the Commission will report against the performance measures and recordkeeping training activities identified in the Plan.

4.2.5 PUBLIC SECTOR STANDARDS AND ETHICAL CODES

HUMAN RESOURCE MANAGEMENT STANDARDS

The Equal Opportunity Commissioner has complied with section 31(1) of the *Public Sector Management Act 1994* in the administration of the Commission's human resource management practices relating to the Public Sector Standards, *Western Australian Public Sector Code of Ethics* and the Commission's Codes of Conduct.

The Commission's human resource management principles have adequate checks in place to ensure compliance requirements are met. No applications or claims for breach of standards were received during the reporting year.

CODES OF ETHICS AND CODES OF CONDUCT

The Commission's Code of Ethics and Code of Conduct are available to all employees and are also accessible via the Commission's intranet. Compliance is monitored and assessed by Corporate Executive. There have been no complaints, relating to non-compliance, received during the reporting year. The Commission will be reviewing its Code of Conduct and Code of Ethics in 2004/05.

GRIEVANCE POLICY

The Commission established an internal committee to review its *Grievance Policy*. The Grievance Policy was re-written and presented to the Public Sector Standards Commission for comment to ensure it complied with the Public Sector Standards.

4.2.6 PUBLIC INTEREST DISCLOSURES

Under the *Public Interest Disclosure Act 2003* (PID), the Commissioner is obliged to establish guidelines and procedures to enable employees to become aware of their rights and responsibilities under the PID Act. The Commissioner is also obliged to create the position of PID officer, currently the senior legal officer. If an employee at the Commission has an enquiry about the PID Act, or wishes to make a disclosure under the Act, then this can be done with the assistance of the PID officer, in confidence.

It is intended that the PID guidelines will be available to the Commission's staff on the agency's intranet. In 2003/04, no claims were handled under the PID Act by the Commission.

4.2.7 ADVERTISING AND SPONSORSHIP

In accordance with section 175ZE of the *Electoral Act 1907*, the Commission incurred the following expenditure in advertising, market research, polling, direct mail and media advertising:

Table 20:
Advertising and Sponsorship

| 1. Total expenditure for 2003/04 was \$2,681.79 | | | |
|--|------------|---------------------|------------|
| 2. Expenditure was incurred in the following areas | | | |
| Item | Cost | Provider | Total Cost |
| Advertising Agencies | Nil | Nil | Nil |
| Market Research Organisations | Nil | Nil | Nil |
| Polling Organisations | Nil | Nil | Nil |
| Direct Mail Organisations | Nil | Nil | Nil |
| Media Advertising Organisations | \$2,681.79 | Telstra White Pages | \$2,681.79 |

4.2.8 WASTE PAPER RECYCLING

Consistent with the Government's commitment to waste reduction and recycling, the Commission's Code of Conduct stipulates that all staff members follow the guidelines for recycling. Waste paper recycling is made easy through the provision of paper collection bins located throughout the Commission's offices.

The Commission continued its participation in the Government's recycling program by:

- 🗑️ recycling all waste paper;
- 🗑️ recycling toner cartridges; and
- 🗑️ using a minimum of 50% recycled content in all our publications (e.g. newsletters and brochures).

During 2003/04 the Commission provided 780 kilograms of waste paper to be recycled.

4.2.9 ENERGY SMART GOVERNMENT POLICY

The *Energy Smart Government Policy* applies to all general government sector agencies with 25 or more full-time equivalent staff. Although the staffing level is less than the required level, the Commissioner is committed to supporting and adopting the principles of the policy where appropriate.

In accordance with this commitment the Commissioner participated in a Level 3 Energy Audit, conducted by Lincolne Scott, a consulting organisation. This audit identified a

number of energy saving actions that have a potential energy cost saving of 11.0% with a return on investment in 2.27 years.

Improved control of tenancy lighting and reduced energy consumption by computers were identified as the primary areas for savings. Recommendations to replace existing computers with energy efficient, flat-styled liquid crystal display (LCD) computer monitors will be implemented over the next two years.

4.2.10 REGIONAL DEVELOPMENT POLICY

For the purposes of Outreach, and to promote human rights and equal opportunity to Aboriginal and Torres Strait Islanders, the Commission again produced an Aboriginal Calendar which was distributed throughout the State.

The Commission continued to provide support to the seven Wongatha people in Kalgoorlie as part of the "Ngala Pa Wangka" advocacy program on social justice and equal opportunity.

4.3 Other Corporate Issues

4.3.1 WORKPLACE RELATIONS

INDUSTRIAL RELATIONS

All staff are employed under the provisions of the *Public Sector Management Act 1994*. Currently there is one officer covered by statutory contract of employment following the expiration of the *Workplace Agreement Act 1993*. The Public Sector General Agreement 2002 covers all other employees.

EMPLOYEE ASSISTANCE

To assist in resolving work-related and personal issues, the Commission provides a free, confidential counselling service to all employees and their families.

4.3.2 CORPORATE SUPPORT

The Commissioner for Equal Opportunity receives corporate support from the Department of Justice, which is administered and formalised through a Service Level Agreement. This arrangement defines the services provided during the year, including personnel and payroll services as well as a range of financial management functions. Consistent with this arrangement it is planned that the Commission will receive on-line access to the Department's *HR Web Kiosk* in September 2004. This new on-line facility will improve the delivery of relevant personnel and payroll information to staff and managers.

The Commissioner acknowledges the valuable and ongoing contribution made by staff within the Department of Justice for the provision of these services during the 2003/04.

4.3.3 OCCUPATIONAL HEALTH AND SAFETY

The Commission is committed to meeting its obligations and responsibilities under the *Occupational Safety and Health Act 1984* and *Occupational Safety and Health Regulations 1996* in such a manner that it ensures the provision and maintenance of a safe and healthy work environment for all its employees and the general public. There are two designated Occupational Health and Safety representatives (OS&H) who have continued to monitor the workplace for potential hazards and three other staff members are nominated as First Aid Officers.

A safety audit was conducted in 2004 which comprised a visual inspection of all offices, meeting rooms, kitchen and other facilities. In addition, staff were observed at their workstations and consulted about office lighting, seating, frequently used equipment and perceptions about OS&H risk areas and issues. Appropriate action was taken to rectify identified issues and a detailed report was prepared. The report included recommendations for addressing issues in the future and identified the staff responsible for acting on these recommendations. All recommendations were accepted by the Commission's Corporate Executive.

There were no worker's compensation claims lodged during the year, and no time was lost from work.

4.3.4 EMPLOYEE PROFILE

Table 21 illustrates the Commission's gender and salary profile of permanent and contract staff during the 2003/04.

Table 21
Staff Profile by Gender and Salary, 2003/04

| 2003/2004 | | | |
|----------------------|-----------|----------|-----------|
| Salary Range | Female | Male | Total |
| \$0 - \$35,951 | 3 | 0 | 3 |
| \$35,952 - \$41,420 | 2 | 0 | 2 |
| \$41,421 - \$46,640 | 3 | 0 | 3 |
| \$46,641 - \$51, 883 | 2 | 1 | 3 |
| \$51,884 - \$60,377 | 10 | 2 | 12 |
| \$60,378 - \$70,355 | 0 | 2 | 2 |
| \$70,356 - \$79,686 | 2 | 1 | 3 |
| \$79,687 - \$91,298 | 0 | 1 | 1 |
| \$91,299 - \$103,693 | 0 | 0 | 0 |
| >\$103,694 | 1 | 0 | 1 |
| Total | 23 | 7 | 30 |

The Commissioner employed 30 staff as at 30 June 2004. These staff included three Indigenous officers, six officers from culturally diverse backgrounds and one officer with a disability.

This representation of 10.0%, 20.0% and 3.3% respectively of the total workforce compares favourably against the Government's 2005 objectives. In addition, in 2003/04 women accounted for 76.6% of the workforce with an equity index of 71% and part-time staff represented 43.3% of the workforce.

4.3.5 ANNUAL SURVEYS

Each year annual surveys are conducted to establish the demographic profile of individuals and organisations that use the services of the Commission, their expectations, and preferred means of obtaining information about the Act. The survey findings provide valuable feedback about how our services can be improved, and these are incorporated into the way that we deliver services to promote equal opportunity and resolve complaints of discrimination.

To ensure that programs and initiatives are relevant and appropriate the Commission convenes community consultative committees as required. Committee representatives come from a variety of community organisations, and include women, Indigenous people, people with disabilities, people from culturally and linguistically diverse backgrounds and young and mature people.

4.3.6 COMPLAINTS

The Commission has a commitment to the Western Australian Government's customer focus strategy launched in 1994, including customer/client feedback. Under this strategy, the Commission developed its *Customer Service Charter* in 2000 which invites complaints about our services. The Charter states: "*In order to provide the best possible service, we need to hear from you with any complaints, suggestions for improvement, or praise for services that meet your needs*".

The Commission also receives customer/client feedback from complainants and respondents (through the Survey of Services) and from participants attending our training courses (through pre- and post-evaluations). Feedback received through these processes is used to improve services.

A *Complaints Handling Policy* was developed in 2002/03 to record all other written complaints received. In 2003/04 the Commission received 4 written complaints compared with 9 in the previous financial year. All these complaints have been closed. The average time taken to respond to these written complaints was 14.5 days.

4.4 Output Based Management

The Commission has two key outputs that are linked to government priorities and strategic objectives. In addition, these outputs seek to achieve the Commission's desired outcome of providing information and advice about equal opportunity and human rights issues, and have accessible avenues of redress under relevant legislation.

Output 1

Provision of information and advice regarding equal opportunity and human rights. This output involves the dissemination of relevant and appropriate information on the *Equal Opportunity Act 1984*, other relevant laws, human rights issues generally, and the provision of accurate advice on equal opportunity matters and the identification of discriminatory policies and practices.

Table 22 provides details against the Commission's Output 1 – Provision of Information and Advice.

