



## Message from the Commissioner



As some of our readers will be aware this year the ADC has already engaged in a variety of important activities.

### **Raising Awareness in the Bush**

The implementation of our remote area awareness strategy has commenced. With the assistance of the Aboriginal Interpreter Service translation of training videos into the 14 most widely spoken NT Aboriginal languages is underway. We are visiting ATSIC and ATSSIS regional councils to seek feedback on the strategy and shortly we will visit major outlying communities. Our goal is to significantly raise understanding of rights and responsibilities under the NT Anti-Discrimination Act. People in the bush deserve a fair go.

### **Community Harmony**

Special praise is due for the impressive Community Harmony Project in Darwin and Palmerston (formerly called the Itinerants Project) auspiced by Larrakia Nation in collaboration with a host of government and community organisations (including the ADC).

The Project has effectively demonstrated to the nation that a sensitive but sustained and practical strategy may hold the answer to complex and often-entangled problems of homelessness, itinerancy, anti-social behaviour, and illness. The Project has delivered Day and Night Patrols, Referrals, Elders Strategies, Repatriation transport, accommodation, and health/rehabilitation services, and also provided many viable options for itinerants through co-operation, networking and efficient use of resources.

### **Disability Employment Strategy**

In January 2004 ADC was invited to join the Willing and Able Implementation team convened by the Office of the Commissioner for Public Employment.

In December 2003 the Hon Syd Stirling MLA, Minister for Employment, launched "Willing and Able"—A Strategy for the Employment of People with Disabilities in the NTPS 2003-2006". This strategy aims to create an environment in NT Government agencies where people with disabilities are recruited, promoted and retained based on their abilities and where barriers to "disability employment" are identified and removed. ADC will continue membership of this important team.

### **Equity and Diversity in the Police, Fire and Emergency Services (NTPFES)**

In February we attended the Darwin launches of the NTPFES Equity and Diversity Plan where Commissioner Paul White spoke convincingly of the commitment of himself and NTPFES to promotion of principles of fair treatment and equality of opportunity for employees and volunteers of the Tri-Service.

Commissioner White recognises the value in reflecting the cultural diversity of the Territory's population in his workforce and the value of treating his workforce fairly – regardless of age, sex, race or sexuality – both for reasons of equity, and for the enhanced productivity delivered by a diverse and harmonious workplace.

In acknowledging that the Plan, devised in collaboration with ADC, may require a "change in the (organisational) culture" at NTPFES, Commissioner White encapsulated the challenge presented to us every day in modern society. Our challenge is to together bring about the social change required to move towards a fair and harmonious society, where people are treated with respect and where discrimination, sexual harassment, bullying and victimisation are eliminated.

**Tony Fitzgerald**  
Commissioner

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# Harassment/Bullying in Schools

Bullying and harassment is happening in our schools and each school should have policy and procedures to empower students and staff to deal with it.

School staff, parents and students need to work together to effectively address the harassment and bullying as it happens. Students and parents need to know what to do in the first instance and where to get help if the behaviour persists.

## **While your children are at school they have a right:**

- to feel safe without fear of bullying or harassment;
- to be respected and treated with fairness;
- to express themselves as an individual; and
- to learn without interference.

## **Your children have a responsibility:**

- not to harass or bully anyone else at school;
- to obey the school rules;
- to respect other people and their property;
- to treat others fairly; and
- to do their best.

## **Harassment is any form of behaviour that:**

- is not wanted and not asked for, that humiliates, offends or intimidates the person; and

## **Harassment or bullying can include:**

- name-calling, teasing, hurtful comments, ridicule, verbal abuse;
- spreading rumours;
- pushing students around, punching, kicking, tripping, physical assault;
- damage to personal property;
- encouraging others into the same behaviours;
- racist or sexist jokes;
- unwanted sexual attention or dirty jokes; and
- out of school fights or bashings.

