

ANNUAL REPORT
2004 - 2005



 *Equal Opportunity Commission*

ABOUT THIS REPORT

This report aims to provide an overview of our activities during 2004/05. The first chapter provides the Commissioner's overview. Details on the Commission's education and policy initiatives and services undertaken in 2004/05 are provided in the second chapter. Statistical information and analysis of trends relating to enquiries and complaints are in the third chapter. The fourth chapter outlines the establishment and operation of the Substantive Equality Unit and the fifth chapter details special projects. Compliance with legislation and corporate governance are outlined in the sixth chapter. Details on the Commission's Performance Indicators are provided in the seventh chapter and Financial Statements in the eighth chapter. The Commission's contribution towards the State Government's Strategic Planning Framework is in final chapter. A selection of case summaries can be found in Appendix A.

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 its services, any comments, observations or queries relating to the contents of the Commission's Annual Report will be appreciated.

To provide feedback on the effectiveness of the Commission's 2004/05 Annual Report , please refer to the Feedback Form in Appendix B at the end of the Report.

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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 June 30, 2005, 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

August 31, 2005

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Commissioner's Overview

1.1 The year in review

In the 20th year of the Commission's work, significant changes in the Equal Opportunity Commission's focus, flagged in last year's Annual Report, have taken shape during 2004/05.

The Government's strategy for addressing racism in the provision of public services has consolidated into an ongoing program based in the Commission's Substantive Equality Unit.

The investigation into discrimination in the provision of housing for Aboriginal people has been finalised. Its report has been published titled *Finding a Place. An Inquiry into the Existence of Discriminatory Practices in relation to the Provision of Public Housing and Related Services to Aboriginal People in Western Australia*, accompanied by a video and DVD. Tribute must be paid to all of those individuals and groups who shared their often very personal experiences which enriched the investigation and resulted in wide-ranging and comprehensive recommendations for reform.

The discussion paper on Racial and Religious Vilification, produced in collaboration with the Office of Multicultural Interests, was released for public comment.

The Equality Implementation Group of the WA Police continued its work.

The Commission has continued to participate in a wide range of community and research based activities relating to discrimination including forums on mitigating the risks of an ageing workforce and domestic violence in a human rights framework, and an investigation into the persistent gender pay gap in Western Australian.

These 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 and training and education focus of the Commission.

1.1.1 Enquiries

The Commission receives public enquiries by telephone or in person during week days from 9:00 am to 4:00 pm. Written enquiries, including email, are also received.

The Commission responded to 3,665 enquiries from the public during the 2004/05 year.

Of these enquiries 80.3% were received by telephone, 15.7% were written enquiries and the balance, 4%, were made by people visiting the Commission.

1.1.2 Complaint handling

The Commission's officers closed 441 complaints in the 2004/05 year compared to 691 complaints the previous financial year. However this does not reflect a significant decline in the number of complaints closed when compared to figures drawn from a

longer time frame, as in 2002/03 Commission officers continued their focus on resolving complaints that had remained open for longer than twelve months. The average number of files closed per financial year, over the past ten years, has been 498.

In the 2004/05 financial year 48.1% of complains were closed within six months and 32.9% closed within 7-12 months.

1.1.3 Education and training

During the 2004/05 year there was a 48% increase in the number of education services provided. This included a 58% increase in calender courses, a 156% increase in customised courses and a 54% increase in free, rights-based training.

1.1.4 Legal assistance

The State Administrative Tribunal (SAT) started operation on January 04, 2005. Matters previously referred to the Equal Opportunity Tribunal (EOT) are now heard in the Human Rights stream of the SAT.

The number of matters settled in the Equal Opportunity Tribunal or State Administrative Tribunal with the assistance of a legal officer increased from 40 in 2003/04 to 44 in 2004/05. 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 helped reduce the Tribunal related workload on the Commission's Legal Officers. This arrangement will remain in place on an 'as needs' basis.

1.1.5 Anti-racism strategy - Substantive Equality Unit

State Cabinet approved the continued operation of the Substantive Equality Unit within the Equal Opportunity Commission in late April, following a pilot program that involved four State Government Departments.

Substantive equality recognises that some Western Australians continue to receive services which are not always appropriate to their needs, often because of unintended effects of policies, practices and procedures.

Implementation will be a gradual process to ensure that the process of change is understood and that each Department's program is reflected in the services to the people who are its clients.

Substantive Equality at the EOC

Early in the new financial year the Commission has scheduled a briefing for all staff on the program and will appoint a substantive senior manager to oversee the process of assessing its policies, services and practices for systemic racism.

1.1.6 Special projects: Aboriginal housing investigation

Commission staff finalised work on collating the report titled *Finding a Place. An Inquiry into the Existence of Discriminatory Practices in Relation to the Provision of Public Housing and Related Services to Aboriginal People in Western Australia*. Hundreds of written and oral submissions from individuals around the state were analysed and recommendations developed.

As many of those making submissions to this investigation were made by people whose first language was not English, *Finding a Place* was published, not only in print form, but with an accompanying video and DVD to ensure feedback to all participants. The video, DVD and report were distributed widely, including to all of those who had made submissions from around Western Australia.

Finding A Place, released in December 2004, detailed 165 recommendations in relation to rental tenancies by Aboriginal and Torres Strait Islander people in Western Australia. The Report recommended that an implementation and monitoring group be set up and for this group to include the Department of Housing and Works as well as community advocacy groups and other relevant Government departments.

1.1.7 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 working with a number of academics and others with expertise in this area to refine a methodology for doing this.

1.2 Achievements

- Establishment of the Substantive Equity Unit to implement the Government's anti-racism strategy across the public sector
- Conciliation officers participated on the Australian Council of Human Rights Agencies (ACHRA) Case Management User Group investigating the feasibility of creating a mechanism for uniformity in reporting the incidence of complaints of discrimination on a national basis
- In response to requests, two new courses were developed and offered - Educating Staff and Dealing with Harassment and Bullying
- There was a significant increase in training provided to the corporate sector, particularly in the mining industry
- By continuing to deliver a flexible and responsive conciliation service to the people of Western Australia including conducting conciliation conferences in regional areas, and where appropriate undertaking home visits
- The Commission's website was comprehensively reviewed and updated using the new logo and style in preparation for a relaunch on July 1, 2005
- Assisted in drafting new regulations in respect to procedures for dealing with equal opportunity complaints in the State Administrative Tribunal
- Legal Officers have provided advocacy for complainants in a number of matters where important legal issues have been raised. These included the power of the newly created State Administrative Tribunal (SAT) to grant an exemption, the jurisdictional limits of the SAT in respect to the Commonwealth Constitution and clarification of the circumstances when the SAT may dismiss a complaint for lack of substance; and
- Drafted substantial sections of the Government's Consultation Paper on Racial and Religious Vilification, released in August 2004, and the *Criminal Code Amendment (Racial Vilification) Act 2004*, which came into force in December 2004.

1.3 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.
- The Commission will expand its fee-for-service programs into regional areas and re-focus the Outreach program to include advocacy training for Aboriginal groups in the metropolitan area.
- The Commission will continue to review the complaint handling process to reduce the time taken to finalise complaints and to provide for earlier conferences.

1.4 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.

1.5 Financial overview

The total cost of the Commission's services increased 6.4% during the financial year, up from \$2,505,682 in 2003/04 to \$2,666,409 in 2004/05. This variation was primarily due to salary-related expenses associated with the transfer of the Substantive Equality Unit from the Department of the Premier and Cabinet in January 2005, purchase of office equipment and fit-out costs for the new unit, accommodation expenses linked to a structured rent increase, and production of the report *Finding a Place* which was an investigation into the provision of public housing to Aboriginal and Torres Strait Islander people in Western Australia.

The agency's leave liability decreased marginally \$17,879 (4.3%) during the reporting period due to a planned reduction in annual leave provisions. The Commissioner's total revenues from ordinary activities increased by \$21,796 (10.5%) during the financial year as a result of increased revenues associated with fee for service training sessions and grants from the Commonwealth Department of Transport and Regional Services for the delivery of services to the Indian Ocean Territories.

For full details please refer to the 2004/05 Financial Statements contained in the Corporate Governance and Compliance chapter of this Report.

1.6 About the Commission

1.6.1 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.

1.6.2 Strategic directions

The Equal Opportunity Commission's Strategic Directions for 2004-2005 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.

1.6.3 Our role and functions

The Commission's 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.

1.6.4 Outcomes and outputs

The Commission's two outcomes are the provision of:

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

The Commission achieved 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
8. holding public forums and other information sessions

9. responding to requests to address groups, conferences, seminars etc; and
10. providing up to date and easily accessible information on the Commission's web page.

The Commission achieved its second outcome through the following outputs:

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

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 throughout Western Australia including the presentation of papers and workshops at major conferences
- helping employer organisations with pro-active, preventative strategies to meet their policy objectives regarding equal opportunity law; and
- developing specialised educational materials and publications to support community education initiatives.

During 2004/05 the Commission conducted 241 education and training sessions, guest speaker engagements and outreach programs, an increase of 48% from 2003/04. This increase was mainly due to a 58% increase in calendar courses, a 156% increase in customised courses and a 54% increase in free, rights-based training courses offered by the Commission compared to the previous financial year. Commission staff also visited Christmas Island and held customised training courses, continuing the service delivery arrangement between the State and Commonwealth Governments.

Table 1
Education sessions
2002/03 to 2004/05

Description	2002/03	2003/04	2004/05
Calendar series of courses	26	17	27
Customised courses	42	48	123
Presentations	22	37	57
Guest Speaker	34	26	17
Community Worker Forums	9	1	9
Outreach ¹	10	33	8
Total	143	162	241

(1) There was a change in the accounting process of outreach programs. From 2003/04 each individual meeting held (information session, presentations and training sessions) was included. In 2004/05 planned outreach sessions on Christmas Island were cancelled due to inclement weather.

The increase in the calendar series of courses offered during 2004/05 can be attributed to Commission staff adapting pre-existing courses and making them more relevant to business. The 156% increase in customised courses reflects business satisfaction with training courses provided by the Commission. Both of these statistics are supported by a 53.6% increase in the number of people participating in the Commission's education and training sessions.

Information is gathered from participants in training sessions to evaluate their effectiveness. Of the 2039 participants who completed post-training questionnaires 97.5% stated they would be able to use what they had learnt during the training

session at work or in their daily lives and 95.8% would recommend the Commission's training courses to others.

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 for employers and service providers to increase awareness of equal opportunity law, vicarious liability and identifying discriminatory behaviour, policies and procedures
- helping employers, equity and human resource practitioners develop workplace cultures that prevent discrimination, harassment and victimisation
- helping facilitate the integration of equal opportunity principles into organisational programs, policies, procedures and planning
- helping employers deal with enquiries and complaints within their organisation through contact, equity or grievance officer training
- preparing summary reports of training evaluations to measure the effectiveness of training, its content, learning methodology and facilitation style; and
- all courses are constantly being revised and updated to meet the changing needs of clients.

2.2.1 Customised and specialist training

To ensure an organisation's training programme is developed appropriately and effectively, 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 result from the training session to the organisation's internal procedures, should the employee 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 they are up-to-date and conform with the requirements of equal opportunity law.

The Commission conducted 123 customised training sessions in 2004/05, a 156% increase compared with the 48 customised training sessions held in 2003/04. This percentile increase is also reflected in the number of participants, with 2247 attending in 2004/05 compared with 868 who attended in 2003/04.

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

- ☞ Australian Red Cross Blood Service
- ☞ Catholic Education Office of Western Australia
- ☞ City of Rockingham
- ☞ Corruption and Crime Commission
- ☞ Department of Justice
- ☞ Department of Land Information
- ☞ Health Insurance Commission
- ☞ Henry Walker Eltin
- ☞ Newmont Australia
- ☞ Ocean Gardens Retirement Village
- ☞ Origin Energy
- ☞ Penrhos College
- ☞ Prime Health Group
- ☞ Town of Kwinana, and
- ☞ Wesley Mission.

Feedback obtained from the training evaluation surveys completed at the conclusion of training sessions indicate the Commission's programs were well received by participants and provided practical strategies for dealing with issues of discrimination in the workplace.

Some comments from these participants are reproduced below.

- ☞ "Fun, informative, learnt lots"
- ☞ "Vibrant, kept my attention"
- ☞ "Fun lady, made it enjoyable, knows her stuff"
- ☞ "Excellent speaker, communicates very well and answers questions"
- ☞ "Very good presentation, everything explained very clearly"
- ☞ "Excellent, moved along at a good pace and dealt with items in a comprehensive manner"
- ☞ "Concise and pertinent, relevant to the needs of government and non-government organisations"
- ☞ "Well outlined subject that was easy to understand. Great delivery"
- ☞ "Excellent, gave good examples and encouraged participation"; and
- ☞ "Was interesting, never a dull moment, appropriate anecdotes and class participation".

2.2.2 Calendar series of courses

The Commission continued its calendar series of courses in 2004/05 with half, full-day and two-day courses attended by employees, managers, employee relations, human resources 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
- ☞ Contact/Grievance Officer Network
- ☞ Educating Staff; and
- ☞ Dealing with Harassment and Bullying.

The most widely attended course offered by the Commission was Equal Opportunity Law – An Introduction. Nine sessions were presented to 74 participants from a range of different organisations.

Two new courses, Educating Staff and Dealing with Harassment and Bullying were introduced in 2004/05 at the request of a number of organisations.

Organisations the Commission trained included participants from a range of industries, including:

- ☞ accommodation, cafes and restaurants
- ☞ agriculture, forestry, fishing
- ☞ construction
- ☞ corrective services
- ☞ 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
- ☞ police services
- ☞ property and business services
- ☞ transport and storage; and
- ☞ Unions.

2.3 Communicating equality of opportunity to potential complainants and the community sector

2.3.1 Aboriginal and Torres Strait Islander outreach program

Aboriginal and Torres Strait Islander (ATSI) 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 ATSI people, communities, representative organisations and particular groups who face similar issues because of their geographic isolation.

The Commission significantly expanded its outreach program this financial year, visiting eight metropolitan locations in 2004/05 compared with two in 2003/04. Community information sessions were delivered to unemployed Aboriginal and Torres Strait Islander (ATSI) people at Aboriginal community centres in Armadale, Balga, Banksia Grove, Jandakot, Medina, Midland and Spearwood. An advocacy training course was attended by ATSI people from across Aboriginal non-government organisations and local, State and Commonwealth Governments.

To promote human rights and equal opportunity, the Commission produced a 2005 Aboriginal Calendar. The illustration for the calendar was chosen from entries submitted by Aboriginal children. The winning entry came from an 11-year old student from Moorditj Noongar Community College in Midland. It was distributed throughout the State in late 2004.

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

The report, *Finding a Place. An Inquiry into the Existence of Discriminatory Practices in Relation to the Provision of Public Housing and Related Services to Aboriginal People in Western Australia* was published, accompanied by a video and DVD, and was widely distributed throughout the State to organisations and individuals who participated in the investigation. It was also made available on request to interested people. A full account of this investigation can be found in the fifth chapter of this Annual Report.

2.3.2 Christmas Island outreach

Under a service delivery arrangement between the State and Commonwealth, the *Equal Opportunity Act 1984* covers the Indian Ocean Territories of Christmas and Cocos Island.

Commission staff visited Christmas Island in June 2005 and during this visit they:

- ☛ participated in discussions with a range of community organisations on the provisions of the *Equal Opportunity Act 1984* and the meanings of unlawful discrimination
- ☛ liaised with administrative bodies, employer groups and unions to provide an overview of the *Equal Opportunity Act 1984*, the role and function of the Commission, vicarious liability provisions and preventative strategies for workplaces
- ☛ delivered customised Equal Opportunity Law training to employers and service providers

- handled enquiries
- distributed copies of a recently updated brochure on Unlawful Discrimination, that had been translated into both Malay and Traditional Chinese, to community members; and
- co-ordinated follow-up training sessions to be held in November 2005.