Table 22
Output 1 – Provision of Information and Advice

| Provision of Information and Advice | 2003/04 Budget | 2003/04 Estimates |
|---|----------------|-------------------|
| Quantity | | |
| Enquiries | 20,000 | 22,000 |
| Presentations | 170 | 150 |
| Publications | 6 | 13 |
| Review and Advice | 250 | 240 |
| Quality | | |
| Enquiries answered and not referred to other agencies | 90% | 95% |
| Participants satisfied with presentations | 90% | 95% |
| Clients who found publications useful | 80% | 80% |
| Community support for the Act | 78% | 80% |
| Timeliness | | |
| Written enquiries completed within four weeks | 65% | 77% |
| Length of presentations met expectations of participants | 85% | 85% |
| Average number of publications produced and distributed quarterly | 2 | 3.25 |
| Policy advice completed within two weeks | 70% | 85% |
| Cost | | |
| Average cost per enquiry | \$17.60 | \$13.90 |
| Average cost per presentation | \$2,918 | \$3,312 |
| Average cost per publication | \$28,665 | \$13,648 |
| Average cost per advice and review | \$1,052 | \$1,227 |

Effectiveness

A survey is conducted every three years to measure the community's attitudes towards equal opportunity. In 2002/03, 93.0% of survey participants in Western Australia believed that it is of benefit to have an Act that deals with discrimination and 82.2% recognised one or more of the grounds of discrimination specified in the Act.

Output 2

Avenue of redress for unlawful discrimination and unreasonable treatment. This output involves investigating and attempting to conciliate complaints that fall within the jurisdiction of the *Equal Opportunity Act 1984* and other legislation administered by the Commission, and the provision of assistance to complainants when their complaints are referred to the Equal Opportunity Tribunal.




Table 23 provides details against the Commission's Output 2 – Avenue of Redress

Table 23
Output 2 – Avenue of Redress

| Avenue of Redress | 2003/04 Budget | 2003/04 Estimates |
|--|-------------------|----------------------|
| Quantity | | |
| Complaints handled | 930 | 1,150 |
| Provision of legal assistance | 80 | 110 |
| Quality | | |
| Clients who believed that they were treated impartially | 70% | 70% |
| Cases settled before hearing by the Equal Opportunity Tribunal | 80% | 80% |
| Timeliness | | |
| Clients satisfied with the time taken to finalise their complaints | 50% | 50% |
| Average time taken to finalise Tribunal cases | 11 months | 12 months |
| Cost | | |
| Average cost per complaint | \$887 | \$853 |
| Average cost per case referred to the Equal Opportunity Tribunal | \$3,300 | \$2,559 |

Effectiveness

Results of the survey of services in 2003/04 indicates that:

-  73.5% of complainants and 70.4% of respondents believed that the complaint handling process was reasonable;
-  66.0% of complainants and 70.4% of respondents believed they were treated impartially during the complaint handling process; and
-  66.0% of complainants and 62.2% of respondents think that the *Equal Opportunity Act* provides a good way of resolving cases of discrimination.

4.5 COMPLIANCE STATEMENT

In the administration of the Equal Opportunity Commission, I have complied with all material aspects of the *Equal Opportunity Act 1984* and other relevant laws.

I have complied with the Public Sector Standards in Human Resource Management, the *Western Australian Public Sector Code of Ethics* and the Commission's Code of Conduct. Procedures and appropriate internal assessments have been conducted to ensure compliance. At the date of signing, I was not aware of any circumstances that would render the particulars of this statement to be misleading or inaccurate.

Yvonne Henderson

COMMISSIONER FOR EQUAL OPPORTUNITY

5.1 Certification Of Performance Indicators For The Year Ended 30 June 2004

COMMISSIONER FOR EQUAL OPPORTUNITY

CERTIFICATION OF PERFORMANCE INDICATORS

FOR THE YEAR ENDED 30 JUNE 2004

I hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Equal Opportunity Commission's performance, and fairly represent the performance of the Commissioner for Equal Opportunity for the financial year ended 30 June 2004.

Yvonne Henderson

COMMISSIONER FOR EQUAL OPPORTUNITY

August 2004

AUDITOR GENERAL INDEPENDENT AUDIT OPINION

5.2 Performance Indicators

The outcomes of the Equal Opportunity Commission are that:

The people of Western Australia are provided with information and advice about equal opportunity and human rights issues, and have accessible avenues of redress under relevant legislation.

The Commissioner for Equal Opportunity provides information on equal opportunity and human rights issues, and avenues of redress to individuals who experience unlawful discrimination.

The Commission's effectiveness indicators demonstrate the extent to which the Commissioner for Equal Opportunity promotes equality of opportunity, provides remedies in respect to discrimination and raises awareness of the *Equal Opportunity Act 1984* within the Western Australian community.

5.2.1 EFFECTIVENESS INDICATORS OF RECOGNITION, ACCEPTANCE AND PUBLIC AWARENESS

The extent to which equality of opportunity within the Western Australian community is recognised and accepted has been measured by conducting surveys every three years to ascertain community attitudes to equal opportunity.

INDICATORS OF PUBLIC AWARENESS, RECOGNITION AND ACCEPTANCE

Between 19 May and 25 May 2003 Patterson Market Research undertook a Survey of Community Awareness across Western Australia to ascertain the public's levels of awareness and views of the Act and equal opportunity. The methodology comprised a telephone survey of a random sample of the adult population and a total of 400 interviews were completed, 291 in the metropolitan area (population size 1,361,250) and 109 in country areas (population size 370,055) at an error rate of 4.9% at the 95% level of confidence. The population was based on the 2001 ABS Census data.

Results of the 2003 Survey of Community Awareness are presented in Table 1.

Table 1
Public Awareness, Recognition and Acceptance of the Act and Equal Opportunity

| Proportion of the public: | 1997 Survey Perth % | 2000 Survey Perth % | 2000 Survey Kimberley % | 2003 Survey Perth % | 2003 Survey Whole of WA % |
|---|------------------------|------------------------|----------------------------|------------------------|------------------------------|
| Who had heard of the Act | 71.6 | 73.0 | 68.0 | 84.1 | 82.2 |
| Who recognised one or more grounds of discrimination | 78.5 | 81.0 | 82.1 | 84.1 | 82.2 |
| Who believed that people are generally very or quite concerned about equal opportunity issues | 54.5 | 54.0 | 56.0 | 57.7 | 56.2 |
| Who were generally very or quite concerned about equal opportunity issues | 67.1 | 67.0 | 66.0 | 71.4 | 70.5 |
| Who believe that it is of benefit to have Act that deals with discrimination | 90.2 | 92.0 | 87.0 | 93.4 | 93.0 |

INDICATORS OF EMPLOYERS' AND EMPLOYEES' ACCEPTANCE

As 61.8% of complaints relate to work or employment, increasing rates of awareness and acceptance of equal opportunity issues in workplaces is a major focus of the Commission.



There has been an 12.4% increase in the proportion of employer respondents to complaints who have revised their policies and/or implemented equal opportunity programs as an outcome of their conciliated complaints from 2002/03 to 2003/04, as presented in Table 2.

Table 2
Employer Respondents' Acceptance of the Act and Equal Opportunity

| Employer Respondents | 2000/01 % | 2001/02 % | 2002/03 % | 2003/04 % |
|--|--------------|--------------|--------------|--------------|
| Employer respondents who have revised their policies and/or implemented equal opportunity programs | 7.0 | 7.3 | 18.2 | 30.6 |

Employee's acceptance of the Act and equal opportunity is also ascertained by the extent to which participants who attended training courses state that they would recommend the Commission's training to others and that they would be able to utilise what they had learnt at their work or in their daily life.

Based on feedback participants provide in post-training evaluation questionnaires, there has been:

-  a 2.4% increase in the proportion of training participants who would recommend the Commission's training courses to others; and
-  a 1.1% increase in participants who indicated they would use what they had learnt at work or in their daily life.

Details of training participants' feedback are provided in Table 3.

Table 3

Employees' Acceptance of the Act and Equal Opportunity

| Training Participants | 2000/01 ^[1] | 2000/01 ^[2] | 2002/03 ^[3] | 2003/04 ^[4] |
|---|------------------------|------------------------|------------------------|------------------------|
| | % | % | % | % |
| Participants who would recommend the Commission's training courses | 95.9 | 90.5 | 94.1 | 96.5 |
| Participants who stated that they would be able to use what they have learnt at work or their daily life. | 94.5 | 94.5 | 94.4 | 95.5 |

1 1041 participants received an evaluation survey and 729 were completed. The response rate was 70.0% at an error rate of 1.99%.

2 771 participants received an evaluation survey and 690 were completed. The response rate was 89.4% at an error rate of 1.21%.

3 919 participants attended training, and only 612 participants completed evaluation surveys as the new "Sexual Orientation and Gender History" training course did not use evaluation surveys. The response rate was 66.5% at an error rate of 2.29%.

4 1105 participants attended training sessions, 630 participants received an evaluation survey and 600 were completed. The response rate was 54.2% at an error rate of 2.7%. As a number of training sessions conducted attracted large numbers of participants, evaluation surveys were not distributed for these sessions. A review of evaluating training programs was undertaken to examine ways of increasing the response rate. Results of the review have been implemented.

5.2.2 EFFECTIVENESS INDICATORS OF REDRESS FOR UNLAWFUL DISCRIMINATORY BEHAVIOUR

The extent to which redress for unlawful discriminatory practices, policies and behaviour is consistent with the objects of the *Equal Opportunity Act 1984*, accessible, and meets the needs of complainants and respondents in a timely and effective manner.

CONCILIATION AND LEGAL ASSISTANCE AS A MEANS OF REDRESS

The extent to which complaints are conciliated, in comparison to those that are referred to the Equal Opportunity Tribunal indicates the degree to which the complaint handling model is seen, and used as an effective means of resolving complaints of unlawful discrimination. During 2003/04 the Commission handled 1,053 complaints. Rates of conciliation and referral to the Tribunal are shown in the Table 4.

Table 4
Rates of Conciliation and Referral to the Equal Opportunity Tribunal

| Rates of conciliation and referral to the Tribunal | 2000/01 ^[5] | 2001/02 | 2002/03 | 2003/04 |
|--|------------------------|---------|---------|---------|
| | % | % | % | % |
| Proportion of closed complaints conciliated | 29.3 | 30.7 | 29.6 | 21.7 |
| Proportion of closed complaints referred to the Tribunal | 11.4 | 17 | 26.2 | 15.1 |

⁵ Data includes complaints referred to the Commonwealth Human Rights and Equal Opportunity Commission, as part of the Commission's cooperative arrangements.