## **More covert forms of bullying and harassment:**

- gestures and nonverbal expressions that reflect hostility;
- provocative behaviour such as wearing racist badges or t-shirts;
- harmless pranks that degenerate into long term bullying; and
- refusing to sit next to, speak to, or to cooperate with others because of their race, sex, sexuality, religion, disability, pregnancy etc.

If the harassment happens because of race, age, sex, sexuality, pregnancy, disability, (or another attribute covered under *Anti-Discrimination Act 1992*) you should contact the Anti-Discrimination Commission (ADC) on toll free 1800 813 846.

At the ADC, you will speak to an enquires officer who will listen, give you guidance about your options in handling your complaint and may send you out a complaint form and information about the ADC's complaint handling process.

Bullying and harassment is unacceptable misuse and abuse of power. Bullies need to assert their authority over their victim (or target), to relieve their own frustration. The behaviour will continue if the bully believes that the behaviour will go unpunished.

If your child is being bullied or harassed, listen to what he/she says, and be supportive. It is important to let children know that it is not their fault and that you will help them and support them. The sooner you deal with harassment the sooner it will stop. The longer you leave taking action the worse the harassment becomes.

## **Where can harassment happen in the school environment?**

In the playground, on the bus, in the classroom, to and from school, in the hallways, over the phone or via e-mails.

## **How do you know if your child is being bullied or harassed?**

Your child:

- is unhappy when arriving home from school;
- doesn't want to go to school;
- behaves aggressively towards younger siblings;
- is often sick or not feeling well for no apparent reason;
- has deteriorating school marks; and
- has personal possessions that are damaged.

Children often feel they have no one to turn to, or are often reluctant to tell anyone. They're scared that nothing will be done and that once they have said something that the bullying will only get worse. Teachers (and even parents) often say, "get used to it, you're going to have to put up with this for the rest of your life." Telling students to stand up for themselves can further isolate them as they feel that they have no one they can turn to for help.

## **What to do if your child is being harassed or bullied at school**

Encourage your child to:

- tell the student who is harassing them that they don't like it and that it's got to stop (if they can do this themselves that's great, but if they can't, then get someone to go with them and support them);
- talk it over with you or a family member;
- not be on their own or to put themselves in vulnerable situations;
- discuss what can be done with the teacher or another trusted teacher;
- talk to the school-based constable, school nurse or the school counsellor; and
- talk it over with the principal or the regional office.

## **Answers to quiz:**

1. F, 2. T, 3. T, 4. F, 5.T, 6. T, 7. T, 8. F, 9. T.

Q 4. There are a number of reasons why all discrimination is not unlawful under the Act:

1. The discrimination must be based on an attribute under the Act eg. race, sex, sexuality, impairment.
2. The discrimination must occur in a specific area under the Act eg. work, education.
3. There are exemptions where discrimination is lawful for specific reasons eg. under other legislation, genuine occupational qualifications.
4. S.57 allows for positive discrimination to provide remedies for disadvantaged groups.

Q8. There is a 6 months time limit to make complaint.



Broadly speaking, the *NT Antidiscrimination Act (The Act)* prohibits discrimination against a person on the ground of certain attributes (eg age, impairment, sexuality, race, religious belief, sex etc) if the discrimination occurs in the areas of work, education, accommodation, goods and services, club, and insurance and superannuation.

There are two types of discrimination. Unfair treatment directly related to an attribute is called “direct discrimination”, and is the usual form of discrimination presented to the ADC. Examples are refusing to rent accommodation to someone based on their race, or not hiring a person because they are gay or lesbian.

The other form of discrimination is called “indirect discrimination”, which occurs when a condition or requirement is imposed that is the same for everyone but which results in a person possessing an attribute under the Act being disadvantaged more than a person without that attribute. For example, a policy of refusing flexible work arrangements such as adjusted working hours or working from home, although applied equally to all staff, would (indirectly) impact more significantly on females and single parents. Also, requiring employees to be 177cm tall, although applied equally to all employees, would indirectly exclude more females than males because the former are shorter.