The translated brochures on *Unlawful Discrimination* were so well received by the local community the Commission is expanding this aspect of its service, and is currently having brochures on *Sexual Harassment*, *Sex Discrimination*, *Race Discrimination* and *Religious and Political Conviction* translated into Malay and Traditional Chinese.

2.3.3 Rights-based education

Rights-based education utilises a human rights framework and focuses on engaging categories of potential complainants who have little access to information about their rights and how to exercise those rights. The broad aim of rights-based education is to build awareness and understanding about human rights and provide participants with the skills to exercise those rights in Western Australia.

These training sessions are delivered free of charge to help those most likely to experience discrimination and to help their advocates understand the scope of the law, their rights and the Commission's complaint process.

In 2004/05 1,748 participants attended presentations, forums and workshops in 57 sessions, a 54% increase from 2003/04, aimed at advancing human rights and promoting the objects of the *Equal Opportunity Act 1984*.

There were 66 rights-based education sessions offered in 2004/05, a significant 73% increase from the 38 offered in 2003/04. Rights-based education was also included during community presentations relating to the S80 *Finding a Place* investigation.

Demand for rights-based education came mainly from the not-for-profit community sector, distinct communities (for example, ethnic minorities, people with disabilities and refugees), schools, TAFE, universities and trade unions.

The priority areas for the Commission's rights-based education for 2004/05 were students in both school and TAFE institutions, indigenous people, ethnic and religious minority groups and people with disabilities.

2.3.4 Publications

The Commission continued to review its publications in order to provide up-to-date information about the *Equal Opportunity Act 1984*. In writing material for new publications a priority was to improve the content, language and style to meet the needs of the Commission's target audiences.

During 2004/05 the Commission produced 28 publications. These publications included *Discrimination Matters* (the Commission's quarterly newsletter), a 2005 Aboriginal Calendar, training calendars and programs and, for the first time, brochures on each of the grounds of discrimination under the *Equal Opportunity Act 1984*.

The Commission received 141 requests for publications, a 21.5% increase from 116 the previous year. In addition literature, including complaint forms, was sent to 728 enquirers.

There was an increase in the proportion of the Commission's customers, including training and presentation participants, complainants and respondents, who stated they found the Commission's publications useful – from 81.9% in 2003/04 to 96.5% in 2004/05.

This significant increase in the satisfaction rate is a positive reflection on the extended and up-dated range of Commission publications now available.

2.3.5 Communication online

The Commission's website continues to be used as a source of information about the *Equal Opportunity Act 1984* and the Commission. All new publications were also made available on the website in both text and pdf formats.

All publication requests to the Commission are referred to the Commission's website, where appropriate. The Commission referred 17.9% (655) of enquirers to the Commission's website this year compared to 17% the previous financial year.

The Commission's website received 32,126 hits in the 2004/05 financial year. New software will be utilised in the 2005/06 financial year that will provide detailed information about the source and nature of website 'hits'.

The Commission finalised work on developing a new website to comply with WA Government website guidelines, improving access for people with disabilities and incorporating its new corporate style. The new website, www.eoc.wa.gov.au, will be launched on July 01, 2005. The website upgrade will continue into 2005/06 with the inclusion of information in community languages, the *Play by the Rules* interactive website and upgraded software for assessing the usage of the website.

2.4 Special events and activities

2.4.1 National Aboriginal and Islander Day of Celebration (NAIDOC) Week

Indigenous staff hosted a morning tea for all Commission staff to celebrate NAIDOC week in early July 2004. This was followed by an address by staff member Joan Groves and Nyungah Elders Walter and Doolann-Leisha Eatts, who spent about one hour talking with staff about the poignant histories of their families. The majority of Commission staff also attended the National launch of *NAIDOC Week 2004* held in Forrest Chase, Perth, with Indigenous staff members participating in a range of community-based activities held throughout the metropolitan region to celebrate NAIDOC Week.

2.4.2 Pride March

Commission staff marched in the annual Pride March in October 2004 for the third consecutive year, accompanied by family members, friends and Legal Aid representatives. They carried banners with anti-discrimination messages relating to sexual orientation.

2.4.3 Deaf awareness workshops

Commission staff gained an insight into Australian Sign Language (Auslan) in December 2004 when they attended a two-hour Deaf Awareness Training Workshop conducted by Patricia Levitzke-Gray accompanied by interpreter Kirsten Loughton of the WA Deaf Society. This workshop was one element of a partnership between the Commission and the WA Deaf Society, with Commission staff delivering two workshops, one to staff of the WA Deaf Society and the second to members of the deaf and hard of hearing communities.

2.4.4 Finding a Place report launch

The *Finding a Place* report, an inquiry into the existence of discriminatory practices in relation to the provision of public housing and related services to Aboriginal people in Western Australia, was released in December 2004. The 286-page report contained 165 recommendations. The launch was attended by more than 100 community and government representatives. The report attracted intense interest and coverage from national and statewide media. A full account of this investigation can be found in the fifth chapter of this Annual Report.

2.4.5 EOC breakfast

The Commission hosted a breakfast - *Measures of Australia's Progress in Human Rights* - at the Duxton Hotel in February 2005. It was attended by about 75 community and business representatives and Commission staff. The keynote speaker was the Australian Statistician Dennis Trewin, of the Australian Bureau of Statistics.

2.4.6 International Women's Day

The Commission, in partnership with the IPAA and Office for Women's Policy, sponsored a breakfast and seminar entitled *Equity and Equality: Bridging the GAP*, on March 8, which was attended by over 200 people. Ms Carmen Paquette of the Canadian Office of Status of Women outlined the experience of the Canadian Government in the application of Gender Based Analysis to help agencies plan and make policy decisions for their target groups, who benefit by receiving services appropriate to their needs.

2.4.7 LGBTI Workers' Rights Conference

Commission staff hosted a workshop at the inaugural Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Workers Rights' Conference in May 2005. The event was organised by the ACTU and UnionsWA, with the Commission's workshop titled *LGBTI Legal Rights*.

2.4.8 World Refugee Day

The Commission was represented on the World Refugee Day Planning Committee, which included representation from a broad range of community organisations who work with refugees. World Refugee Day was held on June 19, 2005, at the Cultural Centre Amphitheatre opposite the Alexander Library, Northbridge. Keynote speaker was Dr Jocelynn Scutt whose address was titled *Broken Justice - Absent Courage, People Perish*. Dr Scutt is a barrister, published author and filmmaker and was Tasmania's first Anti-Discrimination Commissioner (1999 to 2004). She has also been a criminologist

with the Australian Institute of Criminology and the senior law reform officer with the Australian Law Reform Commission.

2.4.9 Play by the Rules

The Manager Community Education and Training participated in the National Reference Group and National Management Committee to revise and upgrade *Play by the Rules*, an interactive website aimed at reducing incidents of discrimination, harassment and child abuse in sport.

The *Play By The Rules* website, which can be accessed on the internet at www.playbytherules.net.au, encourages fair and safe play in sport and recreation by providing a best practice suite of information and tools that will help prevent and deal with discrimination, harassment and child abuse. The Commission contributed funds and expertise to the project which is supported by all state and territory departments of sport and recreation, the Australian Sports Commission and all state and territory anti-discrimination bodies. The website will have its Western Australian launch early in the new financial year.

Conciliation Services

3.1 Handling enquiries and complaints

Commission staff provide enquirers with explanations about the *Equal Opportunity Act 1984*, 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 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 3,665 enquiries from members of the public during 2004/05. Of these:

- ☛ 2,943 (80.3%) were made by telephone
- ☛ 574 (15.7%) were made in writing, including email; and
- ☛ 148 (4%) were made in person.

When compared with the previous financial year, the number of telephone and written enquiries decreased by 2.8% and 10.8% respectively during 2004/05. There was a 18.9% decrease in the number of enquirers who visited the Commission, from 176 in 2003/04 to 148 in 2004/05.

Who made enquiries and what were they about?

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

Of the 3,665 enquiries received in 2004/05:

- ☛ 1,970 (53.8%) were made by women; and
- ☛ 1,358 (37.1%) were made by men.

Of the 3,665 enquiries received in 2004/05, 2,259 (61.6%) were about matters that fell within the jurisdiction of the *Equal Opportunity Act 1984*. The remaining 38.1% 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 those enquirers.

Of the enquiries that fell within the jurisdiction of the Commission:

- 1,272 (34.7%) concerned allegations or reports of discrimination
- 1,121 (30.6%) were requests for information on rights from potential complainants
- 202 (5.5%) requested information and advice on responsibilities and obligations under the legislation; and
- 344 (9.4%) 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:

- 514 (14%) impairment enquiries
- 432 (11.8%) race enquiries
- 254 (6.9%) sexual harassment enquiries
- 209 (5.7%) age enquiries; and
- 206 (5.6%) sex enquiries.

Table 2
Enquiries by ground
2002/03 to 2004/05

Ground	2002/03	%	2003/04	%	2004/05	%
Age	272	5.5%	245	6.4%	209	5.7%
Family Responsibilities/Status	192	3.9%	166	4.3%	162	4.4%
Gender History	41	0.8%	19	0.5%	8	0.2%
Gender Identity	11	0.2%	6	0.2%	4	0.1%
Impairment	648	13.1%	525	13.7%	514	14.0%
Marital Status	38	0.8%	29	0.8%	28	0.8%
Political conviction	13	0.3%	18	0.5%	4	0.1%
Pregnancy	168	3.4%	133	3.5%	137	3.7%
Race	555	11.2%	481	12.5%	432	11.8%
Racial Harassment	23	0.5%	18	0.5%	35	1.0%
Racial Vilification	15	0.3%	17	0.4%	45	1.2%
Religious Conviction	60	1.2%	50	1.3%	43	1.2%
Sex	284	5.7%	242	6.3%	206	5.6%
Sexual Harassment	255	5.2%	239	6.2%	254	6.9%
Sexual Orientation	168	3.4%	52	1.4%	41	1.1%
Spent Conviction	34	0.7%	24	0.6%	11	0.3%
All grounds	400	8.1%	333	8.7%	264	7.2%
Other	1763	35.7%	1242	32.4%	1268	34.6%
Total	4940	100.0%	3839	100.0%	3665	100.0%

Table 3 provides details of enquiries by area.

As in past years the most common areas of public life where enquirers sought information about unlawful discrimination were:

- 1,948 (53.2%) employment
- 374 (10.2%) goods services and facilities; and
- 171 (4.7%) accommodation.

Table 3
Enquiries by area
2002/03 to 2004/05

Area	2002/03	%	2003/04	%	2004/05	%
Employment	2633	53.3%	2100	54.7%	1948	53.2%
Access to Places and Vehicles	51	1.0%	42	1.1%	44	1.2%
Accommodation	213	4.3%	199	5.2%	171	4.7%
Education	182	3.7%	136	3.5%	125	3.4%
Clubs	67	1.4%	43	1.1%	44	1.2%
Goods, Services and Facilities	607	12.3%	403	10.5%	374	10.2%
Sports	27	0.5%	14	0.4%	9	0.2%
Land	8	0.2%	3	0.1%	6	0.2%
All Areas	472	9.6%	322	8.4%	301	8.2%
Other	680	13.8%	577	15.0%	643	17.5%
Total	4940	100.0%	3839	100.0%	3665	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 replies to the enquirer. If the information contained in the enquirer's correspondence lacks sufficient detail then 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 the allegations made fall within the jurisdiction of the *Equal Opportunity Act 1984*.

The Commission's officers complete an assessment of potential complaints to determine if the allegations made fall within the jurisdiction of the 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 then considers all information provided and decides whether or not the correspondence can be accepted as a formal complaint in accordance with 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 the jurisdiction of the Act. Where possible the letter will refer the enquirer to an appropriate organisation for assistance.

The Commission received 574 written enquiries in 2004/05, of which 422 (73.5%) were dealt with by Commission officers, 76 (13.2%) were referred to an appropriate government department or non-government organisation and 40 (7%) 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
2002/03 to 2004/05

	2002/03	%	2003/04	%	2004/05	%
Converted to a Complaint	44	5.7%	36	5.7%	40	7.0%
Total	44	5.7%	36	5.7%	40	7.0%

3.4 Handling complaints

In 2004/05 818 complaints were handled by the Commission. This included 456 new complaints received and 362 complaints carried forward from 2003/04, as shown in Table 5.

There was only a slight decrease in new complaints received compared to the previous year, with 466 new complaints received in 2003/04 and 456 in 2004/05

Of the 818 complaints handled during 2004/05, 441 (53.9%) were closed that same year.

The remaining 377 (46.1%) complaints handled were still under investigation at the end of the 2004/05 financial year.

Table 5
Number of complaints handled
2002/03 to 2004/05

Complaints Handled	2002/03	%	2003/04	%	2004/05	%
Complaints carried over from previous financial years	450	41.4%	587	55.7%	362	44.3%
Complaints Received	637	58.6%	466	44.3%	456	55.7%
Total Handled	1087	100.0%	1053	100.0%	818	100.0%
Complaints Closed	500	46.0%	691	65.6%	441	53.9%
Complaints still under investigation	587	54.0%	362	34.4%	377	46.1%

Grounds and areas of complaints

Table 6 provides details of complaints by ground.

During 2004/05 the most common grounds of alleged unlawful discrimination cited in complaints were as follows:

- ☛ 91 (20%) race
- ☛ 86 (18.9%) impairment
- ☛ 68 (14.9%) sexual harassment; and
- ☛ 61 (13.4%) sex.

Table 7 provides details of complaints by area and shows a 4.5% increase in the number of complaints lodged in the area of employment – from 288 (or 61.8% of total complaints lodged) in 2003/04 to 301 (66%) in 2004/07.

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

Complaints in the area of access to places and vehicles increased from the previous year and again this was noticeable on the grounds of race, sex and impairment.

In 2004/05 22.2% (101) of all complaints were racially based, involving either race discrimination or racial harassment and this represented a slight decrease from 2003/04 when 24.4% (114) were racially based.

In 2004/05 10.96% (33) of all complaints in the area of employment were racially based, that is involved either race discrimination or racial harassment, compared to 14.2% (41) in 2003/04.

Table 6
Complaints by ground
2002/03 to 2004/05

Ground	2002/03	%	2003/04	%	2004/05	%
Age	28	4.4%	39	8.4%	35	7.7%
Family Responsibilities	19	3.0%	15	3.2%	17	3.7%
Family Status	13	2.0%	9	1.9%	10	2.2%
Gender History	0	0.0%	0	0.0%	1	0.2%
Impairment	175	27.5%	106	22.7%	86	18.9%
Marital Status	42	6.6%	7	1.5%	8	1.8%
Political conviction	1	0.2%	0	0.0%	2	0.4%
Pregnancy	29	4.6%	20	4.3%	25	5.5%
Race	153	24.0%	104	22.3%	91	20.0%
Racial Harassment	9	1.4%	10	2.1%	10	2.2%
Religious Conviction	9	1.4%	4	0.9%	7	1.5%
Sex	83	13.0%	57	12.2%	61	13.4%
Sexual Harassment	56	8.8%	58	12.4%	68	14.9%
Sexual Orientation	4	0.6%	6	1.3%	7	1.5%
Spent Conviction	0	0.0%	0	0.0%	0	0.0%
Victimisation	16	2.5%	31	6.7%	26	5.7%
Victimisation - PID	0	0.0%	0	0.0%	2	0.4%
Total	637	100.0%	466	100.0%	456	100.0%

Table 7
Complaints by area
2002/03 to 2004/05

Area	2002/03	%	2003/04	%	2004/05	%
Employment	265	41.6%	288	61.8%	301	66.0%
Access to Places and Vehicles	25	3.9%	20	4.3%	28	6.1%
Accommodation	126	19.8%	31	6.7%	26	5.7%
Education	11	1.7%	17	3.6%	12	2.6%
Clubs	5	0.8%	0	0.0%	1	0.2%
Goods, Services and Facilities	204	32.0%	108	23.2%	85	18.6%
Sport	0	0.0%	0	0.0%	1	0.2%
Victimisation	1	0.2%	2	0.4%	2	0.4%
Total	637	100.0%	466	100.0%	456	100.0%

Complaints of victimisation

As well as receiving complaints on the various grounds under the *Equal Opportunity Act 1984*, the Commission receives complaints of victimisation lodged under Section 67 of the 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 while 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/State Administrative Tribunal (SAT), 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 declined only slightly this financial year, from 31 in 2003/04 to 26 in 2004/05. There were also two complaints of victimisation lodged under the *Public Interest Disclosure Act*. Refer to Table 6.