The total number of complaints that were conciliated or referred to the Equal Opportunity Tribunal during 2003/04 was 150 and 104 respectively. During this period there was a 36.8% increase in the number of lapsed complaints (refer to Table 5). Accordingly, due to this increase in the number of lapsed complaints there was a 7.9% decrease in the proportion of complaints that were conciliated and 11.1% decrease in the proportion of complaints referred to the Tribunal.

Table 5a
Details of the Outcomes of the Remaining Closed Complaints

| Details of Remaining Complaints | 2000/01 | 2001/02 | 2002/03 | 2003/04 ^[6] |
|---------------------------------|---------|---------|---------|------------------------|
| | % | % | % | % |
| Lapsed | 26.0 | 26.0 | 15.0 | 51.8 |
| Dismissed | 12.1 | 11.1 | 11.2 | 5.5 |
| Withdrawn | 21.2 | 15.3 | 18.0 | 5.9 |

⁶ Due to the increasing number of public housing complaints the Acting Commissioner instructed additional complaint files for the grounds of sex and marital status and area of goods, services and facilities to be added to any race and impairment complaint file received from April to December 2002. Accordingly, the increase in lapsed complaints is due to this change in processing complaints received.

Table 5b provides a more accurate account of the outcomes of complaints during this financial year by separating the number of additional complaint files created specifically to identify the multiple grounds and areas of discrimination relating to complaints lodged against Housing and Works. During 2002, the then Acting Commissioner for Equal Opportunity determined that each ground identified by a complainant would become a separate complaint and thus a larger number of complaint files were created by this method. This practice ceased at the end of December 2002.

During 2003/04 a significant number of the complaint files referred to above lapsed thus providing a temporary distortion to the figures as shown in Table 4. This resulted in an inflated percentage of 'lapsed' complaints and a correspondingly decreased percentage in the proportion of total complaints conciliated. Adjusting these figures by applying the previously utilised method of placing several alternative grounds in the one complaint file, Table 5b provides a more accurate comparison with figures from earlier years.

Table 5b

Outcomes of Complaints from 1 July 2003 to 30 June 2004

| Complaint Outcomes | Complaint files closed in 2003/04 | | Complaint files excluding the corresponding multiple grounds and areas for each complaint in 2003/04 | |
|--------------------------|-----------------------------------|--------------|--|--------------|
| | No. | % | No. | % |
| Dismissed | 38 | 5.5 | 38 | 7.5 |
| Lapsed | 358 | 51.8 | 173 | 34.3 |
| Withdrawn | 41 | 5.9 | 41 | 8.1 |
| Referred to the Tribunal | 104 | 15.1 | 104 | 20.6 |
| Resolved in conciliation | 150 | 21.7 | 149 | 29.5 |
| Total | 691 | 100.0 | 505 | 100.0 |

The extent to which legal officers settle complaints that have been referred to the Equal Opportunity Tribunal before the Tribunal hears the matter indicates the effectiveness of providing legal assistance to complainants. In 2003/04 there was a 5.8% decrease in the settlement rate of cases that had been referred to the Tribunal. Table 6 provides the rates of settlement.

Table 6
Settlement Rate, through mediation, of Complaints Referred to the Equal Opportunity Tribunal

| Settlement rate of cases referred to the Tribunal | 2000/01 | 2001/02 | 2002/03 | 2003/04 |
|---|---------|---------|---------|---------|
| Settlement rate | 73.3 | 83.3 | 73.5 | 67.7 |

- The decrease in the settlement rate is due to an increase in the number of cases that were withdrawn (from 1 in 2002/03 to 4 in 2003/04) and an increase in discontinued assistance (from 5 in 2002/03 to 8 in 2003/04).

Of the total number of complaints closed in the 2003/04 financial year 25.3% of complaints were conciliated (150 complaints) or settled through mediation (40 cases) without proceeding to a hearing.

During 2003/04 financial year:

- 21.7% of closed complaints were conciliated (refer to Table 4); and
- 67.7% of cases referred to the Equal Opportunity Tribunal were settled through mediation (refer to Table 6);
- 58.6% of conciliated complaints were settled through conciliation conferences; and
- 5.7 months was the average time taken to reach a conciliation conference.

5.2.3 OUTPUT 1: PROVISION OF INFORMATION AND ADVICE REGARDING EQUAL OPPORTUNITY AND HUMAN RIGHTS



These indicators measure the average cost of delivering training courses/seminars, answering enquiries, providing policy advice, conducting reviews and producing publications. They are calculated by dividing the total cost of each type of service by the total number services provided each year.

Each initiative or service contributes and enhances the public's awareness and acceptance of equal opportunity. Table 7 provides the average cost of training, enquiries, policy advice and review, and publications.

Table 7

Average Cost of Training, Enquiries, Policy Advice and Review, and Publications

| | 2000/01 | 2001/02 | 2002/03 | 2003/04 |
|--|-----------|-----------|-----------|-----------|
| | \$ | \$ | \$ | \$ |
| Average cost per presentation/seminar/workshop | 2,529.50 | 2,638.47 | 3,086.56 | 3,027.20 |
| Average cost per enquiry | 54.71 | 60.8 | 68.74 | 83.87 |
| Average cost per policy advice and review | 1,298.07 | 217.15 | 695.01 | 1,258.68 |
| Average cost per publication | 14,806.00 | 25,064.71 | 14,173.60 | 14,522.66 |



-  The increase in the average cost per enquiry is due to a decrease in number of enquiries (from 4,814 in 2002/03 to 3,620 in 2003/04).
-  Policy advice and review is dependent upon requests received from individuals and organisations (e.g. draft replies for the Minister, submissions on government policies, legislation reviews and papers presented by the Commissioner). The increase in the average cost per policy advice and review is due to a 36.1% decrease in the number of requests for policy advice and review (from 360 in 2002/03 to 230 in 2003/04).

5.2.4 OUTPUT 2: AVENUES OF REDRESS FOR UNLAWFUL DISCRIMINATION AND UNREASONABLE TREATMENT

These indicators measure the average cost of resolving complaints and the average cost of cases referred to the Tribunal. It is calculated by dividing the total cost of complaints/cases by the number of complaints/cases. Table 8 below provides details of the average cost per complaint handled and average cost per case referred by the Commissioner to the Tribunal.

Table 8
Average Cost Per Complaint and Average Cost Per Case Referred by the Commissioner to the Tribunal

| | 2000/01 | 2001/02 | 2002/03 | 2003/04 |
|--|----------|----------|----------|----------|
| | \$ | \$ | \$ | \$ |
| Average cost per complaint | 1,101.01 | 819.73 | 736.13 | 923.38 |
| Average cost per case referred to the Tribunal by the Commissioner | 6,450.43 | 3,933.56 | 2,627.21 | 2,375.57 |

-  The increase in the average cost per complaint is due to a decrease in the number of complaints handled (from 1,087 in 2002/03 to 1,053 to 2003/04).
-  The decrease in the average cost per case referred to the Tribunal is due to an increase in the number of complaints handled (from 93 in 2002/03 to 116 in 2003/04).

6.1 Certification Of Financial Statements For The Year Ended 30 June 2004

COMMISSIONER FOR EQUAL OPPORTUNITY

CERTIFICATION OF PERFORMANCE INDICATORS

FOR THE YEAR ENDED 30 JUNE 2004

The accompanying financial statements of the Commissioner for Equal Opportunity have been prepared in compliance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2004 and financial position as at 30 June 2004.

At the date of signing we are not aware of any circumstances which would render the particulars included in the financial statements misleading or inaccurate.

Yvonne Henderson

COMMISSIONER

Accountable Officer

Date: August 2004

Yvonne Henderson

COMMISSIONER

Accountable Officer

Date: August 2004

AUDITOR GENERAL INDEPENDENT AUDIT OPINION

6.2 Financial Statements

COMMISSIONER FOR EQUAL OPPORTUNITY

Statement of Financial Performance

for the year ended 30 June 2004

| | Note | 2004 \$ | 2003 \$ |
|--|------|------------------|------------------|
| COST OF SERVICES | | | |
| Expenses from ordinary activities | | | |
| Employee expenses | 4 | 1,695,499 | 1,520,249 |
| Supplies and services | 5 | 327,629 | 259,084 |
| Depreciation expense | 6 | 22,089 | 22,025 |
| Accommodation expenses | 7 | 291,473 | 229,593 |
| Other expenses from ordinary activities | 8 | 168,992 | 153,496 |
| Total cost of services | | <u>2,505,682</u> | <u>2,184,447</u> |
| Revenues from ordinary activities | | | |
| Revenue from operating activities | | | |
| User charges and fees | 9 | 142,159 | 147,932 |
| Grants | 10 | 37,325 | 37,009 |
| Proceeds from disposal of non-current assets | 11 | 1,757 | 2,229 |
| Revenue from non-operating activities | | | |
| Other revenues from ordinary activities | 12 | 26,406 | 4,951 |
| Total revenues from ordinary activities | | <u>207,647</u> | <u>192,121</u> |
| NET COST OF SERVICES | | <u>2,298,035</u> | <u>1,992,326</u> |
| REVENUES FROM STATE GOVERNMENT | | | |
| | 13 | | |
| Output Appropriation | | 2,099,000 | 2,009,000 |
| Resources received free of charge | | 99,275 | 83,068 |
| Total revenues from State Government | | <u>2,198,275</u> | <u>2,092,068</u> |
| CHANGE IN NET ASSETS | | (99,760) | 99,742 |
| TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH WA STATE GOVERNMENT AS OWNERS | | | |
| | | <u>(99,760)</u> | <u>99,742</u> |

The Statement of Financial Performance should be read in conjunction with the accompanying notes.