Like direct discrimination, indirect discrimination is unlawful whether or not it is intentional, but it is sometimes harder to recognise. So, in the example above, even if the policy is not deliberately designed to disadvantage women and single parents, it would be discriminatory because indirectly it has that effect.

### HEARING DOG

The Complainant attempted to fly on a small commercial airline accompanied by his hearing dog. He was told by airline staff that due to “*health and air safety regulations*” his guide dog could not fly with him and would have to be stored in a cage and shipped in baggage. He contacted the ADC for immediate assistance in attempting to resolve the issue, as his flight was leaving in a few hours.

The ADC contacted the airline and advised them of the relevant law relating to guide dogs, in particular the provisions of section 21 of the *Anti-Discrimination Act 1992*. Information was also given about reasonably accommodating the Complainant’s special need.

After receiving this information the airline agreed to apologise to the Complainant and to permit his guide dog to travel with him on the flight. The Respondent airline also agreed to ensure that all staff were made aware of the law regarding hearing assistance dogs so that a similar situation would not arise in the future.

The complaint was resolved in a few hours and the parties both felt there was a very satisfactory outcome. This complaint demonstrates the advantage of an informal, early intervention approach to dispute resolution.

### RACE

The Complainant worked with the Respondent and believed that the Respondent was making insulting comments about his Aboriginal race eg – by calling him a monkey or saying that the business was being run like a circus. The Complainant told the owner of the business about his concerns and as a result the Respondent was told to “stay clear” of the Complainant, but this was not a satisfactory solution, as there was still tension in the workplace and the Complainant said he still was upset and feeling threatened.

A conciliation conference was convened within a week of the complaint being received. The Respondent denied any race discrimination or harassment, pointing out to the Complainant that they had previously been on good terms and that any comments he had made about the workplace being badly run were not directed at the Complainant personally. After a lot of discussion between them, the Complainant accepted the Respondent’s apology for anything that might have upset him, and his promise that he would not make similar comments in the future. The Complainant agreed in the future to immediately bring up with the Respondent any concerns he might have, rather than allowing issues to bother and upset him without letting the Respondent know he was distressed.

Both parties left the conciliation conference on a positive note, indicating they were confident of their ability to get along well together in the future.

### SEXUAL HARASSMENT

A woman alleged that her male employer sexually harassed her by making inappropriate sexual comments in the workplace. She alleged that he regularly asked her to tell him what sort of sex acts she preferred, what she “got up to” with her boyfriend and whether she “liked having a go”. When she told him that she found the remarks offensive he told her she had no sense of humour and increased the behaviour. The Complainant began to dread going to work and eventually quit.

At a conciliation conference the Complainant was able to convey to the Respondent how upsetting his conduct had been, particularly because he did not change after she tried to tell him how much it bothered her. He apologised to her and agreed to participate in training and education about sexual harassment. He also paid her the sum of \$4,000 as compensation for her hurt and distress.



## How well do you know the Northern Territory Anti-Discrimination Act 1992 (the Act)?

Are these statements True or False. (Answers bottom of page 2)

- |     |  |     |
|-----|--|-----|
| Q.1 | Equal opportunity means treating everyone equally.   | T/F |
| Q.2 | The Act is based on a conciliation and educative model.  | T/F |
| Q.3 | One of the objects of the Act is to eliminate sexual harassment.   | T/F |
| Q.4 | All discrimination is unlawful under the Act.  | T/F |
| Q.5 | Employers may be vicariously liable for the unlawful conduct of their employees or agents under the Act. | T/F |
| Q.6 | Victimisation is a prohibited conduct under the Act.   | T/F |
| Q.7 | Harassment at work may be unlawful if based on an attribute under the Act.                               | T/F |
| Q.8 | There is a 12 month time limit to make a complaint under the Act.  | T/F |
| Q.9 | Under the Act, 'impairment' includes reliance on an assistance dog.                                      | T/F |

## Training April – June 2004

We are now taking bookings for the Anti-Discrimination Commission's training courses from April to June 2004. Courses are conducted at the Anti-Discrimination Commission, or may be delivered at your organisation.