3.5 Who lodged complaints?

Gender of complainants

Details of complaints by ground and gender of complainants are provided in Table 8.

Consistent with previous years the larger proportion of complaints was lodged by women (64.9%) compared to men (32.5%).

The most common grounds on which women lodged complaints were:

- ☛ 55 sexual harassment
- ☛ 53 race
- ☛ 49 sex; and
- ☛ 41 impairment.

The most common grounds on which men lodged complaints were:

- ☛ 43 impairment
- ☛ 31 race; and
- ☛ 21 age.

The number of complaints lodged by men and women on the grounds of impairment, family status, marital status, religious conviction and sexual orientation were fairly similar. However women lodged a higher number of complaints than men as follows:

- ☛ 55 of the 68 complaints on the ground of sexual harassment
- ☛ 49 of the 61 complaints on the ground of sex
- ☛ 24 of the 26 complaints on the ground of victimisation
- ☛ 15 of the 17 complaints on the ground of family responsibilities; and
- ☛ 4 of the 7 complaints on the ground of sexual orientation.

Table 8
Complaints by ground and gender of complainants
2004/05

Ground	Female	Male	Mixed Group	Total	%
Age	13	21	1	35	7.7%
Family Responsibilities	15	2	0	17	3.7%
Family Status	6	4	0	10	2.2%
Gender History	1	0	0	1	0.2%
Impairment	41	43	2	86	18.9%
Marital Status	4	3	0	7	1.5%
Political conviction	0	2	1	3	0.7%
Pregnancy	25	0	0	25	5.5%
Race	53	31	7	91	20.0%
Racial Harassment	3	7	0	10	2.2%
Religious Conviction	3	3	0	6	1.3%
Sex	49	12	1	62	13.6%
Sexual Harassment	55	13	0	68	14.9%
Sexual Orientation	4	3	0	7	1.5%
Spent Conviction	0	0	0	0	0.0%
Victimisation	24	2	0	26	5.7%
Victimisation - PID	0	2	0	2	0.4%
Total	296	148	12	456	100.0%
%	64.9%	32.5%	2.6%	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 385 of the 456 complainants surveyed in 2004/05 returned completed questionnaires, yielding a response rate of 84.4% (error rate of 1.97 %).

Age of complainants

Table 9 provides details of complainants by age.

In the 2003/04 survey responses 44 (9.4%) complainants indicated they were less than 20 years of age, compared to 38 (10.2%) this financial year.

Similar to last year, 194 (50.4%) complainants stated they were between 20–39 years of age and 120 (31.2%) were between 40–64 years of age.

Of the 385 complainants who returned questionnaires, 26 (6.8%) declined to provide information about their age.

Table 9
Complainants by age
2002/03 to 2004/05

Age	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
0 - 14	3	0.5%	12	2.6%	1	0.2%
15 - 19	25	3.9%	32	6.9%	37	8.1%
20 - 39	333	52.3%	198	42.5%	194	42.5%
40 - 64	164	25.7%	112	24.0%	120	26.3%
65+	6	0.9%	10	2.1%	7	1.5%
Not applicable	6	0.9%	0	0.0%	0	0.0%
No survey returned or did not respond to question	100	15.7%	102	21.9%	97	21.3%
Total	637	100.0%	466	100.0%	456	100.0%

Birthplace and ethnicity of complainants

Table 10 provides details of complainants by birthplace.

In 2004/05, of the complainants who were surveyed and provided information about their birthplace:

- 288 (74.8%) indicated they were born in Australia – a numerical and percentile increase from 274 (58.8%) in 2003/04
- 49 (12.7%) indicated they were born in the United Kingdom and Ireland; and
- 11 (2.9%) indicated they were born in Southern and East Africa – an increase from 5 (1.2%) in 2003/04.

Of the complainants who responded to the survey only one declined to answer the question relating to their birthplace.

Table 10
Complainants by birthplace
2002/03 to 2004/05

Birthplace	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
Australia - Non Aboriginal	173	27.2%	186	39.9%	212	46.5%
Australia - Aboriginal	270	42.4%	88	18.9%	76	16.7%
Eastern Europe	4	0.6%	10	2.1%	5	1.1%
Middle East	15	2.4%	11	2.4%	1	0.2%
Southeast Asia	12	1.9%	10	2.1%	8	1.8%
Southern and East Africa	15	2.4%	5	1.1%	11	2.4%
Southern Asia	11	1.7%	14	3.0%	5	1.1%
United Kingdom	39	6.1%	50	10.7%	49	10.7%
Other	12	1.9%	29	6.2%	17	3.7%
Not applicable	6	0.9%	0	0.0%	0	0.0%
No survey returned or did not respond to question	80	12.6%	63	13.5%	72	15.8%
Total	637	100.0%	466	100.0%	456	100.0%

Complainants by occupation

Table 11 provides details of complainants by occupation.

In response to the question about occupation, 174 (45.2%) complainants stated they were in paid employment, a marked increase from 136 (29.2%) in 2003/04 and 102 (26.5%) indicated they were looking for work.

Table 11
Complainants by occupation
2002/03 to 2004/05

Occupation	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
Looking for work	102	16.0%	114	24.5%	102	22.4%
Student	41	6.4%	43	9.2%	33	7.2%
Retired	11	1.7%	7	1.5%	3	0.7%
Pensioner	34	5.3%	23	4.9%	15	3.3%
Homemaker	39	6.1%	25	5.4%	19	4.2%
In paid employment	128	20.1%	136	29.2%	174	38.2%
Not applicable	6	0.9%	0	0.0%	0	0.0%
No survey returned or did not respond to question	276	43.3%	118	25.3%	110	24.1%
Total	637	100.0%	466	100.0%	456	100.0%

Complainants with a disability

Details of complainants by disability are provided in Table 12.

In 2004/05, 86 (18.9%) complainants alleged impairment as a ground of discrimination compared to 106 (22.7%) the previous financial year.

Of the 456 complaints received in 2004/05, 67 (14.7%) of the complainants indicated they had a disability, 20 (4.4%) did not respond to the question and 71 (15.6%) did not complete the survey.

Table 12
Complainants by disability
2002/03 to 2004/05

Disability	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
Yes	222	34.9%	68	14.6%	67	14.7%
No	323	50.7%	299	64.2%	298	65.4%
Not applicable	6	0.9%	0	0.0%	0	0.0%
No survey returned or did not respond to question	86	13.5%	99	21.2%	91	20.0%
Total	637	100.0%	466	100.0%	456	100.0%

3.6 Respondents to complaints

Industry sector and size of respondent organisations

Using classifications developed by the Australian Bureau of Statistics the Commission collects information on the industry or organisations against which complaints are lodged. This information helps the Commission produce publications, conduct seminars and develop relevant, industry specific training programs.

Table 13 shows the main industries about which complaints were received.

In 2004/05, respondents with the highest number of complaints were from the following industries:

- ☛ 74 (16.2%) from the retail trade
- ☛ 57 (12.5%) from the accommodation, café and restaurant industries, compared with 38 (8.2%) in 2003/04
- ☛ 38 (8.3%) from property and business services, compared with 67 (14.4%) in 2003/04; and
- ☛ 41 (9%) from health and community services, compared with 37 (7.9%) in 2003/04.

Table 13
Complaints by industry
2002/03 to 2004/05

Industry Type	2002/03		2003/05		2004/05	
	Number	%	Number	%	Number	%
Accommodation/Cafes/Restaurants	36	5.7%	38	8.2%	57	12.5%
Agriculture/Forestry/Fishing	8	1.3%	3	0.6%	3	0.7%
Communication Services	5	0.8%	1	0.2%	8	1.8%
Construction	7	1.1%	11	2.4%	22	4.8%
Cultural and Recreational Services	16	2.5%	38	8.2%	26	5.7%
Education - Pre, School and Post	33	5.2%	30	6.4%	36	7.9%
Finance and Insurance	22	3.5%	25	5.4%	13	2.9%
Health and Community Services	45	7.1%	37	7.9%	41	9.0%
Manufacturing	18	2.8%	23	4.9%	22	4.8%
Mining	19	3.0%	26	5.6%	9	2.0%
Personal and Other Services including corrective and police services	40	6.3%	47	10.1%	49	10.7%
Property and Business Services	244	38.3%	67	14.4%	38	8.3%
Retail Trade	77	12.1%	76	16.3%	74	16.2%
Transport and Storage	44	6.9%	14	3.0%	32	7.0%
Wholesale Trade	5	0.8%	12	2.6%	9	2.0%
Other Industry	18	2.8%	18	3.9%	17	3.7%
Total	637	100.0%	466	100.0%	456	100.0%

Table 14 provides details of complaints by size of organisation.

Analysis of respondent's industries by organisational size indicates:

- ☛ figures for 2003/04 and 2004/05 remained fairly static, but when comparing 2002/03 with 2004/05 figures there had been a 66.1% decline in the number of respondent organisations with 500 or more employees, that is a decrease from 348 (or 54.6% of the total number of complaints) in 2002/03 to 118 (25.9%) in 2003/04; and
- ☛ there was a 25.7% decrease in the number of respondent organisations with 5–19 employees, from 101 (21.7%) in 2003/04 to 75 (16.4%) in 2004/05.

Table 14
Complaints by size of respondent's organisation
2002/03 to 2004/05

Size of Organisation	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
Less than 5	23	3.6%	23	4.9%	26	5.7%
5 - 19	82	12.9%	101	21.7%	75	16.4%
20 - 99	86	13.5%	109	23.4%	110	24.1%
100 - 499	80	12.6%	58	12.4%	61	13.4%
500+	348	54.6%	126	27.0%	118	25.9%
Not known	18	2.8%	49	10.5%	66	14.5%
Total	637	100.0%	466	100.0%	456	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/State Administrative Tribunal (from January 01, 2005).

Table 15
Outcome of complaints closed
2002/03 to 2004/05

Outcome of Complaints Closed	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
Dismissed	56	11.2%	38	5.5%	46	10.4%
Lapsed	75	15.0%	358	51.8%	101	22.9%
Withdrawn	90	18.0%	41	5.9%	73	16.6%
Conciliation	148	29.6%	150	21.7%	140	31.7%
Referred to Equal Opportunity Tribunal/State Administrative Tribunal	131	26.2%	104	15.1%	81	18.4%
Total Complaints Closed	500	100.0%	691	100.0%	441	100.0%

Withdrawn complaints

Complainants can choose to withdraw their complaints for a number of reasons. Throughout the complaint handling process conciliation officers discuss the strengths and weaknesses of a complaint with all parties. In some instances complainants do not have sufficient evidence to substantiate their claim/s of unlawful discrimination, and on that basis decide not to proceed with their complaint. In other cases complainants choose to withdraw their complaint if they are satisfied with the respondent's reply to their allegation/s, where the complaint has been resolved with the assistance of the conciliation officer or following a conciliation conference.

There was a 78% increase in the number of complaints withdrawn, from 41 (5.9%) in 2003/04 to 73 (16.6%) in 2004/05.

Dismissed complaints

Under the *Equal Opportunity Act 1984* the Commissioner may dismiss complaints that are found to be lacking in substance, frivolous, vexatious or misconceived. There was a 21% increase in the number of complaints dismissed this financial year, from 38 (5.5%) in 2003/04 to 46 (10.4%) in 2004/05.

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 1984*. 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 Commissioner's officers attempt to make contact with the complainant either by letter or telephone, or a combination of both. In other cases complainants do not continue with their complaints because 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 requirement that complainants support their allegations with evidence such as witnesses' statements and documents.

The number of lapsed complaints decreased from 358 (51.8%) in 2003/04 to 101 (21.9%) in 2004/05.

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 a Commission officer.

The aim of a conciliation conference is to give the parties an opportunity to discuss the complaint itself and, where appropriate, the issues that led to it. They attempt to help the parties find a fair, ethical and equitable way of resolving the complaint. 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.

In 2004/05, 140 (31.7%) of the 441 closed complaints were finalised through conciliation compared to 150 (21.7%) in 2003/04.

Types of arrangements in conciliated complaints

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, for example income or medical expenses
- ☛ 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 2004/05 the most common types of arrangements negotiated in the conciliation of complaints included:

- ☛ 68 (33.6%) monetary settlements
- ☛ 40 (19.8%) apologies
- ☛ 31 (15.3%) private settlements
- ☛ 19 (9.4%) reference; and
- ☛ 11 (5.4%) education/training program.

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. These case studies demonstrate the various outcomes of complaints lodged with the Commission.

Complaints referred to the Tribunal

Referral of complaints to the Equal Opportunity Tribunal or State Administrative Tribunal (from January 01, 2005) 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 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 the nature of the complaint is such that the matter should be referred to the Tribunal. In 2004/05 the Commissioner referred 62 (7.6%) 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 2004/05 an additional 19 (2.3%) 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 441 complaints closed in 2004/05, 212 (48.1%) were closed within six months and 145 (32.9%) were closed within twelve months. This means 81% of complaints were finalised within twelve months in 2004/05 compared to 57.7% in 2003/04 - a 40.4% improvement.

The number of files closed between 13–18 months declined from 224 (32.4%) in 2003/04 to 37 (8.4%) in 2004/05. This is because Commission staff made a concerted, and successful, effort in 2003/04 to progress older matters that had not been finalised and resulted in 191 more complaints being finalised in 2003/04 than the previous year.

Table 16
Time taken to finalise complaints
2002/03 to 2004/05

Outcome of Complaints Closed	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
0 - 6 months	269	53.8%	202	29.2%	212	48.1%
7 - 12 months	177	35.4%	197	28.5%	145	32.9%
13 - 18 months	31	6.2%	224	32.4%	37	8.4%
19 - 24 months	14	2.8%	62	9.0%	12	2.7%
2 years or more	9	1.8%	6	0.9%	35	7.9%
Total	500	100.0%	691	100.0%	441	100.0%

The Commission's complaint handling process continues to be reviewed with the aim of helping the parties move through the process more expeditiously.

3.8 Provision of legal assistance

Legal assistance was provided to complainants whose complaints the Commissioner referred to the Equal Opportunity Tribunal or State Administrative 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 1984*. The number of legal matters handled is shown in Table 17. A 'matter' means a single inquiry by the Tribunal into all complaints made by one or more complainants.

While the number of matters referred to the Tribunal by the Commissioner and carried over from previous financial years remained fairly constant in numerical terms, that is 58 in 2003/04 and 55 in 2004/05, there was a percentile increase in referrals from 50% to 61.1% respectively.