COMMISSIONER FOR EQUAL OPPORTUNITY
Statement of Financial Position
as at 30 June 2004

| | Note | 2004 \$ | 2003 \$ |
|--------------------------------------|-------|------------------|------------------|
| Current Assets | | | |
| Cash assets | 23(a) | 116,102 | 157,588 |
| Restricted cash assets | 14 | 153,809 | 82,412 |
| Receivables | 15 | 46,459 | 53,427 |
| Amounts receivable for outputs | 16 | 27,000 | 27,000 |
| Other assets | 17 | <u>4,231</u> | <u>8,531</u> |
| Total Current Assets | | <u>347,601</u> | <u>328,958</u> |
| Non-Current Assets | | | |
| Restricted cash assets | 14 | - | 42,620 |
| Amounts receivable for outputs | 16 | 3,000 | - |
| Equipment | 18 | <u>93,127</u> | <u>82,450</u> |
| Total Non-Current Assets | | <u>96,127</u> | <u>125,070</u> |
| TOTAL ASSETS | | <u>443,728</u> | <u>454,028</u> |
| Current Liabilities | | | |
| Payables | 19 | 66,071 | 21,578 |
| Provisions | 20 | 264,304 | 259,163 |
| Other liabilities | 21 | <u>53,108</u> | <u>58,694</u> |
| Total Current Liabilities | | <u>383,483</u> | <u>339,435</u> |
| Non-Current Liabilities | | | |
| Provisions | 20 | <u>146,180</u> | <u>149,768</u> |
| Total Non-Current Liabilities | | <u>146,180</u> | <u>149,768</u> |
| Total Liabilities | | <u>529,663</u> | <u>489,203</u> |
| Equity | | | |
| Contributed equity | 22 | 134,000 | 85,000 |
| Accumulated surplus / (deficiency) | | <u>(219,935)</u> | <u>(120,175)</u> |
| Total equity | | <u>(85,935)</u> | <u>(35,175)</u> |
| TOTAL LIABILITIES AND EQUITY | | <u>443,728</u> | <u>454,028</u> |

The Statement of Financial Position should be read in conjunction with the accompanying notes.

COMMISSIONER FOR EQUAL OPPORTUNITY

Summary of Consolidated Fund Appropriations and Revenue Estimates

for the year ended 30 June 2004

| | 2004 Estimate | 2004 Actual | Variation | 2004 Actual | 2003 Actual | Variation |
|---|------------------|------------------|--------------|------------------|------------------|----------------|
| | \$ | \$ | \$ | \$ | \$ | \$ |
| PURCHASE OF OUTPUTS | | | | | | |
| Item 63 Net amount appropriated to purchase outputs | 1,926,000 | 1,926,000 | - | 1,926,000 | 1,842,000 | 84,000 |
| Amount Authorised by Other Statutes | | | | | | |
| - Salaries and Allowances Act 1975 | 167,000 | 173,000 | 6,000 | 173,000 | 167,000 | 6,000 |
| Total appropriations provided to purchase output | 2,093,000 | 2,099,000 | 6,000 | 2,099,000 | 2,009,000 | 90,000 |
| CAPITAL | | | | | | |
| Item 140 Capital contribution | 49,000 | 49,000 | - | 49,000 | 32,000 | 17,000 |
| GRAND TOTAL OF APPROPRIATIONS | 2,142,000 | 2,148,000 | 6,000 | 2,148,000 | 2,041,000 | 107,000 |
| Details of Expenses by Outputs | | | | | | |
| Provision of Information | 1,283,000 | 1,251,424 | (31,576) | 1,251,424 | 1,140,856 | 110,568 |
| Avenue of Redress | 1,089,000 | 1,254,258 | 165,258 | 1,254,258 | 1,043,591 | 210,667 |
| Total Cost of Outputs | 2,372,000 | 2,505,682 | 133,682 | 2,505,682 | 2,184,447 | 321,235 |
| Less total revenues from ordinary activities | (214,000) | (207,647) | 6,353 | (207,647) | (192,121) | (15,526) |
| Net Cost of Outputs | 2,158,000 | 2,298,035 | 140,035 | 2,298,035 | 1,992,326 | 305,709 |
| Adjustment (I) | (65,000) | (199,035) | (134,035) | (199,035) | 16,674 | (215,709) |
| Total appropriations provided to purchase output | 2,093,000 | 2,099,000 | 6,000 | 2,099,000 | 2,009,000 | 90,000 |
| Capital expenditure | | | | | | |
| Purchase of non-current physical assets | 77,000 | 34,828 | (42,172) | 34,828 | 33,870 | 958 |
| Repayment of borrowings | - | - | - | - | - | - |
| Adjustment for other funding sources | (28,000) | 14,172 | 42,172 | 14,172 | (1,870) | 16,042 |
| Total capital expenditure | 49,000 | 49,000 | - | 49,000 | 32,000 | 17,000 |

(I) Adjustments are related to movements in cash balances and other accrual items such as receivables, payable

The Summary of Consolidated Fund Appropriations, Variance to Budget and Actual should be read in conjunction with the accompanying notes.

This Summary provides the basis for the Explanatory Statement information requirements of TI 945, set out in Note 25.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements

for the year ended 30 June 2004

1 Commissioner for Equal Opportunity mission and funding

The mission of the Commissioner for Equal Opportunity (the "Commission" for the purpose of these notes) is to ensure that people in the Western Australian community are treated on their merits, free from assumptions based on prejudice or unlawful discrimination.

The Commission is predominantly funded by Parliamentary appropriations. It provides training services on a fee-for-service basis. The fees charged are determined by prevailing market forces. The financial statements encompass all funds through which the Commission controls resources to carry on its functions.

2 Significant accounting policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated these policies are consistent with those adopted in the previous year.

General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and Urgent Issues Group (UIG) Consensus Views as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording. The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector, together with the need for greater disclosure and also satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect is disclosed in individual notes to these financial statements.

Basis of accounting

The financial statements have been prepared in accordance with Accounting Standard AAS29.

The statements have been prepared on the accrual basis of accounting using the historical cost convention, except for certain assets and liabilities which, as noted, are measured at fair value.

(a) Output Appropriations

Output Appropriations are recognised as revenues in the period in which the Commission gains control of the appropriated funds. The Commission gains control of appropriated funds at the time those funds are deposited into the Commission's bank account or credited to the holding account held at the Department of Treasury and Finance. *Refer to Note 13 for further commentary on output appropriations.*

(b) Contributed Equity

Under UIG 38 "Contributions by Owners Made to Wholly-Owned Public Sector Entities" transfers in the nature of equity contributions must be designated by the Government (owners) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions in the financial statements. Capital contributions (appropriations) have been designated as contributions by owners and have been credited directly to Contributed Equity in the Statement of Financial Position.

(c) Net Appropriation Determination

Pursuant to section 23A of the Financial Administration and Audit Act, the net appropriation determination by the Treasurer provides for retention of the following moneys received by the Commission:

- proceeds from the provision of Community Education Services;

In accordance with the determination, the Commission retained \$207,647 in 2004 (\$192,121 in 2003).

Retained revenues may only be applied to the outputs specified in the 2003-2004 Budget Statements.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements

for the year ended 30 June 2004

(d) Grants and Other Contributions

Grants, donations, gifts and other non-reciprocal contributions are recognised as revenue when the Commission obtains control over the assets comprising the contributions. Control is normally obtained upon their receipt.

The Commission may receive funding from the Commonwealth for the provision of services for the Indian Ocean Territories.

(e) Revenue Recognition

Revenue from the sale of goods and disposal of other assets and the rendering of services, is recognised when the Commission has passed control of the goods or other assets or delivery of the service to the customer.

(f) Acquisitions of Assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition.

Assets acquired at no cost or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

(g) Depreciation of Non-Current Assets

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their future economic benefits.

The policy is to depreciate such assets if their purchase cost is \$1,000 or more. Amounts with a lower value are expensed.

Depreciation is calculated on the straight line basis, using rates which are reviewed annually. Expected useful lives for each class of depreciable asset are:

| | |
|------------------|----------|
| Office equipment | 10 years |
| Computers | 5 years |

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2004***(h) Leases**

The Commission has entered into operating lease arrangements for buildings and motor vehicles. The lessors effectively retain all of the risks and benefits incidental to ownership of the items held under the operating leases. Equal instalments of the lease payments are charged to the Statement of Financial Performance over the lease term as this is representative of the pattern of benefits to be derived from the leased property.

(i) Cash

For the purpose of the Statement of Cash Flows, cash includes cash assets and restricted cash assets.

(j) Accrued salaries

The accrued salaries suspense account (refer note 14) consists of amounts paid annually into a suspense account over a period of 10 financial years to largely meet the additional cash outflow in each eleventh year when 27 pay days occur in that year instead of the normal 26. No interest is received on this account.

Accrued salaries (refer note 21) represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a few days of the financial year end. The Commission considers the carrying amount of accrued salaries to be equivalent to the net fair value.

(k) Receivables

Receivables are recognised at the amounts receivable as they are due for settlement no more than 30 days from the date of recognition.

Collectability of receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. A provision for doubtful debts is raised where some doubt as to collection exists.

(l) Payables

Payables, including accruals not yet billed, are recognised when the Commission becomes obliged to make future payments as a result of a purchase of assets or services. Payables are generally settled within 30 days.

(m) Employee benefits**Annual leave**

This entitlement is recognised at the reporting date in respect to employees' services up to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

Long Service Leave

Leave benefits are calculated at remuneration rates expected to be paid when the liabilities are settled. A liability for long service leave is recognised after an employee has completed four years of service. An actuarial assessment of long service leave undertaken by Price Waterhouse Coopers in 2003 determined that the liability measured using the short hand method was not materially different from the liability measured using the present value of expected future payments.

This method of measurement of the liability is consistent with the requirements of Australian Accounting Standards AASB 1028 "Accounting for Employee Entitlements".

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2004***Superannuation**

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or the Gold State Superannuation Scheme, a defined benefit lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The superannuation expense is comprised of the following elements:

- (i) change in the unfunded employer's liability in respect of current employees who are members of the Pension Scheme and current employees who accrued a benefit on transfer from that Scheme to the Gold State Superannuation Scheme; and
- (ii) employer contributions paid to the Gold State Superannuation Scheme and West State Superannuation Scheme.

