

Human Rights Commission takes on Turnbull

Written by Michelle Grattan, Professorial Fellow, University of Canberra

The Human Rights Commission has fought back against a trenchant attack on it by Malcolm Turnbull, suggesting the Prime Minister had misrepresented or misunderstood its role.

But as the government prepares to launch a parliamentary inquiry into section 18C of the Racial Discrimination Act, the commission reiterated that it favours streamlining the process of considering complaints by raising the threshold for accepting them.

Turnbull told the ABC the commission had “done a great deal of harm to its credibility by bringing a case” against Queensland University of Technology students after a complaint under 18C.

The Federal Circuit Court threw out the case last week.

The commission “must urgently review the way in which it manages these cases”, Turnbull said.

“To have a case like that which will have involved the expenditure of considerable Commonwealth money, taxpayers’ money, considerable money on behalf of the students, imposed enormous stress on them, and have it chucked out, struck out as having no reasonable prospects of success...

“What the court was saying, what the judge was saying to the Human Rights Commission is, ‘You’ve been wasting the court’s time. You’ve been wasting government money.’

“Now, frankly, what the Human Rights Commission needs to do is reflect on whether, in making its decisions as to which cases to pursue and which cases not to pursue, it has been doing so in a manner that enhances the reputation both of the commission and respect for the Racial Discrimination Act.”

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In a statement the commission said: “The commission has no judicial powers, and it makes no legally binding determinations as to whether unlawful acts have occurred. The commission has no statutory power to prevent a complainant proceeding to court once the commission terminates the complaint.”

It had terminated the QUT matter in August 2015, the commission said.

“The commission has had no role in the subsequent law suit in the Federal Circuit Court.”

“At no stage does the commission initiate or prosecute a complaint.” When a complaint was received, the commission must investigate the facts and attempt to conciliate, it said.

Of complaints involving conciliation, 76% were successfully resolved in 2015-16.

Only 3% of complaints finalised by the commission were lodged in court. Of more than 80 complaints finalised under the racial hatred provisions of the Racial Discrimination Act last year, just one went to court at the complainant’s initiation.

In the 2015-16 reporting year the average time it took the commission to finalise a complaint was 3.8 months.

In response, a spokeswoman for Turnbull denied that he had been talking about the court case. She said he was referring to the commission’s failure to deal with the matter for 14 months. Turnbull was “well aware” the commission was not involved in the court case, she said.

Michelle Grattan does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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