TABLE 17
Number of matters by legal assistance
2002/03 to 2004/05

Legal Assistance	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
Number of matters referred by the Commissioner and carried over from previous financial years	39	41.9%	58	50.0%	55	61.1%
Number of appeals to the Supreme Court and carried over from previous financial years	0	0.0%	0	0.0%	0	0.0%
Number of matters referred by the Commissioner each financial year	53	57.0%	55	47.4%	32	35.6%
Number of interim appeals and writ of summons each financial year	1	1.1%	3	2.6%	3	3.3%
Total number of matters handled each financial year	93	100.0%	116	100.0%	90	100.0%

The number of matters referred by the Commissioner to the Equal Opportunity Tribunal or State Administrative Tribunal under Section 93 of the *Equal Opportunity Act 1984* decreased from 55 (47.4%) in 2003/04 to 32 (35.6%) in 2004/05.

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

The figures in Table 18 demonstrate the Commission's legal officers continue 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 Commission's legal officers continued the trend of recent years by increasing the number of matters being settled, from 25 (26.9%) settled in 2002/03, to 40 (34.5%) in 2003/04 and 44 (48.9%) in 2004/05.

TABLE 18
Outcomes of matters by legal assistance
2002/03 to 2004/05

Outcome of Matters	2002/03		2003/04		2004/05	
	Number	%	Number	%	Number	%
Withdrawn	1	1.1%	4	3.4%	6	6.7%
Settled before hearing by Legal Officers	7	7.5%	17	14.7%	15	16.7%
Settled at Tribunal mediation by Legal Officers	18	19.4%	23	19.8%	29	32.2%
Upheld by the Tribunal	1	1.1%	4	3.4%	0	0.0%
Dismissed by the Tribunal	2	2.2%	3	2.6%	6	6.7%
Discontinued Assistance	5	5.4%	8	6.9%	2	2.2%
Number of matters heard and decided by the Supreme Court	0	0.0%	1	0.9%	1	1.1%
Number of Writ of Summons, Interim Appeals finalised and Exemption Orders	1	1.1%	1	0.9%	1	1.1%
Total number of matters finalised	35	37.6%	61	52.6%	60	66.7%
Number of matters referred by the Commissioner and outstanding at the Tribunal and Supreme Court	58	62.4%	55	47.4%	30	33.3%
Total number of matters handled each financial year	93	100.0%	116	100.0%	90	100.0%

The demand for assistance provided by the Commission's legal officers in 2005/06 is expected to remain at a similar level experienced in 2004/05, or increase, as outstanding matters are joined by new complaints referred to the State Administrative Tribunal.

Substantive Equality Unit

If you want to treat me equally, you may have to be prepared to treat me differently.

4.1 Substantive Equality Unit

In December 2004 the *Policy Framework for Substantive Equality* was endorsed as Government policy and resulted in the establishment of a Substantive Equality Unit located in the Equal Opportunity Commission.

4.1.1 Background

Acknowledging the Indigenous peoples as the first Australians, Western Australia's population comprises of people from a variety of cultural and historical traditions, making Western Australia one of the most diverse regions in the world.

The Western Australian Government has embarked on a program of reform to ensure that services are not only accessible but also responsive to the needs and aspirations of all Western Australians. This represents a more comprehensive view of equal opportunity based on substantive equality. It is no longer sufficient to provide equal access to services but also necessary to ensure these services adequately meet the needs of both individuals and groups of people.

4.1.2 The Equal Opportunity Act 1984

This diversity is acknowledged in the *Equal Opportunity Act 1984* which makes it unlawful to discriminate on the ground of race in certain areas of public life, including employment and the provision of goods, services and facilities.

Specifically the Act makes it unlawful to discriminate on the ground of race in service delivery:

- ☞ by refusing to provide goods or services or to make facilities available
- ☞ in the terms and conditions upon which those goods or services or facilities are made available; or
- ☞ in the manner in which those goods or services or facilities are provided or made available.

The *Equal Opportunity Act 1984* provides an effective legal framework for the Western Australian public sector to meet its obligations in relation to unlawful discrimination. Application of the Act in the public sector has focused primarily on equal access to public services and diversity in the workforce. While the Western Australian public sector has demonstrated an increased awareness of its diversity and has made significant progress in the workforce to reflect this diversity, further progress needs to be made in the area of service delivery so that the needs of different groups, including Indigenous and ethnic minority groups, are appropriately addressed.

4.1.3 Western Australian Charter of Multiculturalism

In keeping with the spirit and intent of the *Equal Opportunity Act*, the *Western Australian Charter of Multiculturalism* affirms the need to focus service delivery on achieving substantive equality. It recognises that Western Australians are diverse and have different needs and the right to have those needs addressed.

4.1.4 Policy Framework for Substantive Equality

While recognising the initiatives within some public sector departments to achieve this end, the *Policy Framework for Substantive Equality* represents a conceptual shift in the way the public sector plans and delivers services. The *Policy Framework* presents a process of continuous improvement through which departments can progress towards achieving substantive equality and meeting their obligations under the *Equal Opportunity Act*.

The *Policy Framework for Substantive Equality*:

- ☛ puts into action the underpinning philosophy of a differentiated citizenship of the *WA Charter of Multiculturalism*
- ☛ reinforces the principles of inclusivity incorporated in the Government's *Better Planning: Better Services Framework*; and
- ☛ amplifies the Government's commitment to a *New and Just Relationship between the State Government and Aboriginal people*.

The benefits of the *Policy Framework for Substantive Equality* include:

- ☛ a public sector that reflects and is responsive to the differentiated needs of a diverse community
- ☛ increased client confidence and satisfaction with the delivery of public services
- ☛ compliance with the objects of the *Equal Opportunity Act 1984* in relation to the provision of services
- ☛ a public sector with the competence to meet the needs of individuals and communities; and
- ☛ improved efficiencies through more targeted services.

4.1.5. Project partners

In December 2003 a Program Partnership was founded through the signing of a Memorandum of Understanding between five bodies with legislative authority and accountability for guaranteeing equality of service across the public sector in Western Australia. The partners worked throughout 2004/05 to develop the *Policy Framework* and oversee the Pilot Phase undertaken in four public sector departments.

The five project partners are:

- ☛ Department of Premier and Cabinet
- ☛ Equal Opportunity Commission
- ☛ Office of Equal Employment Opportunity
- ☛ Office of Multicultural Interests; and
- ☛ Department of Indigenous Affairs.

On the basis of the Memorandum of Understanding the Program Partners agreed to:

- ☛ coordinate the activities of the Public Sector Anti-Racism and Equality Program
- ☛ engage with organisational and professional stakeholders who are key to progressing the program
- ☛ collaborate across Government to ensure that strategies developed are sustainable and effective; and
- ☛ provide the services of senior officers to support the program.

In addition UnionsWA participated in Program Partner meetings from mid-2004. The developing program was initially supported by a Program Secretariat based at the Office of Multicultural Interests, before being relocated to the Equal Opportunity Commission.

4.1.6 Program Committee and Strategic Management Council

The Program Committee, established under the auspices of the Premier's *Anti-Racism Strategy* provides a broader framework of consultation and expertise to complement the role of the Program Partners. This Committee, which included the Program Partners and Pilot Departments (see below), offered the *Public Sector Anti-Racism and Equality Program* access to extensive knowledge of the activities, existing equality initiatives and service priorities across the public sector. The membership of the Committee included (in addition to the five partner departments):

- ☛ Department of Health
- ☛ Department of Education and Training
- ☛ WA Police
- ☛ Department of Justice
- ☛ Department for Community Development
- ☛ Main Roads Western Australia; and
- ☛ WA Local Government Association.

The Committee played a key role in informing and facilitating the development of the *Policy Framework for Substantive Equality* and in supporting and facilitating its future take-up across the public sector.

4.1.7 Workgroups

In pursuing the development of the *Public Sector Anti-Racism and Equality Program* prior to the Pilot Phase there was a concerted strategy to consult as widely as possible in developing the operational guidelines of the *Policy Framework*.

Workgroups for each of the key drivers (needs assessment, monitoring, organisational performance appraisal, and learning and development) were established to address specific tasks that contributed to the clarification of existing practice. They also helped to identify how to efficiently introduce the implementation of the *Policy Framework* into existing organisational structures and routines.

During the Pilot Phase of the program, elements of the *Policy Framework* were tested in specific service area settings within each pilot department. Piloting enabled the program to evaluate the viability and acceptability of the *Policy Framework* and to develop an understanding of how it can be effectively integrated into current organisational practice.

4.1.8 Pilot Phase

To ensure that the processes developed can be efficiently integrated into existing routine practice, the *Policy Framework* was piloted within four public sector departments. The Pilot Departments were:

- Department of the Premier and Cabinet
- WA Police
- Department for Community Development; and
- Department of Justice.

A report on the pilots was presented to the departments involved in January 2005. Although the report remains confidential the pilot findings indicated systemic discrimination can be prevented by incorporating the *Policy Framework* into the formal structures within departments. This will ensure the agendas of policy and practice are better able to reveal and prevent systemic discrimination. It was found that often these two policy agendas are separated. While there may be an administrative rationale for this separation, in reality policy and practice are clearly inter-related.

4.2 Future directions

In 2005 the implementation of the *Policy Framework* started. The Substantive Equality Unit will assist and support the 21 departments represented on the Strategic Management Council to implement the *Policy Framework*. This will include briefing and specialist sessions for all staff involved in the implementation. A Senior Officer has been appointed within each of the departments, to oversee the implementation with guidance and support from the Substantive Equality Unit. Departments are expected to start implementation of the *Policy Framework* in all service/divisional areas over a five year period

4.3 Publications

Copies of the following publications produced by the unit can be viewed and downloaded from the Commission's website at www.eoc.wa.gov.au:

- [The Public Sector Anti-Racism and Equality Program](#)
- [The Policy Framework for Substantive Equality](#)
- [A Summary Guide for Chief Executive Officers](#)
- [The Western Australian Charter of Multiculturalism](#)

Special Projects

5.1 Finding a Place. An Inquiry into the Existence of Discriminatory Practices in Relation to the Provision of Public Housing and Related Services to Aboriginal People in Western Australia

5.1.1 Background

The Equal Opportunity Commissioner is appointed to administer the *Equal Opportunity Act 1984*. The purposes of the Act are detailed in Section 3 and aim:

“... to eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status or pregnancy, family responsibility or family status, sexual orientation, race, religious or political conviction, impairment, age or, in certain cases, gender history in the areas of work, accommodation, education, the provision of goods, facilities and services and the activities of clubs.”

In accordance with this aim the then Acting Commissioner Ms Moira Rayner, in September 2002, established a Section 80 investigation into the provision of public housing to Aboriginal and Torres Strait Islander people in Western Australia.

In accordance with Sections 80 and 82 of the Act the Inquiry aimed to assess whether the policies, programs, practices, guidelines or decision making processes within Homeswest contribute to direct or indirect discriminatory treatment of Aboriginal and Torres Strait Islander people in the provision of public housing and related services due to race or any other ground.

Section 80 of the Act provides the Commissioner with the power to:

- carry out investigations, research or inquiries relating to discrimination
- acquire and disseminate knowledge on all matters relating to elimination of discrimination
- arrange and co-ordinate consultations, inquiries, discussions, seminars and conferences
- consult with governmental, business, industrial and community groups in order to ascertain means of improving services and conditions affecting a person or persons who are subject to discrimination on the grounds referred to in the Act
- publish any written reports compiled in the exercise of the Commissioner's powers; and
- Section 82 of the Act provides the Commissioner with power to review governmental policies and practices with a view to identifying circumstances where discrimination on a ground referred to in the Act occurs and provide a report of the findings of the review to the Minister.

5.1.2 Inquiry process

During the course of its investigations the Inquiry received 50 written submissions from individuals and groups and 18 written submissions from organisations, with 526 individuals and groups making oral submissions.

Commission staff held regional community meetings in Albany, Mount Barker, Katanning, Narrogin (Great Southern region); Bunbury, Collie, Manjimup, Mandurah, Busselton (South West region); Derby, Kununurra, Wyndham, Fitzroy Crossing, Halls Creek, Broome (Kimberley region); Kalgoorlie, Laverton, Leonora, Esperance, (Goldfields region); Geraldton, Meekathara, Wiluna, Mount Magnet, Cue, Mullewa, Carnarvon (Midwest/Gascoyne region) and Karratha, Onslow, Roebourne, Wickham and Port Hedland (Pilbara region).

Metropolitan community meetings were held in Armadale, Perth, Kwinana, Fremantle, Mirrabooka and Midland.

5.1.3 Release of report

The report, *Finding a Place*, plus an accompanying video and DVD was released on December 15, 2004. It was 286 pages long and contained 165 recommendations.

The report was launched at the Commission and was attended by more than 100 community and government representatives, and attracted intense interest and coverage from national and statewide media.

One of the report's key recommendations was for a broadly-based Implementation and Monitoring Group to be established, with its first priority being to produce a program for the implementation, monitoring and review of recommendations contained within the report. It was recommended this group include representation from the Department of Housing and Works as well as community advocacy groups and other relevant Government departments.

This group, titled the Section 80 Implementation and Monitoring Committee held its inaugural meeting on May 09, 2005 with a second meeting held on June 24, 2005. Regular meetings are planned for the coming financial year.

5.1.4 Section 80 Implementation and Monitoring Committee composition

Organisations represented on the committee are:

- Equal Opportunity Commission
- Department of Consumer and Employment Protection
- Department for Community Development
- Department of Indigenous Affairs
- Tenancy Advice Service
- Disability Services Commission
- CPSU/CSA
- Deaths in Custody Watch Committee
- Katanning Aboriginal Corporation
- Port Hedland – community representative

- ☞ Kalgoorlie Indigenous Advocates
- ☞ Department of Education and Training
- ☞ Perth – Section 80 Reference Group
- ☞ Roebourne – Women for Stronger Communities
- ☞ Perth – community representative
- ☞ Telethon Institute for Child Health Research
- ☞ Aboriginal Legal Service
- ☞ Jackaranda Community Centre
- ☞ WACOSS
- ☞ Shelter WA
- ☞ Noongar Mia Mia
- ☞ Kimberley Community Legal Service; and
- ☞ Gordon Implementation Program.

The National Network of Indigenous Women’s Legal Services has also been invited to participate in the Committee.

5.1.5 Progress to date

The Department of Housing and Works has agreed to implement nine of the recommendations. They are:

- ☞ Recommendation 7: An independent person/s or organisation with expertise in the use of plain English to be contracted by the DHW in consultation with the Implementation Group to review all policies, documents, brochures (written materials) developed by Homeswest to ensure their ready comprehension by Aboriginal people
- ☞ Recommendation 8: Homeswest to produce clear simple brochures/fact sheets setting out their policies. Priority in the production of these brochures to be given to issues highlighted in this report, for example:
 - ☞ access to priority assistance
 - ☞ requirements for emergency housing
 - ☞ access to transfers
 - ☞ maintenance
 - ☞ eviction policies
 - ☞ tenant liability
 - ☞ appeals mechanisms; and
 - ☞ urgent assistance to victims of domestic violence.
- ☞ Recommendation 11: Language, distribution and cultural considerations are to vary according to the region.
- ☞ Recommendation 16: Homeswest to engage external consultants to evaluate their website for ease of accessibility by their clients, particularly having regard for literacy and cultural issues that affect Aboriginal people. Homeswest website is to meet minimum government guidelines for accessibility, in any event.

- Recommendation 17: All standard letters are to be re-written in plain English and to give contact persons by name and telephone numbers.
- Recommendation 18: Notices to be redrafted in plain English and, where forms are prescribed under an Act (for example, the RTA), to provide clear information describing the:
 - content and effect of the notice
 - what the consequences are of doing or failing to do certain acts; and
 - the right of the tenant to challenge any notice if this is applicable to be provided. Such notices to provide regularly reviewed and updated lists of community advocacy and/or tenancy advocacy services, including any Aboriginal support services, from which clients can seek assistance in understanding their rights about such notices.
- Recommendation 58: Before any rental subsidy is removed from a tenant as a result of a non-lodgement of a form a face-to-face meeting is to occur between the tenant and the DHW.
- Recommendation 100: Ensure that all members of the appeals committees are adequately trained in relevant issues such as the *RTA 1987*, the *Equal Opportunity Act 1984* and are able to demonstrate an understanding of cultural diversity and anti-racism strategies.
- Recommendation 120: Homeswest is to maintain and update a database of comparative data with respect to Aboriginal and non-Aboriginal tenants, and applicants for housing. The data must be in a form that allows a comparison between Aboriginal and non-Aboriginal people with respect to the application of and their compliance with each of the Homeswest policies and procedures.