The superannuation expense does not include payment of pensions to retirees as this does not constitute part of the cost of services provided by the Commission in the current year.

A revenue "Liabilities assumed by the Treasurer" equivalent to (i) is recognised under Revenues from State Government in the Statement of Financial Performance as the unfunded liability is assumed by the Treasurer. The GESB makes the benefit payments and is recouped by the Treasurer.

The Commission is funded for employer contributions in respect of the Gold State Superannuation Scheme and the West State Superannuation Scheme. These contributions were paid to the GESB during the year. The GESB subsequently paid the employer contributions in respect of the Gold State Superannuation Scheme to the Consolidated Fund.

(n) Resources Received Free of Charge or for Nominal Value

Resources received free of charge or for nominal value which can be reliably measured are recognised as revenues and as assets or expenses as appropriate at fair value.

(o) Comparative Figures

Comparative figures are, where appropriate, reclassified so as to be comparable with the figures presented in the current financial year.

(p) Rounding of amounts

Amounts in the financial statements have been rounded to the nearest dollar.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2004***3 Outputs of the Commissioner for Equal Opportunity**

Information about the Commission's outputs and the expenses and revenues which are reliably attributable to those outputs is set out in the Output Schedule.

The outputs for the Equal Opportunity Commission are:

Output 1 - 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, and the identification of discriminatory policies and practices.

Output 2 - 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 Equal Opportunity Tribunal.

The Department of Justice provides overall corporate support in human resources and financial services (refer to note 13 for details of charge).

| | 2004 | 2003 |
|---|------------------|------------------|
| | \$ | \$ |
| 4 Employee expenses | | |
| Salaries and wages | 1,290,672 | 1,194,550 |
| Annual and long service leave | 184,769 | 172,186 |
| Superannuation | 142,859 | 120,586 |
| Other related expense | 77,199 | 32,927 |
| | <u>1,695,499</u> | <u>1,520,249</u> |
| 5 Supplies and Services | | |
| Goods and supplies | 86,964 | 55,210 |
| Services and contracts | 219,494 | 120,806 |
| Resources received free of charge (note 13) | 21,171 | 83,068 |
| | <u>327,629</u> | <u>259,084</u> |
| 6 Depreciation expense | | |
| Equipment | <u>22,089</u> | <u>22,025</u> |
| 7 Accommodation expense | | |
| Building rental operating lease expense | <u>291,473</u> | <u>229,593</u> |

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements

for the year ended 30 June 2004

| | 2004 | 2003 |
|---|----------------|----------------|
| | \$ | \$ |
| 8 Other expenses from ordinary activities | | |
| Communication expenses | 37,710 | 39,159 |
| Rates and taxes | 31,795 | 32,688 |
| Printing and binding | 8,145 | 11,755 |
| Equipment and vehicles operating lease expense | 10,635 | 9,436 |
| Electricity and water | 10,682 | 10,023 |
| Insurance | 16,541 | 15,500 |
| Advertising and promotion | 2,276 | 10,150 |
| Building, equipment and vehicles repairs and maintenance | 9,008 | 5,977 |
| Other expenses | 42,200 | 18,808 |
| | <u>168,992</u> | <u>153,496</u> |
| 9 User charges and fees | | |
| Training course fees | 127,364 | 137,932 |
| Other services provided | 14,795 | 10,000 |
| | <u>142,159</u> | <u>147,932</u> |
| 10 Grants | | |
| Grant from Commonwealth - Indian Ocean Territories | 17,325 | 15,054 |
| Grant from Commonwealth - Other | 20,000 | 5,455 |
| Grant Other | - | 16,500 |
| | <u>37,325</u> | <u>37,009</u> |
| 11 Net gain/(loss) on disposal of non-current assets | | |
| <u>Proceeds on Disposal of Non-Current Assets</u> | | |
| Equipment | 1,757 | 2,229 |
| <u>Carrying Value on Disposal of Non-Current Assets</u> | | |
| Equipment | (2,062) | (604) |
| Gain/(loss) on disposal | <u>(305)</u> | <u>1,625</u> |
| 12 Other revenues from ordinary activities | | |
| Other revenue | <u>26,406</u> | <u>4,951</u> |

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
 for the year ended 30 June 2004

| | 2004 \$ | 2003 \$ |
|---|------------------|------------------|
| 13 Revenues from State Government | | |
| Appropriation revenue received during the year: | | |
| Output appropriations (I) | 2,099,000 | 2,009,000 |
| | <u>2,099,000</u> | <u>2,009,000</u> |
| The following liabilities have been assumed by the Treasurer during the financial year: | | |
| Resources received free of charge (II) | | |
| Determined on the basis of the following estimates provided by agencies: | | |
| Office of the Auditor General (III) | | |
| - audit services | - | 14,500 |
| Department of Justice | | |
| - corporate services | 95,233 | 64,555 |
| Treasury (Government Property Office) | | |
| - property management services (notional management fee based on lease payments) | 4,042 | 4,013 |
| | <u>99,275</u> | <u>83,068</u> |
| | <u>2,198,275</u> | <u>2,092,068</u> |

(I) Output appropriations are accrual amounts reflecting the full cost of outputs delivered. The appropriation revenue comprises a cash component and a receivable (asset). The receivable (holding account) comprises the depreciation expense for the year and any agreed increase in leave liability during the year.

(II) Where assets or services have been received free of charge or for nominal consideration, the Commission recognises revenues (except where the contributions of assets or services are in the nature of contributions by owners in which case the Commission shall make a direct adjustment of equity) equivalent to the fair value of the assets and/or the fair value of those services that can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.

(III) Refer to note 30.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements

for the year ended 30 June 2004

| | 2004 \$ | 2003 \$ |
|---|----------------|---------------|
| 14 Restricted cash assets | | |
| Current | | |
| Capital contributions remaining at year end (I) | 95,189 | 82,412 |
| Accrued salaries suspense account (II) | 58,620 | - |
| | <u>153,809</u> | <u>82,412</u> |
| Non-current | | |
| Accrued salaries suspense account (II) | | 42,620 |
| | <u>-</u> | <u>42,620</u> |
| <p>(I) Cash held in the account is to be used only for the purchase of computer hardware and software, furniture and office equipment .</p> <p>(II) Amount held in the suspense account is only to be used for the purpose of meeting the 27th pay in a financial year that occurs every 11 years. There are 27 pays in 2005.</p> | | |
| 15 Receivables | | |
| Trade debtors | 31,870 | 47,489 |
| Provision for doubtful debts | - | 2,842) |
| GST receivable | 4,589 | 8,780 |
| | <u>46,459</u> | <u>53,427</u> |
| 16 Amounts receivable for outputs | | |
| Current | 27,000 | 27,000 |
| Non-current | 3,000 | - |
| | <u>30,000</u> | <u>27,000</u> |
| <p>This asset represents the non-cash component of output appropriations. It is restricted in that it can only be used for asset replacement or payment of leave liability.</p> | | |
| 17 Other assets | | |
| Prepayments | <u>4,231</u> | <u>8,531</u> |

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements

for the year ended 30 June 2004

| | 2004 | 2003 |
|---|----------------|----------------|
| | \$ | \$ |
| 18 Equipment | | |
| Equipment | | |
| At cost | 211,224 | 219,542 |
| Accumulated depreciation | (118,097) | (137,092) |
| | <u>93,127</u> | <u>82,450</u> |
| <u>Reconciliation</u> | | |
| Reconciliation of the carrying amount of Equipment at the beginning and end of the current financial year are set out below | | |
| Carrying amount at start of year | 82,450 | 71,209 |
| Additions | 34,828 | 33,870 |
| Disposals | (2,062) | (604) |
| Depreciation | (22,089) | (22,025) |
| Carrying amount at end of year | <u>93,127</u> | <u>82,450</u> |
| 19 Payables | | |
| Trade and other creditors | <u>66,071</u> | <u>21,578</u> |
| 20 Provisions | | |
| <u>Current</u> | | |
| Annual leave | 124,977 | 116,416 |
| Long service leave | 139,327 | 142,747 |
| | <u>264,304</u> | <u>259,163</u> |
| <u>Non-current</u> | | |
| Long service leave | 146,180 | 149,768 |
| | <u>146,180</u> | <u>149,768</u> |
| <u>Employee Benefit Liabilities</u> | | |
| The aggregate employee entitlement liability recognised and included in the financial statements is as follows: | | |
| Provision for employee benefits: | | |
| Current | 264,304 | 259,163 |
| Non-current | 146,180 | 149,768 |
| | <u>410,484</u> | <u>408,931</u> |

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2004*

| | 2004 | 2003 |
|--|------------------|------------------|
| | \$ | \$ |
| 21 Other liabilities | | |
| Current | | |
| Accrued salaries | | |
| Amounts owing for the 9 working days from 18 June to 30 June 2004 (2003, 7 working days). | 51,898 | 38,374 |
| Advances | | |
| Amount owing to the Department of Justice | - | 200 |
| Revenue received in advance | | |
| Training revenue received in advance | 1,210 | 20,120 |
| | <u>53,108</u> | <u>58,694</u> |
| 22 Equity | | |
| Liabilities exceed assets for the Office and there is therefore no residual interest in the assets of the Office. This deficiency arose through expenses such as depreciation and accrual of employee entitlements for leave not involving the payment of cash in the current period being recognised in the Statement of Financial Performance. | | |
| Contributed equity | | |
| Opening balance | 85,000 | 53,000 |
| Capital contributions (I) | 49,000 | 32,000 |
| Closing balance | <u>134,000</u> | <u>85,000</u> |
| (I) Capital Contributions have been designated as contributions by owners and are credited straight to equity in the Statement of Financial Position. | | |
| Accumulated surplus / (deficiency) | | |
| Opening balance | (120,175) | (219,917) |
| Operating Surplus/(Deficit) | (99,760) | 99,742 |
| Closing balance | <u>(219,935)</u> | <u>(120,175)</u> |