Contact the Commission for the dates of planned visits to regional areas and to discuss details of specialised training for your organisation, community group, or school. Other training programs can be arranged on request for anywhere in the Northern Territory.

Specialised training programs are currently being delivered to meet the specific needs of community services, community organisations, businesses, industry and government, ethnic and Aboriginal communities.

### DISCRIMINATION & HARASSMENT

*This course is an introduction to anti-discrimination law and will give you essential information about how the law affects you and/or your organisation.*

Cost: \$88.00 Darwin: 5 May, 1 June, 9am – 12.30pm Nhulunbuy: 20 May, 9am – 12.30pm

### HARASSMENT & BULLYING: What is it and what can you do about it?

Cost: \$88.00 Darwin: 28 April, 2 June, 9am – 12noon Alice Springs: 8 June, 1pm – 4pm Nhulunbuy: 19 May, 1pm – 4pm

### RECRUITMENT

*Recommended for all managers and supervisors who are involved in recruiting.*

Cost: \$88.00 Darwin: 29 April, 9am – 12.30pm Alice Springs: 9 June, 9am – 12.30pm

### CONTACT OFFICER TRAINING

*Contact officers provide information to employees who feel they have been harassed, about their organisation's grievance procedures (both internal and external).*

Cost: \$220.00 Darwin: 20 April, 9am – 4pm Alice Springs: 9 June, 9am – 4pm

### CONTACT OFFICER NETWORK

*For the Contact Officer network in your organisation- offering refresher training and up to date discrimination and harassment information.*

Cost: \$110.00 Darwin: 7 May, 9am – 12.30pm Alice Springs: 11 June, 9am – 12.30pm

**Enquiries: Ms Sue Kasperek, Director Public Education & Training or visit our website at [www.adc.nt.gov.au](http://www.adc.nt.gov.au) and click on the training icon, or call us on 8999 1444 (Darwin) or 8951 5818 (Alice Springs).**

## Privacy and Freedom of Information in the NT Government

Do you want to know how to obtain information held by Territory government departments? Do you want to find out what personal information the government holds about you? Are you concerned about how a government organisation is using or protecting your personal information? Do you want to know more about how the government makes decisions? The NT *Information Act* gives you the right to apply to access information held by NT government organisations, to ask the government to correct personal information about you, and to complain about breaches of your privacy by the NT government.

There is an Information Officer in each government organisation that you can contact about information the organisation holds. The Information Commissioner is the independent officer appointed to oversee the **Freedom of Information** and **Privacy** provisions of the Northern Territory *Information Act*.

**For more, you can look at the Information Commissioner's website: <http://www.infocomm.nt.gov.au> or call the Office of the Information Commissioner on 1800 005 610 or 8999 1500.**

**FOR FURTHER INFORMATION OR ADVICE, TO REQUEST TRAINING OR TO BE ADDED TO THE MAILING LIST CONTACT:**

**Northern Territory Anti-Discrimination Commission**

**Darwin: 7th Floor, 9-11 Cavenagh St, Darwin • Postal Address: LMB 22, GPO Darwin NT 0801**

**Phone: (08) 8999 1444 • Free call: 1800 813 846 • Fax: (08) 8981 3812 • TTY: (08) 8999 1466**

**Alice Springs: Ground Floor Centre Point Building, 54 Hartley Street, Alice Springs (08) 8951 5818**

**Website: [www.adc.nt.gov.au](http://www.adc.nt.gov.au) • E-Mail: [administrationadc@nt.gov.au](mailto:administrationadc@nt.gov.au)**