5.1.6 Access to Finding a Place

A copy of the *Finding a Place* report can be downloaded from the Commission's website at www.eoc.wa.gov.au

Corporate Compliance and Governance

6.1 Compliance with relevant written laws

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

6.1.1 Enabling legislation

The Office of the Commissioner for Equal Opportunity is established under Part VII, Division I of the *Equal Opportunity Act 1984* as amended 1988 and 1992 and under the provisions of the *Public Sector Management Act 1994*.

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

6.1.2 Legislation administered

The Commissioner administers the:

- ☛ *Equal Opportunity Act 1984* (as amended in 1988, 1992 and 2001) – Parts I-VII and X; and the
- ☛ *Spent Convictions Act 1988* – Division 3

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

6.1.3 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*

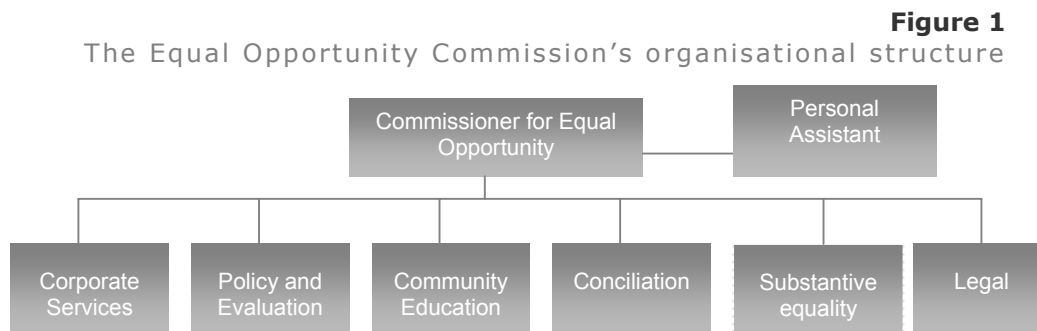
- ☞ *Public Interest Disclosure Act 2003*
- ☞ *Public Sector Management Act 1994*
- ☞ *Salaries and Allowances Act 1975*
- ☞ *Spent Convictions Act 1988*
- ☞ *State Records Act 2000*
- ☞ *State Supply Commission Act 1991; and*
- ☞ *Workers Compensation and Rehabilitation Act 1981.*

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.*

6.1.4 ORGANISATIONAL STRUCTURE

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



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.
Substantive Equality	Supports implementation of the Premier’s Anti-racism project

6.2 Legislative compliance and governance

6.2.1 Meeting the needs of Western Australians

The Commission's 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,
- ☛ Plan for Women
- ☛ Equal Employment Opportunity
- ☛ Language and Cultural Diversity; and
- ☛ Youth.

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
- ☛ providing translated information and interpreter services as needed
- ☛ 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.

6.2.2 Disability service plan

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. Auslan interpreters are also engaged when appropriate.

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

During 2004/05 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.

The Commission's Community Education and Training section delivered two sessions to the NICAN National Conference on *Tourism and People With Disabilities* as well as participated in the working group leading up to the conference.

Conciliation officers continue to use 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.

The review conducted of the Commission's website reflected the *Guidelines for State Government Websites* to ensure ease of access.

6.2.3 Plan for women

As part of its commitment to promoting equal opportunities and equality for women, the Commission made a submission to the investigation into the continuing, and in Western Australia, increasing gap between women's and men's wages, which resulted in the *Report on the review of the gender pay gap in Western Australia*. A presentation was also made by the Commissioner to a conference sponsored by the University of Western Australia to plan for the implementation of the report. A link to this report can be found on the Commission's website www.eoc.wa.gov.au/publications.

Presentations were also made to the Anna Stewart Memorial project for women trade unionists, Women's Council for Domestic and Family Violence Services UN Day for Human Rights. The Commissioner is also a member of WA Police's Equality Implementation Group established to redress gender imbalance within the WA Police Service.

6.2.4 Equal employment opportunity

During 2004/05 the Commission provided training to 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.

Senior female staff of the Commission will be participating in forums organised by the Office of Equal Employment Opportunity on the under representation of women in senior management in the WA public sector.

6.2.5 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 was translated into Traditional Chinese and Malay to accommodate the needs of the people in the Indian Ocean Territories of Christmas and Cocos Islands, and additional brochures on *Sex Discrimination*, *Race Discrimination*, *Sexual Harassment* and *Religious and Policial Discrimination* are being translated will be printed in 2005/06. A multilingual guide in eight languages of newly arrived communities is also being prepared. These resources will also be available on the revised Commission website after July 01, 2005.

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.

6.2.6 Youth

During 2004/05 1,380 participants attended speaking engagements and forums in 34 sessions aimed at advancing human rights and promoting the objects of the *Equal Opportunity Act 1984*. 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.

6.2.7 Evaluations

No major evaluations were conducted during 2004/05. However each year the Commission surveys complainants, respondents and training program to obtain feedback on service delivery. Refer to item 6.5 Output Based Management for some results of these surveys.

6.2.8 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 available free of charge in either 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.

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.

For the year ending June 30, 2005, the Commission received one application for access to information in accordance with FOI. Access was granted in an edited form.

6.2.9 Record keeping plan

The Equal Opportunity Commission prepared and submitted a Record Keeping Plan on March 08, 2004, which was cleared by the State Records Commission 22 April 2004 - pending approval of the Commission's Retention and Disposal Schedule.

Consistent with Standard 2: Principle 6 the Commission conducts periodic staff training on record keeping practices which is appropriate to its functions and operations. All new employees are advised of their roles and responsibilities as it relates to compliance with the Plan. These activities are evaluated periodically as required. Furthermore the Equal Opportunity Commission manages all its record keeping functions in accordance with its cleared Record Keeping Plan.

6.3. Public sector standards and ethical codes

6.3.1 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 *Code of Ethics* and *Code 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.

6.3.2 Code of Ethics and Code 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. The Commission will be reviewing its Codes in 2005/06. The Senior Legal Officer was nominated to represent the Commission on the Senior Officers Integrity Network.

Compliance is monitored and assessed by Corporate Executive. There have been no complaints, relating to non-compliance, received during the reporting year.

6.3.3 Corruption Prevention

The Commission arranged for the Corruption and Crime Commission to deliver a briefing session to all Commission staff on what constitutes misconduct and the role of the Corruption and Crime Commission.

6.3.4 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*. The revised policy was endorsed by the Commissioner on September 10, 2004 and is accessible to all staff on the Commission's intranet.

6.3.5 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 Act. The Commissioner is also obliged to create the position of Public Interest Disclosure officer, currently the senior legal officer. If an employee at the Commission has an enquiry about the 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 Commission's intranet. In 2004/05 no claims were handled under the Act by the Commission.

6.3.6 Advertising and sponsorship

In accordance with Section 175ZE of the *Electoral Act 1907*, the Commission incurred expenditure in advertising, market research, polling, direct mail and media advertising, as set out in Table 20 below.

Table 20
Advertising and sponsorship
2004/05

1. Total expenditure for 2004/05 was \$4,742.70			
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	\$4,742.70	Kalgoorlie Miner Newspaper	\$256.50
		South Western Times	\$257.73
		Albany & Great Southern Weekender	\$250.00
		Kwik Kopy	\$84.00
		Market Productions	\$2,508.10
		Telstra White Pages	\$1,386.37

6.3.7 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 the Commission's publications (e.g. newsletters and brochures).

During 2004/05 the Commission provided 940 kilograms of waste paper to be recycled, a 20.5% increase from the 780 kilograms recycled in 2003/04.

6.3.8 Energy Smart policy

The *Energy Smart Government Policy* applies to all general government sector agencies with 25 or more full-time equivalent staff.

In accordance with this commitment 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. Replacement of existing computer monitors with energy efficient, flat-styled liquid crystal display (LCD) computer monitors commenced during 2004/05 as recommended.

6.3.9 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 a 2005 Aboriginal Calendar which was distributed throughout the State.

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

On a number of occasions during 2004/05 conciliation officers convened conferences outside the metropolitan area.

The Commission also began planning the extension of its calendar series of training courses to selected regional centres.

6.3.10 Sustainability

As a non-State Executive Service (SES) organisation, the Commission is not required to produce a Sustainability Action Plan (Premier's Circular 2004/14, Sustainability Code of Practice for Government agencies). Notwithstanding this, the Commission is committed to the principles embodied in the *State Sustainability Strategy*. This Annual Report reflects this throughout, in particular by its reporting against the *Strategic Planning Framework: Better Planning, Better Services*, Community education and Corporate compliance and governance.

During the early part of 2005/05 the Commission's Corporate Executive will be discussing the application of the *State Sustainability Strategy* and its implementation with particular reference to its relationship to the Substantive Equality project being overseen by the Commission.

6.4 Other corporate issues

6.4.1 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 2004* covers all other employees.

Employee assistance

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

6.4.2 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.

The Commission received on-line access to the Department's HR Web Kiosk in September 2004. This new on-line facility has improved 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 2004/05.

6.4.3 Occupational safety and health

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 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 Safety and Health representatives (OS&H) who have continued to monitor the workplace for potential hazards.

A safety audit was conducted in 2005 which involved a visual inspection of all offices, meeting rooms, kitchen and other facilities. This resulted in two workstation assessments being undertaken by an external ergonomic consultant. Staff were also 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. This report included recommendations for addressing future issues and identified those staff responsible for acting on these recommendations. All recommendations were accepted by the Commission's Corporate Executive.

The Commission held an Office Clean-up Day in August 2004 with all staff responsible for removing potential hazards from their immediate and common work areas.

Occupational Safety and Health representatives identified manual handling by Commission staff as a potential hazard and conducted a safety workshop focusing on identifying and reducing potential risks and correct manual handling strategies.

There were no worker's compensation claims lodged during the year.

6.4.4 Employee profile

Table 21 illustrates the Commission's gender and salary profile of permanent and contract staff during the 2004/05 financial year.

Table 21
Staff Profile by gender and salary
2004/05

2004/2005			
Salary Range	Female	Male	Total
\$0 - \$38,660	2	0	2
\$38,661 - \$44,542	3	0	3
\$44,543 - \$50,155	2	0	2
\$50,156 - \$55,794	2	1	3
\$55,795 - \$64,927	7	3	10
\$64,928 - \$75,658	2	1	3
\$75,659 - \$85,692	3	1	4
\$85,693 - \$98,179	1	0	1
\$98,180 - \$111,508	0	1	1
> \$111,509	1	0	1
Total	23	7	30

The Commissioner employed 30 staff as at June 30, 2005, including three Indigenous officers and six officers from culturally diverse backgrounds.

This representation, which is 10% and 20% respectively of the total Commission workforce, compares favourably against the Government's 2005 objectives. In addition, in 2004/05 women accounted for 76.7% of the Commission's workforce and 26.7% worked part-time staff during the 2004/05 financial year.

6.4.5 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 the Commission delivers its services to promote equal opportunity and resolve complaints of discrimination. Survey instruments are under

review to improve their efficacy and expected to be implemented in the 2005/06 financial year.

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

6.4.6 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 the Commission's 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 2004/05 the Commission received no written complaints compared with four written complaints in the previous financial year.

6.5 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.

6.5.1 Output 1 – Provision of information and advice

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

Key Efficiency Indicators	2004/05 Budget	2004/05 Estimates
Cost		
Average cost per enquiry	\$13.00	\$84.00 (1)
Average cost per presentation	\$2,548	\$2,728
Average cost per publication	\$13,660	\$6,735 (2)
Average cost per advice and review	\$1,088	\$2,540 (3)

(1) The increase in the average cost of enquiries represents a reduction in the total number of enquiries (down from 22,000 to 3,600) which relates to the removal of those enquiries recognised as 'internet hits'.

(2) The decrease in the average cost of publications is due to an anticipated increase in the total number of publications produced (up from 12 to 25) during the 2004/05 financial period.

(3) The variance is explained due to a decrease in the number of reviews and advice handled (down from 250 to 200) during the 2004/05 financial year.

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 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.

6.5.2 Output 2 – Avenue of redress

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 were referred to the Equal Opportunity Tribunal/State Administrative Tribunal.

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

Table 23
Output 2 – Avenue of redress

Key Efficiency Indicators	2004/05 Budget	2004/05 Estimates
Cost		
Average cost per complaint	\$1,005	\$840
Average cost per case referred to the Equal Opportunity Tribunal	\$2,479	\$2,535

Effectiveness


Results of the survey of services in 2004/05 indicates that:

- 69.0% of complainants and 77.0% of respondents believed the complaint handling process was reasonable
- 74.0% of complainants and 82.0% of respondents believed they were treated impartially during the complaint handling process; and
- 67.0% of complainants and 82.0% of respondents think the *Equal Opportunity Act 1984* provides a good way of resolving cases of discrimination.

6.5.3 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

Audit Opinion

In my opinion, the key effectiveness and efficiency performance indicators of the Commissioner for Equal Opportunity are relevant and appropriate to help users assess the Commissioner's performance and fairly represent the indicated performance for the year ended 30 June 2005.

Scope

The Commissioner's Role

The Commissioner is responsible for developing and maintaining proper records and systems for preparing performance indicators.

The performance indicators consist of key indicators of effectiveness and efficiency.

Summary of my Role

As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the performance indicators.



D D R PEARSON
AUDITOR GENERAL
14 October 2005

4th Floor Dumas House 2 Havelock Street West Perth 6005 Western Australia Tel: 08 9222 7500 Fax: 08 9322 5664



Yvonne Henderson
COMMISSIONER FOR EQUAL OPPORTUNITY

12 August 2005

**AUDITOR GENERAL****INDEPENDENT AUDIT OPINION****To the Parliament of Western Australia****COMMISSIONER FOR EQUAL OPPORTUNITY
PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2005****Audit Opinion**

In my opinion, the key effectiveness and efficiency performance indicators of the Commissioner for Equal Opportunity are relevant and appropriate to help users assess the Commissioner's performance and fairly represent the indicated performance for the year ended 30 June 2005.

Scope***The Commissioner's Role***

The Commissioner is responsible for developing and maintaining proper records and systems for preparing performance indicators.

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As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

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A handwritten signature in black ink, appearing to read 'D D R Pearson'.

D D R PEARSON
AUDITOR GENERAL
14 October 2005

7.2 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.

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.

7.2.1 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.

1. Indicators of public awareness, recognition and acceptance

Between May 19 and May 25, 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

2. Indicators of employers' and employees' acceptance

As 66% 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.

- 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 has declined by 20% in 2004/05, as presented in Table 2. This is a significant reduction from the past 2 years, and could be a result of the increasing number of employers who have adopted policies on equal opportunity over 20 years of operation of the Act. In the past 5 years the number of courses conducted for private and public sector organisations has increased from 84 (2000/01) to 150 (2004/05). The number of participants has also increased significantly from 1041 in 2000/01 to 2487 in 2004/05. When attending courses organisations are required to have in place EO policies, which are then incorporated into the training program. The continuing high satisfaction levels of training course participants (see Table 3) reinforces the view of the effectiveness of the training and acceptance of equal opportunity principles.