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements

for the year ended 30 June 2004

| | 2004 | 2003 |
|---|--------------------|--------------------|
| | \$ | \$ |
| 23 Notes to the Statement of Cash Flows | | |
| (a) Reconciliation of cash | | |
| Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows: | | |
| Cash assets | 116,102 | 157,388 |
| Cash assets - Cash Advance | - | 200 |
| Restricted cash assets (refer note 14) | 153,809 | 125,032 |
| | <u>269,911</u> | <u>282,620</u> |
| (b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities | | |
| Net cost of services | (2,298,035) | (1,992,326) |
| Non cash items: | | |
| Depreciation expense | 22,089 | 22,025 |
| Resources received free of charge | 99,275 | 83,068 |
| Net (Gain)/loss on sale of equipment | 305 | (1,625) |
| (Increase)/decrease in assets: | | |
| Current receivables | 12,777 | (31,378) |
| Other current assets | 4,300 | 2,052 |
| Increase/(decrease) in liabilities: | | |
| Current payables | 37,519 | (8,507) |
| Current provisions | 5,141 | 23,654 |
| Other current liabilities | 13,324 | 15,662 |
| Non-current provisions | (3,588) | 15,558 |
| Revenue Received in Advance | (18,910) | 20,120 |
| Change in GST receivables/payables | (5,809) | 8,224 |
| Net cash provided by/(used in) operating activities | <u>(2,131,612)</u> | <u>(1,843,473)</u> |
| 24 Commitments for expenditure | | |
| Lease commitments | | |
| Commitments in relation to leases contracted for at the reporting date but not recognised as liabilities are payable: | | |
| Within 1 year | 376,105 | 316,424 |
| Later than 1 year and not later than 5 years | 588,048 | 813,890 |
| Later than 5 years | - | - |
| | <u>964,153</u> | <u>1,130,314</u> |

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2004

25 The Impact of Adopting International Accounting Standards

The transition to Australian equivalents to International Accounting Standards is being managed by the Department of Justice on behalf of the Commission as part of its corporate financial support function. Justice Finance staff are keeping abreast of changes through the review of available information, such as publications on the CPA Australia and Department of Treasury and Finance websites and by attending relevant workshops. Staff within the Office will be briefed on any IAS issue that affects the Office.

The adoption of Australian equivalents to International Accounting Standards is expected to have minimal impact on future financial reporting requirements of the Office.

The application of IAS 36 (Impairment of Assets) requires an annual assessment be carried out for impairment. Office equipment will be assessed for impairment on a regular basis.

AASB 119, the Australian version of the IFRS covering employee benefits, will be effective from 1 January 2005. This will replace the current standard for employee benefits, AASB 1028. For the long service leave liability, the only significant difference under AASB 119 is that a high quality corporate bond yield will be used for the discount rate (rather than the Government bond yield). This would normally result in a lower liability.

26 Events Occurring After Reporting Date

A retrospective pay adjustment of 3.8%, effective 26 February 2004, for staff on the Public Sector General Agreement was announced by Government after the 30 June reporting date. The payment is estimated to be in the region of \$23,090. The financial effect of this event was not recognised in the 30 June 2004 financial statements.

27 Explanatory Statement

The Summary of Consolidated Fund Appropriations and Revenue Estimates discloses appropriations and other statutory expenditure estimates, the actual expenditures made and revenue estimates and payments into Consolidated Fund. Appropriations are now on an accrual basis.

The following explanations are provided in accordance with Treasurers Instruction 945. Significant variations are considered to be those greater than 10% and \$20,000.

(i) Significant variances between estimate and actual - Total Appropriation to purchase outputs:

Details of Expenses by Outputs

| | | |
|---------------------------|-------------|------------------|
| -Avenue of Redress | Over | \$165,258 |
|---------------------------|-------------|------------------|

The variation relates to staff movements and subsequent increase in salary related costs, including a one off payment for accrued leave entitlements for a senior officer and staff related travel \$176,000 and an increase in the costs associated with services and supplies relating to the Section 80 Housing Investigation (\$19,000). These increases were offset by a reduction in the accommodation expense for the year (\$30,000).

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2004***(ii) Significant variances between actual and prior year actual - Total appropriation to purchase outputs:****Details of Expenses by Outputs**

| | | |
|-----------------------------------|-----------------|------------------|
| - Provision of Information | Increase | \$110,568 |
|-----------------------------------|-----------------|------------------|

Increase in salary related expenses associated with staff movements and fixed terms contracts \$71,000; structured rent increase \$18,000; travel and accommodation \$21,000.

| | | |
|--------------------------|-----------------|------------------|
| Avenue of Redress | Increase | \$210,667 |
|--------------------------|-----------------|------------------|

Increase in salary related expenses associated with staff movements and fixed terms contracts \$104,000; staff training and travel expenses \$20,000; structured rent increase \$44,000; investigation into public housing \$43,000;

(iii) Significant variances between estimate and actual - Capital Contribution:

No significant variances.

(iv) Significant variances between actual and prior year actual - Capital Contribution:

| | | |
|--|-----------------|-----------------|
| | Increase | \$17,000 |
|--|-----------------|-----------------|

The variance corresponds with a reduction in the costs associated with the Commissioner's capital replacement plan for information technology and office equipment for 2003/04 and forward estimates.

28 Financial instrumentsInterest rate risk exposure

The Commission does not have any interest bearing accounts and is therefore not subject to any interest rate risk exposure.

Credit risk exposure

All financial assets are unsecured.

Amounts owing by other government agencies are guaranteed, therefore no credit risk exists in respect of those amounts. In respect of other financial assets the carrying amounts represent the Commission's maximum exposure to credit risk.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements

for the year ended 30 June 2004

29 Remuneration of Senior OfficersRemuneration

The number of senior officers whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands are:

| \$ | 2004 | 2003 |
|-------------------|------|------|
| 40,001 - 50,000 | - | 1 |
| 50,001 - 60,000 | - | 1 |
| 60,001 - 70,000 | - | - |
| 70,001 - 80,000 | 3 | 1 |
| 80,001 - 90,000 | - | 3 |
| 90,000 - 100,000 | 1 | 1 |
| 100,001 - 110,000 | *1 | - |
| 150,001 - 160,000 | 1 | - |

* Includes payment of accrued leave entitlements for the cessation of a Senior Officer.

| | \$ | \$ |
|--|---------|---------|
| Total remuneration of senior officers: | 598,042 | 531,631 |

The superannuation included here represents the superannuation expense incurred by the Commission in respect of senior officers.

No senior officers are members of the Pension Scheme.

30 Supplementary financial information

- There were no gifts of public property by the Commissioner for Equal Opportunity during the financial year (2003, nil).
- There were no losses of public moneys and other public property through theft or default during the financial year (2003, nil).
- There were no revenue nor debts due to the state that were written off for the financial year (2003, nil).
- The Commissioner for Equal Opportunity had no related bodies during the financial year (2003, nil).
- The Commissioner for Equal Opportunity had no affiliated bodies during the financial year (2003, nil).
- Commencing with the 2003-04 audit, the Office of the Auditor General will be charging a fee for auditing the accounts, financial statements and performance indicators. The fee for the 2003-04 audit (\$19,800) will be due and payable in the 2004-05 financial year. In 2002-04, there were no fees paid, or due and payable to the Office of the Auditor General, but services provided free of charge by the Office of the Auditor General amounted to \$14,500. This amount has been reported in resources received free of charge note 13.
- Monies received by the Commissioner for Equal Opportunity for Community Education Services are subject to net appropriation.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2004*

| | 2004 | 2003 |
|---|------------------------|---------------------|
| | \$ | \$ |
| 31 Commonwealth Grant - Indian Ocean Territories | | |
| Balance as at 1 July | 7,702 | 5,094 |
| Adjustment to opening balance | - | - |
| | <u>7,702</u> | <u>5,094</u> |
| Receipts | | |
| Commonwealth Grants | 17,325 | 15,055 |
| Other revenue | - | - |
| Payments | | |
| Operating Costs | <u>(43,577)</u> | <u>(12,447)</u> |
| Balance as at 30 June | <u><u>(18,550)</u></u> | <u><u>7,702</u></u> |

Strategic Planning Framework

Section

7.1 Goal 1: To Enhance the Quality of Life and Wellbeing of all People Throughout Western Australia

STRATEGIC OUTCOME 6: SAFE AND SECURE WESTERN AUSTRALIAN COMMUNITIES

Through education and training programs the Commission promotes the importance of a safe and secure workplace that is free from discrimination and harassment. Our training programs focus on preventative strategies that organisations can put in place to ensure that organisations provides a culture that is inclusive of all employees.

STRATEGIC OUTCOME 8: ENHANCED SAFETY, SECURITY AND WELLBEING OF THE VULNERABLE WITHIN OUR COMMUNITY

Legal officers provided assistance to complainants who believe on substantial grounds that they have been discriminated against, within the meaning of the *Equal Opportunity Act*. Many of these people have a disability or are sole parents, elderly, from non-English speaking backgrounds or Aboriginal descent, and are considered to be amongst the most vulnerable members of the community.

STRATEGIC OUTCOME 9: OPPORTUNITIES FOR HEALTH, PARTICIPATION AND SECURITY ARE OPTIMISED IN ORDER TO ENHANCE QUALITY OF LIFE AS PEOPLE AGE

Legal officers assisted complainants who allege that they have been discriminated against because they are considered too old to be employed, hire a car, or play competitive sport. The Commission's legal officers enable these people to assert their rights within the justice system.

STRATEGIC OUTCOME 10: A POSITIVE DIFFERENCE TO THE LIVES OF PEOPLE WITH DISABILITIES, THEIR FAMILIES AND CARERS

The video *A Class Divided* is used in the Commissions *Equal Opportunity Law* training session. This video has been captioned to accommodate people who are deaf or hard of hearing.

In a training session for students in Auslan and Deaf studies at Leederville TAFE, the trainer worked with an Auslan interpreter to present a session on the role and function of the Commission, to accommodate the needs of the participants.

To assist people with hearing impairments in the conciliation process, the Conciliation Section uses the Human Rights and Equal Opportunity Commission's video *Pathways to Resolution* with text.