Table 2
Employer respondents' acceptance of the Act and equal opportunity

Employer Respondents	2001/02 %	2002/03 %	2003/04 %	2004/05 %
Employer respondents who have revised their policies and/or implemented equal opportunity programs	7.3	18.2	30.6	10.0

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 consistently high level of recognition of the value of training:

- the proportion of training participants who would recommend the Commission's training courses to others remains stable; and
- there was a 2% increase in 2004/05 in participants who indicated they would use what they had learnt at work or in their daily life, confirms the continuing effectiveness of the training program.

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

Table 3

Employees' acceptance of the Act and equal opportunity

Training Participants	2001/02[1]	2002/03[2]	2003/04[3]	2004/05[4]
	%	%	%	%
Participants who would recommend the Commission's training courses	90.5	94.1	96.5	95.8
Participants who stated that they would be able to use what they have learnt at work or their daily life.	94.5	94.4	95.5	97.5

1. 01/02 - 771 participants received an evaluation survey and 690 were completed. The response rate was 89.4% at an error rate of 1.21%.

2. 02/03 - 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%.

3. 03/04 - 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.

4. 04/05 - 2487 participants received an evaluation survey and 2039 were completed. The response rate was 81.9% at an error rate of 0.92%.

7.2.2 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, is accessible, and meets the needs of complainants and respondents in a timely and effective manner.

3. 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 (EOT) or State Administrative Tribunal (which commenced operation on January 4, 2005 at which time the EOT ceased operation) indicates the degree to which the complaint handling model is seen, and used as an effective means of resolving complaints of unlawful discrimination. During 2004/05 the Commission handled 818 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 or State Administrative Tribunal

Rates of conciliation and referral to the Tribunal	2001/02 %	2002/03 %	2003/04 %	2004/05 %
Proportion of closed complaints conciliated	30.7	29.6	21.7	31.7
Proportion of closed complaints referred to the Tribunal	17	26.2	15.1	18.4

The total number of complaints that were conciliated or referred to the Equal Opportunity Tribunal or State Administrative Tribunal during 2004/05 was 140 and 81 respectively. During this period there was a 28.9% decrease in the number of lapsed complaints (refer to Table 5). Accordingly, due to this decrease in the number of lapsed complaints there was a 10% increase in the proportion of complaints that were conciliated and 3.3% increase in the proportion of complaints referred to the Tribunal.

Table 5

Details of the outcomes of the remaining closed complaints

Details of Remaining Complaints	2001/02 %	2002/03 %	<u>2003/04[5]</u> %	<u>2004/05</u> %
Lapsed	26.0	15.0	51.8	22.9
Dismissed	11.1	11.2	5.5	10.4
Withdrawn	15.3	18.0	5.9	16.6

⁵ 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.

The extent to which legal officers settle complaints that have been referred to the Equal Opportunity Tribunal or the State Administrative Tribunal before the Tribunal hears the matter indicates the effectiveness of providing legal assistance to complainants. In 2004/05 there was a 8.2% increase 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 or State Administrative Tribunal

Settlement rate of cases referred to the Tribunal	2001/02	2002/03	2003/04	2003/04
Settlement rate	83.3	73.5	67.7	75.9

During 2004/05 financial year:

- 31.7% of closed complaints were conciliated (refer to Table 4); and
- 75.9% of cases referred to the Equal Opportunity Tribunal or State Administrative Tribunal were settled through mediation (refer to Table 6);
- 60% of conciliated complaints were settled through conciliation conferences; and
- 6.1 months was the average time taken to reach a conciliation conference.

4. Service 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

	2001/02	2002/03	2003/04	2004/05	2004/05
	\$	\$	\$	\$	Target
Average cost per presentation/seminar/ workshop	2,638.47	3,086.56	3,027.20	2,224.56	2,548.00
Average cost per enquiry	60.8	68.74	83.87	88.24	12.85*
Average cost per policy advice and review	217.15	695.01	1,258.68	2,343.84	1,088.00
Average cost per publication	25,064.71	14,173.60	14,522.66	6,542.33	13,660.00

*The 04/05 target was revised to \$84 during subsequent budget negotiations where website hits were determined not appropriately included as an Enquiries.

- The average cost of presentations has decreased with an increase of 48.7% in the number of presentations, from 162 in 2003/04 to 241 in 2004/05.
- The increase in the average cost per enquiry is due to a decrease in number of enquiries (from 3,620 in 2003/04 to 3457 in 2004/05). 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 decrease in the number of requests for policy advice and review from 230 in 2003/04 to 218 in 2004/05.
- A review of all publications undertaken in 2003/04 lead to a large increase in the number of publications, from 12 in 2003/04 to 28 in 2004/05 being issued and a consequential reduction in the average cost per publication.

4. Service 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

	2001/02	2002/03	2003/04	2004/05	2004/05
	\$	\$	\$	\$	Target
Average cost per complaint	819.73	736.13	923.38	1042.83	1005.00
Average cost per case referred to the Tribunal by the Commissioner	3,933.56	2,627.21	2,375.57	3,089.66	2479.00

- The increase in the average cost per complaint is due to a decrease in the number of complaints handled (from 1,053 to 2003/04 to 818 in 2004/05).
- The increase in the average cost per case referred to the Tribunal is due to a decrease in the number of complaints handled (from 116 in 2003/04 to 90 in 2004/05).

Financial Statements

8.1 Certification Off Financial Statements For The Year Ended 30 June 2005

COMMISSIONER FOR EQUAL OPPORTUNITY
CERTIFICATION OF FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2005

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 2005 and financial position as at 30 June 2005.

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.

Graeme Doyle
A/DIRECTOR FINANCIAL MANAGEMENT
Principal Accounting Officer

Date: August 2005



Yvonne Henderson
COMMISSIONER
Accountable Officer

Date: 15 August 2005

**AUDITOR GENERAL****INDEPENDENT AUDIT OPINION****To the Parliament of Western Australia****COMMISSIONER FOR EQUAL OPPORTUNITY
FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005****Audit Opinion**

In my opinion,

- (i) the controls exercised by the Commissioner for Equal Opportunity provide reasonable assurance that the receipt and expenditure of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Commissioner at 30 June 2005 and its financial performance and cash flows for the year ended on that date.

Scope***The Commissioner's Role***

The Commissioner is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows, Schedule of Expenses and Revenues by Service, Summary of Consolidated Fund Appropriations and Revenue Estimates, and the Notes to the Financial Statements.

Summary of my Role

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financial statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.

D D R PEARSON
AUDITOR GENERAL
14 October 2005

8.2 Financial Statements

COMMISSIONER FOR EQUAL OPPORTUNITY				
Statement of Financial Performance				
<i>for the year ended 30 June 2005</i>				
	Note	2005	2004	
		\$	\$	
COST OF SERVICES				
Expenses from ordinary activities				
Employee expenses	4	1,792,353	1,695,499	
Supplies and services	5	341,632	327,629	
Depreciation expense	6	27,140	22,089	
Accommodation expenses	7	288,690	291,473	
Grants and subsidies	8	17,000	-	
Carrying amount of non-current assets disposed of	12	-	2,062	
Other expenses from ordinary activities	9	199,594	166,930	
Total cost of services		2,666,409	2,505,682	
Revenues from ordinary activities				
<i>Revenue from operating activities</i>				
User charges and fees	10	178,574	142,159	
Grants	11	49,500	37,325	
<i>Revenue from non-operating activities</i>				
Proceeds from disposal of non-current assets disposed of	12	-	1,757	
Other revenues from ordinary activities	13	1,369	26,406	
Total revenues from ordinary activities		229,443	207,647	
NET COST OF SERVICES		2,436,966	2,298,035	
REVENUES FROM STATE GOVERNMENT				
	14			
Service Appropriation		2,408,000	2,099,000	
Resources received free of charge		109,578	99,275	
Total revenues from State Government		2,517,578	2,198,275	
CHANGE IN NET ASSETS		80,612	(99,760)	
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH WA STATE GOVERNMENT AS OWNERS				
		80,612	(99,760)	

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

COMMISSIONER FOR EQUAL OPPORTUNITY			
Statement of Financial Position			
<i>as at 30 June 2005</i>			
	Note	2005	2004
		\$	\$
Current Assets			
Cash assets	24(a)	326,258	211,291
Restricted cash assets	15	-	58,620
Receivables	16	54,814	46,459
Amounts receivable for services	17	33,000	30,000
Other assets	18	6,634	4,231
Total Current Assets		420,706	350,601
Non-Current Assets			
Property and Equipment	19	123,381	93,127
Total Non-Current Assets		123,381	93,127
TOTAL ASSETS		544,087	443,728
Current Liabilities			
Payables	20	60,595	66,071
Provisions	21	219,934	264,304
Other liabilities	22	1,210	53,108
Total Current Liabilities		281,739	383,483
Non-Current Liabilities			
Provisions	21	172,671	146,180
Total Non-Current Liabilities		172,671	146,180
Total Liabilities		454,410	529,663
Equity			
Contributed equity	23	229,000	134,000
Accumulated surplus / (deficiency)		(139,323)	(219,935)
Total equity		89,677	(85,935)
TOTAL LIABILITIES AND EQUITY		544,087	443,728
The Statement of Financial Position should be read in conjunction with the accompanying notes.			

COMMISSIONER FOR EQUAL OPPORTUNITY				
Statement of Cash Flows				
<i>for the year ended 30 June 2005</i>				
	Note	2005	2004	
		\$	\$	
		Inflows	Inflows	
		(Outflows)	(Outflows)	
CASH FLOWS FROM STATE GOVERNMENT				
Service appropriation		2,374,000	2,068,000	
Capital appropriations		95,000	49,000	
Holding Account drawdowns		31,000	28,000	
Net cash provided by State Government		2,500,000	2,145,000	
Utilised as follows:				
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Payments to employees		(1,654,877)	(1,460,564)	
Payments to suppliers		(945,496)	(864,996)	
GST payments		(103,004)	(93,864)	
Receipts				
Receipts from services		222,507	199,757	
GST receipts		101,585	88,055	
Net cash provided by/(used in) operating activities	24(b)	(2,379,285)	(2,131,612)	
CASH FLOWS FROM INVESTING ACTIVITIES				
Proceeds from sale of non-current physical assets		-	1,757	
Purchase of non-current physical assets		(64,368)	(27,854)	
Net cash provided by/(used in) investing activities		(64,368)	(26,097)	
Net increase / (decrease) in cash held		56,347	(12,709)	
Cash assets at the beginning of the financial year		269,911	282,620	
CASH ASSETS AT THE END OF THE FINANCIAL YEAR	24(a)	326,258	269,911	
The Statement of Cash Flows should be read in conjunction with the accompanying notes.				

COMMISSIONER FOR EQUAL OPPORTUNITY						
Schedule of Expenses and Revenues by Service						
for the year ended 30 June 2005						
	Provision of Information		Avenue for Redress		TOTAL	
	2005	2004	2005	2004	2005	2004
	\$	\$	\$	\$	\$	\$
COST OF SERVICES						
Expenses from ordinary activities						
Employee expenses	1,040,282	835,881	752,071	859,618	1,792,353	1,695,499
Supplies and services	190,528	170,629	151,104	157,000	341,632	327,629
Depreciation expense	15,136	11,504	12,004	10,585	27,140	22,089
Accommodation expense	164,293	147,748	124,397	143,725	288,690	291,473
Grants and subsidies	17,000	-	-	-	17,000	-
Carrying amount of non-current assets disposed of	-	1,074	-	988	-	2,062
Other expenses from ordinary activities	113,589	84,617	86,005	82,313	199,594	166,930
Total cost of services	1,540,828	1,251,453	1,125,581	1,254,229	2,666,409	2,505,682
Revenues from ordinary activities						
User charges and fees	178,574	142,159	-	-	178,574	142,159
Grants	33,907	25,568	15,593	11,757	49,500	37,325
Proceeds from disposal of non-current assets	-	891	-	866	-	1,757
Other revenues from ordinary activities	-	-	1,369	26,406	1,369	26,406
Total revenues from ordinary activities	212,481	168,618	16,962	39,029	229,443	207,647
NET COST OF SERVICES	1,328,347	1,082,835	1,108,619	1,215,200	2,436,966	2,298,035
REVENUES FROM STATE GOVERNMENT						
Service appropriations	1,276,240	1,112,470	1,131,760	986,530	2,408,000	2,099,000
Resources received free of charge	63,599	48,943	45,979	50,332	109,578	99,275
Total revenues from State Government	1,339,839	1,161,413	1,177,739	1,036,862	2,517,578	2,198,275
Change in net assets resulting from operations	11,492	78,578	69,120	(178,338)	80,612	(99,760)
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH WA STATE GOVERNMENT AS OWNERS						
	11,492	78,578	69,120	(178,338)	80,612	(99,760)

The Schedule of Expenses and Revenues by Service 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 2005						
	2005	2005		2005	2004	
	Estimate	Actual	Variation	Actual	Actual	Variation
	\$	\$	\$	\$	\$	\$
DELIVERY OF SERVICES						
Item 60 Net amount appropriated to deliver services	1,995,000	2,235,000	240,000	2,235,000	1,932,000	303,000
Amount Authorised by Other Statutes						
- Salaries and Allowances Act 1975	173,000	173,000	-	173,000	167,000	6,000
Total appropriations provided to deliver services	2,168,000	2,408,000	240,000	2,408,000	2,099,000	309,000
CAPITAL						
Item 135 Capital Contribution	31,000	95,000	64,000	95,000	32,000	63,000
GRAND TOTAL OF APPROPRIATIONS	2,199,000	2,503,000	304,000	2,503,000	2,131,000	372,000
Details of Expenses by Service						
Provision of Information	1,177,000	1,540,828	363,828	1,540,828	1,251,453	289,375
Avenue of Redress	1,165,000	1,125,581	(39,419)	1,125,581	1,254,229	(128,648)
Total Cost of Services	2,342,000	2,666,409	324,409	2,666,409	2,505,682	160,727
Less total revenues from ordinary activities	(120,000)	(229,443)	(109,443)	(229,443)	(207,647)	(21,796)
Net Cost of Services	2,222,000	2,436,966	214,966	2,436,966	2,298,035	138,931
Adjustment (I)	(54,000)	(28,966)	(25,034)	(28,966)	(199,035)	(170,069)
Total appropriations provided to deliver services	2,168,000	2,408,000	240,000	2,408,000	2,099,000	309,000
Capital expenditure						
Purchase of non-current physical assets	62,000	34,828	(27,172)	34,828	27,854	6,974
Repayment of borrowings	-	-	-	-	-	-
Adjustment for other funding sources	(31,000)	60,172	91,172	60,172	4,146	56,026
Capital Contribution (appropriation)	31,000	95,000	64,000	95,000	32,000	63,000
(I) Adjustments are related to movements in cash balances and accrual items such as receivables, payables and superannuation						
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 26.						

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

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 AAS 29 'Financial Reporting by Government Departments'.

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) Service Appropriation

Service 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.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2005***(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 \$229,443 in 2005 (\$207,647 in 2004).

Retained revenues may only be applied to the services specified in the 2004-2005 Budget Statements.

(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.

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

(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
Leasehold improvements	10 years

(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 15) 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 22) 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.

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

(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 2004 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".

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. The Commission contributes to this accumulation fund in compliance 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.

The liabilities for superannuation charges under the Gold State Superannuation Scheme and West State Superannuation Scheme are extinguished by payment of employer contributions to the GESB.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2005***(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.

3 Services of the Commissioner for Equal Opportunity

Information about the Commission's services is set out in the Schedule of Expenses and Revenues by Service.

The services for the Equal Opportunity Commission are:

Service 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.

Service 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 14 for details of charge).

	2005	2004
	\$	\$
4 Employee expenses		
Salaries and wages	1,435,046	1,290,672
Annual and long service leave	150,054	184,769
Superannuation	155,821	142,859
Other related expense	51,432	77,199
	<u>1,792,353</u>	<u>1,695,499</u>

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

	2005	2004
	\$	\$
5 Supplies and Services		
Goods and supplies	55,482	86,964
Services and contracts	176,572	219,494
Resources received free of charge (note 14)	109,578	21,171
	<u>341,632</u>	<u>327,629</u>
6 Depreciation expense		
Equipment	26,083	22,089
Leasehold Improvements	1,057	-
	<u>27,140</u>	<u>22,089</u>
7 Accommodation expense		
Building rental operating lease expense	<u>288,690</u>	<u>291,473</u>
8 Grants and subsidies		
Department for Community Development	2,000	-
Attorney General's Department South Australia	15,000	-
	<u>17,000</u>	<u>-</u>
9 Other expenses from ordinary activities		
Communication expenses	40,439	37,710
Rates and taxes	30,309	31,795
Printing and binding	41,352	8,145
Equipment and vehicles operating lease expense	9,093	10,635
Electricity and water	13,561	10,682
Insurance	21,578	16,541
Advertising and promotion	4,749	2,276
Building, equipment and vehicles repairs and maintenance	14,712	9,008
Other expenses	23,801	40,138
	<u>199,594</u>	<u>166,930</u>
10 User charges and fees		
Training course fees	176,139	127,364
Other services provided	2,435	14,795
	<u>178,574</u>	<u>142,159</u>

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

	2005	2004
	\$	\$
11 Grants		
Grant from Commonwealth - Indian Ocean Territories	49,500	17,325
Grant from Commonwealth - Other	-	20,000
	<u>49,500</u>	<u>37,325</u>
12 Net gain/(loss) on disposal of non-current assets		
<u>Loss on Disposal of Non-Current Assets</u>		
Equipment	-	(305)
Net gain / (loss)	<u>-</u>	<u>(305)</u>
13 Other revenues from ordinary activities		
Seminars and miscellaneous revenue	<u>1,369</u>	<u>26,406</u>
14 Revenues from State Government		
Appropriation revenue received during the year:		
Service appropriations (I)	<u>2,408,000</u>	<u>2,099,000</u>
	2,408,000	2,099,000
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:		
Department of Justice		
- corporate services	104,912	95,233
Treasury (Government Property Office)		
- property management services (notional management fee based on lease payments)	<u>4,666</u>	<u>4,042</u>
	109,578	99,275
	<u>2,517,578</u>	<u>2,198,275</u>

(I) Service appropriations are accrual amounts reflecting the full cost of services 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.

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

	2005	2004
	\$	\$
15 Restricted cash assets		
Current		
Accrued salaries suspense account (I)	-	58,620
	<u>-</u>	<u>58,620</u>
<p>(I) 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>		
16 Receivables		
Trade debtors	38,806	31,870
GST receivable	16,008	14,589
	<u>54,814</u>	<u>46,459</u>
17 Amounts receivable for services		
Current	33,000	30,000
	<u>33,000</u>	<u>30,000</u>
<p>This asset represents the non-cash component of service appropriations. It is restricted in that it can only be used for asset replacement or payment of leave liability.</p>		
18 Other assets		
Prepayments	6,634	4,231
	<u>6,634</u>	<u>4,231</u>
19 Property and Equipment		
Equipment		
At cost	212,470	211,224
Accumulated depreciation	(119,749)	(118,097)
	<u>92,721</u>	<u>93,127</u>
Leasehold Improvements		
At cost	31,717	-
Accumulated depreciation	(1,057)	-
	<u>30,660</u>	<u>-</u>
<p><u>Reconciliation</u></p>		
<p>Reconciliation of the carrying amount of Property and Equipment at the beginning and end of the current financial year are set out below</p>		
Equipment		
Carrying amount at start of year	93,127	82,450
Additions	25,677	34,828
Disposals	-	(2,062)
Depreciation	(26,083)	(22,089)
Carrying amount at end of year	<u>92,721</u>	<u>93,127</u>
Leasehold Improvements		
Carrying amount at start of year	-	-
Additions	31,717	-
Disposals	-	-
Depreciation	(1,057)	-
Carrying amount at end of year	<u>30,660</u>	<u>-</u>
20 Payables		
Trade and other creditors	60,595	66,071
	<u>60,595</u>	<u>66,071</u>

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

	2005	2004
	\$	\$
21 Provisions		
<u>Current</u>		
Annual leave	84,263	124,977
Long service leave	135,671	139,327
	<u>219,934</u>	<u>264,304</u>
<u>Non-current</u>		
Long service leave	172,671	146,180
	<u>172,671</u>	<u>146,180</u>
22 Other liabilities		
Current		
Accrued salaries		
Nil working days accrued to 30 June 2005 (2004, 9 working days).	-	1,898
Revenue received in advance		
Training revenue received in advance	1,210	1,210
	<u>1,210</u>	<u>53,108</u>
23 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	134,000	85,000
Capital contributions (I)	95,000	49,000
Closing balance	<u>229,000</u>	<u>134,000</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	(219,935)	(120,175)
Operating surplus / (deficit)	80,612	(99,760)
Closing balance	<u>(139,323)</u>	<u>(219,935)</u>

COMMISSIONER FOR EQUAL OPPORTUNITY
Notes to the Financial Statements
for the year ended 30 June 2005

	2005 \$	2004 \$
24 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	326,258	211,291
Restricted cash assets (refer note 15)	-	58,620
	<u>326,258</u>	<u>269,911</u>
(b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities		
Net cost of services	(2,436,966)	(2,298,035)
Non cash items:		
Depreciation expense	27,140	22,089
Resources received free of charge	109,578	99,275
Net (Gain)/loss on sale of equipment	-	305
(Increase)/decrease in assets:		
Current receivables	(6,936)	12,777
Other current assets	(2,403)	4,300
Increase/(decrease) in liabilities:		
Current payables	1,498	37,519
Current provisions	(44,370)	5,141
Other current liabilities	(51,898)	13,324
Non-current provisions	26,491	(3,588)
Revenue Received in Advance	-	(18,910)
Change in GST receivables/payables	(1,419)	(5,809)
Net cash provided by/(used in) operating activities	<u>(2,379,285)</u>	<u>(2,131,612)</u>
25 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	385,295	376,105
Later than 1 year and not later than 5 years	223,202	588,048
	<u>608,497</u>	<u>964,153</u>

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2005***26 Explanatory Statement**

The Summary of Consolidated Fund Appropriations and Revenue Estimates discloses appropriations and other statutes 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 deliver services:

Total appropriations provided to deliver services	Over	\$240,000
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The variance corresponds to a Cabinet decision to transfer the functions and operations of the Substantive Equality Unit from the Department of the Premier and Cabinet to the Equal Opportunity Commission in January 2005. The increase relates to salary related costs \$154,000; services & contracts, consumables and sundry expenses \$66,000; and CSA related wages outcome \$20,000.

Revenues from ordinary activities	Over	\$109,443
--	-------------	------------------

The variance relates to an increase in fee for service revenues generated through customised training courses \$56,000; grants from the Commonwealth Department of Transport and Regional Services for services delivered to the Indian Ocean Territories \$50,000; and breakfast seminars held for International Women's Day and ABS-Measuring Human Rights \$3,000.

Details of Expenses by Service

Provision of information	Over	\$363,828
---------------------------------	-------------	------------------

The variance relates to movement in staffing levels mainly associated with the commencement of the Substantive Equality Unit and subsequent increase in salary related costs \$258,000; increase in costs for services & supplies associated with the new unit and production of the Section 80 Housing Investigation report \$140,000; Grants and subsidies for 'Play by the Rules' project \$15,000 offset by decreases in office accommodation \$42,000 and depreciation \$7,000.

(ii) Significant variances between actual and prior year actual - Total appropriation to deliver services:

Total appropriations provided to deliver services	Over	\$309,000
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Variance relates to transfer of Substantive Equality Unit; \$220,000 and general costs increases for salary and other expenses \$83,000.

Revenues from ordinary activities	Increase	\$21,796
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Variance relates to increase in revenues derived from Government grants \$13,000 and service training fees \$36,000 offset by a decrease in proceeds from the disposal of non current assets \$2,000; and a reduction in other revenues \$25,000.

COMMISSIONER FOR EQUAL OPPORTUNITY

Notes to the Financial Statements*for the year ended 30 June 2005***Details of Expenses by Service**

Provision of Information	Increase	\$289,375
---------------------------------	-----------------	------------------

Variance is associated with increase in staffing levels and subsequent salary related costs \$204,000; costs associated with the completion of the Section 80 Investigation into the Provision of Public Housing to Aboriginal People \$37,000; printing of new publications \$12,000; office accommodation \$16,000; Grants and subsidies for 'Play by the Rules' project \$15,000; and depreciation \$3,000.

Avenue of Redress	Decrease	\$128,648
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Variance relates to a reduction in salary and accommodation costs associated with unfilled vacancies and general staff movements \$129,000.

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

Over	\$64,000
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The variance relates to greater than estimated costs associated with the procurement of additional computer hardware, office equipment and office fit-out costs for the Substantive Equality Unit.

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

Increase	\$63,000
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The variance relates to an increase in costs associated with the procurement of additional computer hardware, office equipment and office fit-out costs for the Substantive Equality Unit.

27 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 2005***28 Remuneration of Senior Officers**Remuneration

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

\$	2005	2004
40,001 - 50,000	1	-
70,001 - 80,000	1	3
80,001 - 90,000	2	-
90,000 - 100,000	1	1
100,001 - 110,000	1	*1
150,001 - 160,000	1	1

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

Total remuneration of senior officers:	\$671,395	\$598,042
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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.

29 Remuneration of Auditor

Remuneration to the Auditor General for the financial year is as follows:

Auditing the accounts, financial statements and performance indicators	\$18,000	-
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30 Supplementary financial information

- . There were no gifts of public property by the Commissioner for Equal Opportunity during the financial year (2004, nil).
- . There were no losses of public moneys and other public property through theft or default during the financial year (2004, nil).
- . There were no revenue nor debts due to the state that were written off for the financial year (2004, nil).
- . The Commissioner for Equal Opportunity had no related bodies during the financial year (2004, nil).
- . The Commissioner for Equal Opportunity had no affiliated bodies during the financial year (2004, nil).
- . 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 2005

	2005	2004
	\$	\$
31 Commonwealth Grant - Indian Ocean Territories		
Balance as at 1 July	(18,550)	7,702
Adjustment to opening balance	-	-
	<u>(18,550)</u>	<u>7,702</u>
Receipts		
Commonwealth Grants	49,500	17,325
Other revenue	-	-
Payments		
Operating Costs	<u>(21,820)</u>	<u>(43,577)</u>
Balance as at 30 June	<u>9,130</u>	<u>(18,550)</u>

32 Impact of Adopting Australian Equivalents to IFRS

The impact of adopting AIFRS including the key differences in accounting policies

Reconciliation of total equity as presented under previous AGAAP to that under AIFRS:

	30 June	1 July
	2005	2004
	\$	\$
Total equity under previous AGAAP	89,677	(85,935)
Adjustments to accumulated surplus/(deficiency):		
Increase in long leave liability under AIFRS (1)	-	(13,635)
Total equity under AIFRS	<u>89,677</u>	<u>(99,570)</u>

The adjustments are explained as follows:

(1) Under AASB 119, changes to Long Service Leave calculations include the need to separate on-costs (workers compensation and payroll tax are now classified as Other Employee Costs), and using a different method for determining the current and non-current provisions (all unconditional Long Service Leave is now classified as current). The calculation of Long Service Leave liability under IFRS continues to be on the same basis as AASB 1028 (i.e. on present value basis). The AASB has announced that a Government bond rate, as per AASB 1028, should be used in the calculation. A full review of the Long Service Leave liability was performed in December 2004 and adjustment was taken up in the 2004/05 financial year.

Better Planning: Better Services

9.1 Better Planning: Better Services

This chapter reflects how the Commission actively supports the Western Australian Government's intention to improve the quality of life for all Western Australians and is based on the five strategic goals contained in the State Government's *Better Planning: Better Services – A Strategic Planning Framework for the Western Australian Public Sector*. The five goals are:

- People and Communities
- the Economy
- the Environment
- the Regions, and
- Governance.

The Commission's activities to meet these goals during 2004/05 are set out below.

Goal 1 - People and Communities

Promoting safe and secure communities

Through education and training programs the Commission promotes the importance of a safe and secure workplace that is free from discrimination and harassment. The Commission's training programs focus on preventative strategies that individuals, small business and organisations can implement to ensure they provide a culture that is inclusive of all employees and co-workers.

Enhancing the safety, security and wellbeing of the vulnerable within our community

Conciliation officers and legal officers provided help to complainants who believe, on substantial grounds, they have been discriminated against within the jurisdiction of the *Equal Opportunity Act 1984*. Many of these people have a disability or are sole parents, elderly, from non-English speaking backgrounds or of Aboriginal or Torres Strait Islander descent and are considered to be among the most vulnerable members of the community.

Optimising opportunities for health, participation and security in order to enhance quality of life as people age

Conciliation officers and legal officers provided help to complainants who alleged they were discriminated against because they were considered too old to be employed, hire a car or play competitive sport. The Commission's legal officers enabled these people to assert their rights within the justice system.

Providing a positive difference to the lives of people with disabilities, their families and carers

The video *A Class Divided* is used in the Commission's Equal Opportunity Law training sessions and this video has been captioned to accommodate people with impaired hearing.

In a training session for Department of Lands Administration employees and a training session for students in Auslan and Deaf studies at Leederville TAFE, the trainers worked with an Auslan interpreter to present their session on the role and function of the Commission.

Commission staff attended a two-hour Deaf Awareness Training Workshop conducted by Patricia Levitzke-Gray accompanied by interpreter Kirsten Loughton of the WA Deaf Society to gain an insight into Australian Sign Language (Auslan). They were told of the history of Auslan and culturally appropriate ways of communicating with people who have impaired hearing.

To help people with hearing impairments in the conciliation process, conciliation officers used the Human Rights and Equal Opportunity Commission's video *Pathways to Resolution*, which includes text.

Commission staff referred enquirers and complainants to the appropriate disability advocacy and support services, as required.

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

The report *Finding a Place*, which inquired into discrimination in public housing for Aboriginal and Torres Strait Islander people, included several recommendations regarding the accommodation needs of people with disabilities. (see the Commission's website for the complete report - www.eoc.wa.gov.au)

Addressing contributing factors to social and economic disadvantage in our community

During 2004/05 Commission staff continued their investigation into the provision of housing to Aboriginal and Torres Strait people in Western Australia, in accordance with Section 80 of the *Equal Opportunity Act 1984*. The final report titled *Finding a Place - An inquiry into the existence of discriminatory practices in relation to the provision of public housing and related services to Aboriginal people in Western Australia* was launched in December 2004.

By helping Aboriginal and Torres Strait Islander people and people with disabilities, the Commission's 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.

Helping provide a society where indigenous Australians have greater economic and social opportunities and the capacity to determine their own lives

During 2004/05 Commission staff completed their investigation into the provision of housing to Aboriginal and Torres Strait people in Western Australia, in accordance with Section 80 of the *Equal Opportunity Act 1984*, with the report launched in December 2004. To ensure that Aboriginal and Torres Strait Islander people could make

submissions to the investigation in a culturally appropriate way, Commission officers visited several metropolitan and regional areas to take oral submissions and videotape submissions using interpreters where necessary.

Helping ensure a society that is free from racism and empowers members of all communities as full and equal members of the Australian community

The *Equal Opportunity Act 1984* is an Act that promotes equality of opportunity in Western Australia and provides remedies in respect to discrimination on the grounds of sex, marital status, pregnancy, sexual orientation, family responsibility or family status, race, religious or political conviction, impairment or age, or involving sexual or racial harassment or, in certain cases, on gender history grounds.