To enhance knowledge and skills, Conciliation staff participated in a staff development day where an advocate for people with mental illness provided a session on strategies for working effectively with people who have a mental illness.

The Commission refers enquirers and complainants to appropriate disability advocacy and support services, where required.

Several staff at the Commission received TTY training.

When working with hearing impaired people Conciliation Officers follow the client's direction regarding their preferred interpreter/s.

In February, the senior legal officer made a presentation on "The Rights of People who Stutter" as part of the workshop session Employment and Discrimination at the 2004 World Congress for People Who Stutter.

The Commissioner was a member of the Office of Equal Employment Opportunity's Chief Executive Officer (CEO) Diversity Forum People with Disabilities Sub-Group. The Sub-Group was established to identify barriers to the employment and retention of people with disabilities in the public sector to inform the development of a disability employment strategy.

The Manager Policy and Evaluation was awarded a Public Sector Fellowship by the Department of the Premier and Cabinet, Curtin University and the Institute of Public Administration WA Division to undertake a 13-week project titled "Determinants to the Employment and Retention of People with Disabilities in the WA Public Sector".

STRATEGIC OUTCOME 11: CONTRIBUTING FACTORS TO SOCIAL AND ECONOMIC DISADVANTAGE IN OUR COMMUNITY ADDRESSED

By assisting Aboriginal people and people with disabilities, the Commission's legal officers have enabled them to proceed with claims of discrimination at little or no expense to themselves, in circumstances where they could not otherwise afford to do so.

STRATEGIC OUTCOME 13: A SOCIETY WHERE INDIGENOUS AUSTRALIANS HAVE GREATER ECONOMIC AND SOCIAL OPPORTUNITIES AND THE CAPACITY TO DETERMINE THEIR OWN LIVES

During 2003/04 the Commissioner continued the investigation into the provision of public housing to Aboriginal people in Western Australia in accordance with section 80 of the *Equal Opportunity Act 1984*. To ensure that Aboriginal people would make submissions to the investigation in a culturally appropriate way, the Commission's officers visited several metropolitan and regional areas to take oral submissions and videotape submissions.

STRATEGIC OUTCOME 14: A SOCIETY FREE FROM RACISM WHICH FACILITATES THE EMPOWERMENT OF MEMBERS OF ALL COMMUNITIES AS FULL AND EQUAL MEMBERS OF THE AUSTRALIAN COMMUNITY, ENJOYING THE RIGHTS AND DUTIES OF A SHARED CITIZENSHIP

In our training sessions with both Aboriginal and mixed profile groups we highlight the importance of the special measure provisions of the legislation and the differences between formal equality (treating everyone the same) and substantive equality (treating people differently because of their different needs and different past experiences). In particular, the Commission has conducted a number of workshops over the past year in Equal Opportunity and Diversity where we discuss the positive contributions that people from diverse groups can make to an organisation.

In 2003/04 the Commissioner and Senior Legal Officer were significantly involved in consultations regarding, and the drafting of, the government's *Racial and Religious Vilification Consultation Paper*, August 2004.

Conciliators frequently use phone and face-to-face interpreters in the complaint handling and conciliation process.

Clients can submit complaints, responses and other documents in languages other than English. These documents are professionally translated.

In addition, correspondence to enquirers, complainants and respondents are translated into languages other than English, as required.

STRATEGIC OUTCOME 15: A SOCIETY THAT RECOGNISES THE VARYING CONTRIBUTION OF ITS DIVERSE POPULATION, AND IS ABLE TO RESPOND EFFECTIVELY TO THE NEEDS OF ITS DIVERSE POPULATION

By assisting complainants who are making discrimination complaints for the very reason that their special needs are not being met, the Commission's legal officers are able to give clarity, factually and legally, to the claims of people who are often not in a position to do so themselves.

Commission trainers have worked with Farsi interpreters in delivering equal opportunity information to groups of people from Afghanistan.

The Commission's *Unlawful Discrimination* brochure is currently being translated into Mandarin and Malay to accommodate the needs of the people in the Indian Ocean Territories of Christmas and Cocos Islands.

The Commission has continued to provide support to the seven Wongatha people in Kalgoorlie as part of the advocacy program on social justice and equal opportunity "Ngala Pa Wangka" in Kalgoorlie.

Conciliators frequently use phone and face-to-face interpreters in the complaint handling and conciliation process.

Clients can submit complaints, responses and other documents in languages other than English. These documents are professionally translated.

In addition, correspondence to enquirers, complainants and respondents are translated into languages other than English, as required.

7.2 Goal 2: To Develop a Strong Economy that Delivers More Jobs, More Opportunities and Greater Wealth to Western Australians by Creating the Conditions Required for Investment and Growth

STRATEGIC OUTCOME 3: AN EFFICIENT LABOUR MARKET THAT UTILISES A FAIR BUT FLEXIBLE SYSTEM OF EMPLOYMENT

The Commission's legal officers, in assisting complainants whose complaints relate to discrimination in employment, and in producing submissions and legal arguments regarding a range of issues affecting disadvantaged groups in the workplace, have been able to highlight the importance of fair workplace practices.

7.3 Goal 3: To Ensure that Western Australia has an Environment in which Resources are Managed, Developed and Used Sustainably, Biological Diversity is Preserved and Habitats Protected

In 2003/04 the Commission participated in a Level 3 Energy Audit, conducted by Lincolne Scott, a consulting organisation. This audit identified a number of energy saving actions that have a potential energy cost saving of 11.0% with a return on investment in 2.27 years. Improved control of tenancy lighting and reduced energy consumption by computers were identified as the primary areas for savings. Recommendations to replace existing computers with a new flat styled LCD computer monitor will be implemented over the next two years.

STRATEGIC OUTCOME 4: EFFECTIVE WASTE AVOIDANCE, RESOURCE RECOVERY AND WASTE MANAGEMENT

The Commission continued its participation in Government's recycling program by recycling all waste paper, recycling toner cartridges, using a minimum of 50% recycled content in all our publications (e.g. newsletters and brochures). During 2003/04 the Commission provided 780 kilograms of waste paper to be recycled.

7.4 Goal 4: To Ensure that Regional Western Australia is Strong and Vibrant

STRATEGIC OUTCOME 1: ENHANCED GOVERNMENT DECISION-MAKING BASED ON A THOROUGH UNDERSTANDING OF REGIONAL ISSUES

During 2003/04 the Commissioner continued work on the investigation into the provision of public housing to Aboriginal and Torres Strait Islander people in accordance with section 80 of the *Equal Opportunity Act 1984*. As part of the investigation and in response to requests from individuals and organisations, the Commission's officers visited the South West, Great Southern, Goldfields, Kimberley, Midwest/Gascoyne and Pilbara regional areas to take oral and videotaped submissions.

STRATEGIC OUTCOME 3: EFFECTIVE GOVERNMENT SERVICE DELIVERY TO REGIONS THAT IS RESPONSIVE TO THE NEEDS OF DIVERSE COMMUNITIES

The Commission's legal officers achieved success in resolving discrimination complaints lodged by people in the regions, particularly Aboriginal people, through teleconference facilities, and occasionally attending mediation conferences in regional centres. The legal section has contributed significantly to the Commission's investigation into public housing for Aboriginal people, with particular emphasis on regional communities.

Commission trainers have worked with Farsi interpreters in delivering equal opportunity information to groups of people from Afghanistan.

The Commission's *Unlawful Discrimination* brochure is currently being translated into Mandarin and Malay to accommodate the needs of the people in the Indian Ocean Territories of Christmas and Cocos Islands.

The Commission has continued to provide support to the seven Wongatha people in Kalgoorlie as part of the advocacy program on social justice and equal opportunity "Ngala Pa Wangka" in Kalgoorlie.

Conciliation and legal officers travel to regional areas to attend conciliation conferences and mediate settlements.

STRATEGIC OUTCOME 9: LIFELONG LEARNING IN THE REGIONS

As part of the Commission's Outreach program we are developing an advocacy training program which will be trialled with Aboriginal groups in the metropolitan area prior to presenting it to groups in regional areas.

7.5 Goal 5: To Govern for all Western Australians in an Open, Effective and Efficient Manner that also Ensures a Sustainable Future

STRATEGIC OUTCOME 1: COORDINATED, INTEGRATED, HIGH QUALITY SERVICE DELIVERY TO THE COMMUNITY

During 2003/04 the Commission's legal officers continued to provide high quality legal assistance and information to individuals, government, and non-government bodies, within the scope of the *Equal Opportunity Act*.

STRATEGIC OUTCOME 3: EFFECTIVE PARTNERSHIPS WITH FEDERAL AND LOCAL GOVERNMENTS, PRIVATE SECTOR AND THE WIDER COMMUNITY

The Commission's legal section entered into an arrangement with a number of private law firms under which legal advice and assistance is provided to selected complainants on a *pro bono* basis. The arrangement is mutually beneficial in that the demand for the Commission's resources is reduced, whilst giving private legal practitioners an opportunity to advocate in the discrimination jurisdiction. The legal section also works closely with non-government agencies which provide important advocacy services to disadvantaged individuals.

STRATEGIC OUTCOME 11: REDUCED RED TAPE AND COMPLIANCE COSTS

Conciliation officers targeted assistance to parties to complaints which had remained open for longer than twelve months. During 2003/04, 191 more complaints were closed compared to the previous year.

The complaint handling process was reviewed and to reduce the time taken to finalise complaints by removing the requirement for complainants to provide further comment on the response to their allegations before the matter is referred to the Commissioner, resulting in complaints being directed to conference more quickly.

8.1 Case Studies for Conciliated Complaints

8.1.1 AGE DISCRIMINATION IN THE AREAS OF ACCESS TO PLACES AND VEHICLES AND GOODS, SERVICES AND FACILITIES

An organisation representing a group of young people lodged multiple complaints of age discrimination naming three separate respondents in the retail, property and transport industries. The complaints were in the areas of goods, services and facilities and access to places and vehicles.

The young people were, because of their age, being denied access to a shopping centre and the services provided by the shopping centre, and access to the local bus station.

Negotiations were successful in bringing all the parties together to work co-operatively to resolve the issues. The complaints were resolved when the retail and property services respondents developed a youth policy and established a complaint mechanism. Arrangements were made to provide training in equity issues to employees of the three industries.

8.1.2 FAMILY STATUS DISCRIMINATION IN THE AREA OF EMPLOYMENT

The complainant worked as a representative for a company in the home decorating business. She enjoyed her work and her sales figures supported her view that she was a productive employee.

One day she was informed by two of her managers that they were aware her husband had applied for a position in a similar business. It was the company's view that if her husband's application was to be successful she would, due to the competitive nature of the industry, have a 'conflict of interest'.

When asked why she had failed to disclose this information the complainant said that she did not believe she had to explain what her husband did for a living. Had she known it was a requirement, or it formed part of her contract, she would have let the company know.

The managers told the complainant that while they acknowledged her good work performance, it was likely that she would be dismissed because of the situation.

The woman was so upset by the threat of dismissal she did not go to work for the next few days. Although her husband had been out of work for some time he withdrew his application to the competitor's business.

When the complainant returned to work she was informed that she was going to be transferred to a similar business within the organisation, but to a position with less status. She was also given a written warning for not disclosing that her husband had applied for a position in the same industry.

The complainant was stressed by the demotion and the warning and consequently resigned from the company.

Although the respondent denied the complainant's version of events, or that she had been unlawfully discriminated against, an ex gratia payment of \$5000 was made to her to resolve the complaint.

8.1.3 IMPAIRMENT DISCRIMINATION IN THE AREA OF THE PROVISION OF SERVICES

The mother of a son who has *retinitus pigmentosa* and is classified as legally blind lodged a complaint of impairment discrimination on his behalf. The complaint was made after his permit application was rejected by an organisation responsible for issuing permits to use car bays designated for people with disabilities.

The young man uses a cane for support and issues of mobility, orientation and safety are critical in his ability to access public areas. He frequently utilises public transport, however, from time to time he relies on his family for transport. On these occasions it is imperative to drop him off and collect him at the same location.

The mother said that, in their experience, the wider car bays are safer as they enable her son to manoeuvre his cane as he gets in and out of vehicles. The designated car bays are also located nearer to the places he needs to access.

The fundamental criterion used by the respondent organisation to assess permit applications was *a serious mobility disability as assessed by a medical practitioner*. The complainant's son did not meet this criterion.

The complaint was resolved after additional information was provided to the respondent, about the son's impairment and the impact on his mobility, and he was issued with the permit. The respondent also amended the permit application form by specifying on the form that mobility is the key criterion so that future applicants will be better informed of what criterion is required to be met.

8.1.4 RACE DISCRIMINATION IN THE AREA OF ACCESS TO PLACES AND VEHICLES

An Aboriginal man lodged a complaint of race discrimination after he was refused entry into a nightclub. He alleged that the bouncer told him that he could not enter the nightclub because he was known as a troublemaker. The complainant had never been to the nightclub before and did not know why he was considered to be a troublemaker. He said being refused entry into the nightclub made him feel shame and embarrassment.

The respondent claimed that the man was refused entry because he was with a group who were known to cause trouble in the past and his Aboriginality was not a factor.

The complaint was resolved by the respondent making an ex-gratia payment of \$2000 to the complainant.

8.1.5 SEX DISCRIMINATION AND SEXUAL HARASSMENT IN THE AREA OF EMPLOYMENT

A young woman lodged complaints of both sex discrimination and sexual harassment against her former employer and a complaint of sexual harassment against a former manager.

She alleged that on two separate occasions, whilst he was visiting Perth for monthly sales meetings, the manager sent text messages of a sexual nature on her mobile telephone. The first message was sent to her in the evening after a work function and was sexually explicit. She was shocked and did not reply to the message. She did not raise her concerns with her employer as she had only recently commenced work with the company and feared her employment could be jeopardised.

The second text message was received after a work-related dinner the following month. The message suggested she might like to join her manager in his hotel room and gave her the room number. Again she did not respond to the message and resigned from the company the following month. She claimed she left because of both the stress associated with her manager's behaviour and a pay re-structure.

The manager did not deny he had sent the woman the first text message, and he admitted it was unprofessional and unwise. He could not recall giving the young woman his room number and claimed he would not have done so.

The employer acknowledged the manager's behaviour fell short of the standard required and advised that the manager had been counselled regarding his behaviour and was to attend training. However, it did not accept that the young woman had no option other than to resign as clear policies and processes were in place to deal with such matters.

The complaints were resolved by the former manager providing a written apology and the employer making an ex-gratia payment of \$15,000 to the complainant.

8.1.6 SEX DISCRIMINATION IN THE AREA OF EMPLOYMENT

A female sales representative working in the construction industry lodged a complaint of sex discrimination in employment after she was dismissed following a down-turn in business. The complainant compared herself to a male colleague who had a shorter employment history and lower sales figures who was not dismissed.

The respondent claimed that the complainant's employment was terminated because of her poor level and quality of consulting service in conjunction with the down-turn in business.

In addition to her discrimination complaint the complainant lodged an application for unfair dismissal in the Industrial Relations Commission.

The complainant withdrew her discrimination complaint after reaching a satisfactory agreement with the respondent which included the payment of compensation for a greater amount than provided for in the *Equal Opportunity Act 1984*.

8.1.7 PREGNANCY, FAMILY RESPONSIBILITY AND SEX DISCRIMINATION IN THE AREA OF EDUCATION

A female university student in the third year of a four-year course lodged a complaint alleging pregnancy, family responsibility and sex discrimination in the area of education.

The university has a policy of allowing only one twelve-month deferment of any course. The student had been granted a twelve-month deferment for the birth of her first child and was refused a second period of deferment for the birth of her second child. The school of study advised her that she needed to withdraw from the course and re-apply after the year was complete. As there are strict quotas for the course there was a strong likelihood that she would not be accepted back into the course of study.

The complaint was treated with urgency because the student had only a month left to make a decision about withdrawing from the course, or alternatively, continuing with the course whilst her husband gave up his job to be a 'house husband'.

The student had not availed herself of any other avenues of complaint about the matter. After discussions with the conciliation officer handling her complaint she approached the university's equity officer and advised that her complaint had been made to the Equal Opportunity Commission.

The complaint was resolved informally and swiftly when the university allowed an exception to its policy and granted the student a second period of deferment from her studies.

8.2 Case Studies Of Complaints Referred To The Tribunal

8.2.1 RACE DISCRIMINATION IN THE AREA OF PROVISION OF GOODS AND SERVICES

An Aboriginal woman lodged a complaint of race discrimination in the area of provision of goods and services after she was refused service at a liquor store. The retail assistant refused to sell her alcohol because some Aboriginal people had previously caused problems in the store. The retail assistant told her he could not serve her because she was going to take the alcohol to the park and drink it with other Aboriginal people who meet there on a regular basis.

The owner of the liquor store denied the decision to refuse to sell alcohol to the woman was based her race. The retail assistant also denied making the statement that other Aboriginal people had caused problems in the shop. The owner of the liquor store maintained the refusal of service was based on the belief that the woman had visited the store three times within one day, and to sell alcohol to her would be a breach of the *Liquor Licensing Act 1988*. The woman claimed that she had only been in the store twice that day.

Attempts to conciliate the complaint were unsuccessful and the matter was referred to the Equal Opportunity Tribunal.

8.2.2 SEXUAL ORIENTATION DISCRIMINATION AND VICTIMISATION IN THE AREA OF EMPLOYMENT

A male working in customer service lodged a complaint of sexual orientation discrimination in employment.

After he "came out" his manager started criticising him continually. She told him that customers did not like being served by gay people and he should have advised her about his sexual orientation at the job interview.

The complainant was supported by another employee who attested that the manager said she would not have employed the complainant had she known about his sexuality, she hated the way he "flounced around" the place, she hoped he would not bring a male partner to the Christmas function and generally made homophobic comments about the complainant and a previous employee who was also gay.

After the complaint was lodged with the Commission the complainant was dismissed. He then lodged his additional complaint of victimisation.

The complaint was unable to be conciliated and the matter was referred to the Equal Opportunity Tribunal.

8.3 Case Study Of Dismissed Complaint

8.3.1 PREGNANCY DISCRIMINATION IN THE AREA OF EMPLOYMENT

A female complained of pregnancy discrimination in the area of employment after her employment was terminated when she informed her employer she was pregnant.

The employer provided evidence to show that the organisation had decided not to retain her services prior to being informed of her pregnancy. The company had advertised the complainant's position at least 10 days prior to being informed of her pregnancy. The advertisement and receipt for placing the advertisement were evidence that the decision to terminate the complainant's employment was not linked to her pregnancy.

The complaint was dismissed as lacking in substance.

9.1 Feedback Form



EQUAL OPPORTUNITY COMMISSION

The Commission is interested in receiving your feedback regarding our 2003/04 Annual Report as we are constantly striving to improve our services. We will appreciate any comments, observations or queries relating to our 2003/04 Annual Report.

1. In general terms, how would you rate the 2003/04 Annual Report?

| Excellent | Good | Average | Fair | Poor |
|-----------|------|---------|------|------|
| 1 | 2 | 3 | 4 | 5 |

2. How could we improve our Annual Report?

3. What features or sections in the Annual Report did you like?

4. Any other comments?

5. What is your Relationship with the Commission? (Please tick)

- | | |
|--|---|
| <input type="radio"/> Complainant | <input type="radio"/> Advocate |
| <input type="radio"/> Respondent | <input type="radio"/> Legal Firm |
| <input type="radio"/> Training participant: private sector | <input type="radio"/> Training participant: public sector |
| <input type="radio"/> Training participant: community sector | <input type="radio"/> Newsletter recipient |
| <input type="radio"/> Student | <input type="radio"/> Website browser |
| <input type="radio"/> Other (please specify) _____ | |

Please return this form:

by Post to: Commissioner for Equal Opportunity, Equal Opportunity Commission,
PO Box 7370, Cloisters Square, PERTH WA 6850, or
by Facsimile to: (08) 9216 3960.

THANK YOU FOR YOUR FEEDBACK