In the Commission's training sessions with both Aboriginal and mixed profile groups training staff 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 Commission staff and participants discuss the positive contributions people from diverse groups can make to an organisation.

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

A series of resources specifically targeted for people of Aboriginal and Torres Strait Islander people are also being developed.

The Substantive Equality Unit will implement the State Government's Anti-racism strategy across the public sector.

Helping society recognise the varying contributions of its diverse population and responding effectively to the needs of its diverse population

By helping complainants who are making discrimination complaints because their special needs are not being met, the Commission's legal officers are able to provide assistance to people who, because of their disadvantage, are not in a position to do so themselves.

The Commission's training staff have worked with Farsi interpreters in delivering equal opportunity information to groups of people from Afghanistan.

The Commission's *Unlawful Discrimination* brochure has been translated into Traditional Chinese and Malay to accommodate the needs of the people in the Indian Ocean Territories of Christmas and Cocos Islands.

Work is currently underway to have Commission brochures on *Sex Discrimination*, *Sexual Harassment*, *Race Discrimination* and *Religious and Political Conviction* also translated into Traditional Chinese and Malay.

Work is currently underway to have a multilingual guide titled *Discrimination Know Your Rights* translated into eight languages, namely Vietnamese, Traditional Chinese, Farsi, Dari, Arabic, Malay, Somalian and Swahili. This multi-lingual information will also be included in the Commission's revised website early in the next financial year.

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 is translated into languages other than English as required.

Goal 2 - The Economy

Helping ensure an efficient labour market that utilises a fair but flexible system of employment

The Commission's conciliation officers helped conciliate complaints that related to discrimination in the area of employment. More complaints about employment were received than in any other area. That is 66% of complaints received in the 2004/05 financial year related to employment.

The Commission's legal officers helped those complainants whose complaints were unable to be conciliated, and were subsequently referred to the Equal Opportunity Tribunal/State Administrative Tribunal, produce submissions and legal arguments regarding a range of issues affecting disadvantaged groups in the workplace.

In this way the Commission's conciliation and legal officers have been able to highlight the importance of fair workplace practices.

Helping ensure plentiful and diversified employment opportunities for Indigenous peoples

The *Equal Opportunity Act 1984* is an Act that promotes equality of opportunity in Western Australia and provides remedies in respect to discrimination on a number of grounds, including race discrimination and racial harassment, and in a number of areas, including employment.

In 2004/05 22.2% of all complaints were racially based, involving either race discrimination or racial harassment and 10.9% of all complaints in the area of employment were racially based.

Helping ensure a workforce that reflects the State's diverse population

By helping members of the community who allege they have been discriminated against on the ground of either race discrimination or racial harassment in the area of employment, through conciliation and/or the legal process, the Commission helped promote and provide diversified employment opportunities for Indigenous peoples.

Similarly the Commission's training program, particularly courses attended by employers, emphasised the need for non-discriminatory recruitment and workplace practices.

Goal 3 - The Environment

Helping ensure 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 (for example in the Commission's newsletters and brochures). During 2004/05 the Commission provided 940 kilograms of waste paper to be recycled.

The Commission implemented a number of recommendations contained in a Level 3 Energy Audit held in 2003/04, namely ensuring improved control of tenancy lighting and reducing the energy consumption by computers by starting the progressive replacement of existing computers with new flat-screened LCD computer monitors.

Goal 4 - The Regions

Helping provide an enhanced government decision-making process based on a thorough understanding of regional issues

During 2004/05, Commission staff continued their investigation into the provision of housing to Aboriginal and Torres Strait Islander people throughout Western Australia, in accordance with Section 80 of the *Equal Opportunity Act 1984*, with the report launched in December 2004.

The report was titled *Finding a Place – An inquiry into the existence of discriminatory practices in relation to the provision of public housing and related services to Aboriginal people in Western Australia*.

To ensure that Aboriginal and Torres Strait Islander people could make submissions to the investigation in a culturally appropriate way, Commission's officers visited various communities in the South West, Great Southern, Goldfields, Kimberley, Midwest/Gascoyne and Pilbara regions to take oral and videotaped submissions.

The Commission also conducted conciliation conferences outside the metropolitan area and is planning an extension of its calendar series of training courses to selected regional centres during the 2005/06 financial year.

Helping provide effective government service delivery to regions, responsive to the needs of diverse communities

The Commission's conciliation and legal officers achieved success in resolving discrimination complaints lodged by people in the regions, particularly Aboriginal and Torres Strait Islander people, through teleconference facilities and occasionally attending conciliation and mediation conferences in regional centres.

Many of the Commission's officers significantly contributed to the Commission's investigation into public housing for Aboriginal and Torres Strait Islander people, under Section 80 of the *Equal Opportunity Act 1984*, 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 has been translated into Traditional Chinese and Malay to accommodate the needs of the people in the Indian Ocean Territories of Christmas and Cocos Islands.

Work is currently underway to have Commission brochures on *Sex Discrimination*, *Sexual Harassment*, *Race Discrimination* and *Religious and Political Conviction* also translated into Traditional Chinese and Malay. A series of resources specifically targeted for people of Aboriginal and Torres Strait Islander people is also being developed.

Work is currently underway to have a multilingual guide titled *Discrimination Know Your Rights* translated into eight languages, namely Vietnamese, Traditional Chinese, Farsi, Dari, Arabic, Malay, Somali and Swahili. This information will also be included in the new website to improve access to those in rural and remote areas.

Safe and cohesive regional communities

The Commission provides an enquiry service between 9am and 4pm Monday to Friday, with staff rostered to answer any queries the public may have in relation to equal opportunity issues, including the grounds and areas under the Act. If not covered by the Act, where appropriate, they are referred to the appropriate agency, government or non-government authority.

Goal 5 - Governance

Co-ordinated, integrated, high quality service delivery to the community

During 2004/05 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 1984*.

Effective partnerships with federal and local governments, private sector and the wider community

The Commission's legal section continued its arrangement with a number of private law firms through which legal advice and assistance was 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 while giving private legal practitioners the opportunity to advocate in the anti-discrimination jurisdiction.

Both the legal and the community education sections work closely with non-government agencies that provide important advocacy services to disadvantaged people.

All staff are encouraged to build links with non-government organisations and are also active in fund raising for a range of community groups, including the Muscular Dystrophy Society.

Appendix A

10.1 Case studies for conciliated complaints

10.1.1 Sexual harassment in the area of employment

A young woman was employed as a waiter in a café. On a number of occasions the proprietor made comments about the attractiveness of the woman's bottom. These comments culminated in an incident where the proprietor asked the woman if she "would like to feel something" and he then allegedly moved behind her, grabbed her hips and started rubbing his crotch against her bottom and slid his hand down the front of her trousers and between her legs.

She struggled and turned in an attempt to move into a public area but he restrained her and continued to rub up against her hips until she broke free.

The complainant alleged sexual harassment in the area of employment, and the matter was resolved when the respondent made an ex-gratia payment of \$3,500 to the complainant.

10.1.2 Age and impairment discrimination in the area of employment

A man who worked for a mining company in a remote area of the State was required to re-apply for his position following a company takeover. He claimed his job application was unsuccessful because he was told at the interview it could be difficult obtaining immediate medical attention "should the need arise".

The complainant alleged age and impairment discrimination in the area of employment because he believed the selection and recruitment criteria favoured younger applicants, and because of a comment made during the interview process that he was "showing signs of wear and tear".

The complaint was resolved by the respondent making an ex-gratia payment of \$22,000 and providing the complainant with a written apology that included a statement to the effect the complainant was physically able to carry out the type of work required in his particular trades area.

10.1.3 Sexual harassment in the area of employment

A female receptionist contacted the Commission following a number of unsuccessful attempts to have her employer deal with her complaints of inappropriate sexual behaviour on the part of a company manager.

The complainant alleged sexual harassment in the area of employment. She provided many examples of inappropriate language used by the respondent, including requests the complainant work after hours or attend after work meetings and inappropriate touching of the complainant by the respondent. The complainant eventually resigned from the company.

The complaint was resolved following conciliation, with the company agreeing to pay the complainant \$13,000 (gross) and the company's general manager agreeing to provide the complainant with a written reference, which he agreed to verbally support "in good faith".

10.1.4 Impairment and victimisation in the area of employment

A man alleged he was discriminated against after being told, when he returned from six weeks' sick leave, that his previous job was no longer available and he was being allocated a new position within the company. The man had occupied his previous position for eight years.

The complainant felt he had been discriminated against on the ground of his impairment (arthritis) because the duties he was required to undertake in his new position exacerbated his arthritic condition. He also alleged he was victimised by a supervisor after he complained about his job re-allocation.

While the respondent denied these allegations the matter was resolved following conciliation, with the company offering the complainant a redundancy package that included a \$15,000 ex-gratia payment and a Letter of Service.

10.2 Case studies of lapsed complaints

10.2.1 Marital status discrimination in the area of accommodation

The complainant alleged she was unsuccessful when applying for a rental property tenancy because she was not married, and claimed she had been told by an employee of the real estate company that the property owner only wanted a married couple.

The complainant alleged marital status discrimination in the area of accommodation, a claim that was denied by both the property owner and the real estate company.

Following an investigation of her complaint it was found the complainant had misled the agent when providing information supporting her tenancy application. The complainant agreed she had providing misleading information but claimed this should not affect her application, and from this point in time she did not return phone messages or respond to correspondence. The matter lapsed.

10.2.2 Sexual harassment in the area of employment

A woman alleged a co-worker in a petrol station hugged her without her consent, suggested he could "warm her up" and watched her with an intensity she found unsettling.

She had worked at the petrol station for two years on a part-time basis and when she complained to her employer he initially appeared to support her but later rostered the alleged harasser on the same shift as the complainant, and when she objected she was told "not to be silly".

In the business owner's comprehensive response to the allegations he denied her interpretation of what had taken place, and a copy of this response was sent to the complainant. Efforts to contact the complainant by Commission staff over the next five months met with no success, and written advice was sent to the complainant notifying her the matter had lapsed.

10.3 Case studies of withdrawn complaints

10.3.1 Age discrimination in the area of employment

A man applied for a sales executive position with a transport company and alleged he was discriminated against when his prospective employer asked him for his date of birth. He alleged when he supplied his date of birth he was told "sorry, but your age falls outside our age range".

He alleged age discrimination in the area of employment because he had not been offered an interview, allegedly because of his age. Shortly after lodging his complaint he contacted the Commission to say he had received a phone call from the company offering him an interview and wanted to withdraw his complaint.

He said because he was being interviewed for the position he no longer believed he was being discriminated against because of his age.

10.3.2 Sexual harassment and victimisation in the area of accommodation

A female tenant complained she had been sexually harassed by her landlord when he allegedly tried to negotiate sexual favours in exchange for a reduction in rent.

When she rejected his sexual advances she alleged he failed to complete basic repairs to her apartment and she lodged a complaint of sexual harassment and victimisation in the area of accommodation.

The complaint was withdrawn after the woman found alternate accommodation and moved out of the apartment. She advised the Commission she no longer wanted to pursue her complaint.

10.4 Case studies of dismissed complaints

10.4.1 Age discrimination in the area of employment

An applicant for a university course alleged she was not offered a place on a particular course because of her age and claimed "universities would prefer to offer places to school leavers".

Despite being asked to provide the Commission with evidence to support her allegation, the complainant failed to do so and the matter was subsequently dismissed as lacking in substance.

10.4.2 Impairment discrimination in the area of employment

A man alleged he was discriminated against by his employer because he was unable to comply with a requirement that he perform a variety of tasks, which all other staff in that same position were also required to undertake, because of his disability (a painful right shoulder).

The company stated as the complainant was unable to undertake work reasonably required giving the circumstances, it could not be said it had discriminated against him based on his impairment.

The complaint was dismissed as lacking in substance.

10.5 Case studies of complaints referred to the Tribunal by the Commissioner under Section 93 of the Act

10.5.1 Sexual orientation and victimisation in the area of employment

A man who had been working in customer service for several months alleged when he "came out" and his female manager realised he was homosexual she started to criticise him continually, in this way treating him less favourably than other staff members.

He alleged the female manager asked him if he had a girlfriend during the job interview, and he was "taken aback" as he did not believe this question was relevant. He alleged when she found out he was homosexual she told other staff that customers did not like being served by "gay people" and he should have told her about his sexual orientation at the job interview. It was alleged she made numerous other homophobic comments.

Another employee attested the manager told staff she "hated the way he flounced around the place" and hoped he would not bring a male partner to the company's Christmas party.

After the complainant lodged a complaint of sexual orientation in the area of employment with the Commission he was dismissed from his position, and the ground of victimisation was subsequently added to his complaint.

The complaint was unable to be conciliated and the Commissioner referred the matters to the then Equal Opportunity Tribunal. The complainant subsequently engaged a private law firm to represent him before the Tribunal.

10.5.2 Race discrimination in the area of goods, services and facilities

An Aboriginal man was a patron in a hotel when he alleged he was racially abused by the publican for several minutes. He claimed his father intervened to stop the verbal abuse, an altercation resulted and the father punched the publican, in the process knocking him unconscious. The publican then banned the man from the hotel.

The complainant alleged race discrimination in the area of goods, services and facilities.

The respondent denied he had abused the complainant before becoming involved in the altercation with the father. He claimed on a previous occasion he had banned both the complainant and his brother from the hotel, and he was discussing this issue with the complainant's father when he was knocked unconscious.

The complaint was unable to be conciliated and the Commissioner referred the matter to the State Administrative Tribunal. The complaint was resolved through negotiation for \$3000, before the matter went to the Tribunal for a hearing.

10.6 Case studies of complaints referred to the Tribunal at requirement of complainant under Section 90 of the Act

10.6.1 Age discrimination in the area of goods and services

A man lodged a complaint with the Commission after taking out travel insurance and subsequently being denied reimbursement of travel expenses for himself and his wife when they returned to Australia on the death of his 80-year-old mother.

The complainant alleged age discrimination in the area of goods and services. He alleged a clause in the insurance policy that excluded payment in the event of the death of a relative aged over 80 was discriminatory, because he was more likely to have a parent of that age than his younger work colleagues.

The respondent argued this was not the case as the clause he relied upon referred to a "relative" and a relative could be a child, sibling, parent or grandparent and therefore had the potential to impact upon the claims of people of all ages.

The matter was investigated but did not go to conciliation and was eventually dismissed as lacking in substance. Within 21 days of its dismissal the complainant notified the Commissioner he wished the matter referred to the State Administrative Tribunal for hearing, under Section 90 of the Act.

10.6.2 Race discrimination in the area of goods, services and facilities

A man alleged he had been discriminated against on the basis of his race when a fellow employee asked that he and another co-worker speak English rather than Polish. His allegation centered on one incident when the office manager told him she was offended by them speaking Polish and asked them to stop or go outside.

After several conciliation conferences a mutually agreed settlement was not reached, although the company agreed to consider a written apology; the company's internal complaint procedures were reviewed; Equal Opportunity training was provided to all staff; the office manager was counselled and received Equal Opportunity training and a grievance procedure was implemented.

The complainant wanted a monetary payment as part of the conciliation package and the company refused.

The complaint was dismissed as lacking in substance, and the complainant subsequently notified the Commissioner he wanted the matter referred to the State Administrative Tribunal for hearing, under Section 90 of the Act.



Appendix B

11.1 Feedback Form

EQUAL OPPORTUNITY COMMISSION

The Commission is interested in receiving your feedback regarding our 2004/05 Annual Report as we are constantly striving to improve our services. We will appreciate any comments, observations or queries relating to our 2004/05 Annual Report.

1. In general terms, how would you rate the 2004/05 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