



29 August 2008

The Secretary
Standing Committee on Employment and Workplace Relations
House of Representatives
PO Box 6021
Parliament House
Canberra ACT 2600

By email ewr.reps@aph.gov.au

Dear Ms Cheryl Scarlett,

**Re: Inquiry into pay equity and associated issues related to increasing
female participation in the workforce**

I write as the Chair of the Equal Employment Opportunity Network of Australasia (EEONA). Following feedback from our members we are pleased to make the following submission in relation to your Inquiry.

1. Background

By way of background, established in 2003, the Equal Employment Opportunity Network of Australasia (EEONA) is a national peak body representing over 300 member organisations across Australia and New Zealand. The aim of EEONA is to provide EEO and Diversity practitioners across Australia and New Zealand with an "Australasian" voice on diversity and equality issues. In effect, our members operate as the key organisational implementation point between policy and practice, balancing the needs of employers with the needs of employees. Accordingly, the Inquiry into pay equity and associated issues related to increasing female participation in the workforce is of key interest to EEONA.



2. Submission

Referring to the terms of reference for the Inquiry, we make the following submissions.

2.1 The adequacy of current data to reliably monitor employment changes that may impact on pay equity issues.

- (i) There are inconsistencies in the data collected to monitor employment changes and pay equity. Data collected by various agencies (eg the Equal Opportunity for Women in the Workplace Agency and the Australian Bureau of Statistics) is derived using different methodologies and data outputs therefore differ and cannot be collated. Data should be collected by one agency to ensure consistency of information and methodology.
 - (ii) There is a lack of data which compares like companies (eg partnerships are compared with corporations who operate under different remuneration systems);
 - (iii) Bands of reporting vary from company to company (eg EOWA collects data only for companies of 100 employees or more and company reporting is limited by their own systems and policies). By collecting data through organisations, internal processes may limit the data collected. Surveying women directly, and mandatory company reporting, particularly on measures which address inequity, would ensure more robust data.
 - (iv) The data is often unreliable and may be out of date (eg ABS data show changes in employment, unemployment and ordinary time earnings, but the data lag the event, so a problem may be beyond repair by the time a response is initiated);
 - (v) Tools need to be developed, similar to those developed in New Zealand, to measure pay equity (eg the *Working Towards Pay and Employment Equity for Women Workbook for Organisations* and the *Equitable Job Evaluation* assessment tool. See www.dol.govt.nz/services/PayAndEmploymentEquity/resources/assessment-tools.asp.)
- We note also the valuable work that has already been done in Canada regarding pay equity.

2.2 The need for education and information among employers, employees and trade unions in relation to pay equity issues.



- (i) A need exists to clearly articulate the difference between equal remuneration and equal pay and define the components of remuneration (eg bonuses).
- (ii) Education is needed to address an existing mindset that implies pay equity is due to the fact that more women work part-time than men and do not work as much overtime.
- (iii) The notion that there are types of work which are particularly male or female in orientation needs to be challenged as this impacts pay equity across industries.
- (iv) Education is needed on how to undertake a pay equity audit at an industry or organisational level and subsequently implement a pay equity action plan.
- (v) Clear and simple guidance for all workers and employers on changes to legislation regarding pay would help to stimulate change.
- (vi) Students should be educated on negotiation skills prior to their entering the workforce, also their rights as employees and avenues of information.
- (vii) League tables which describe corporate remuneration should be published.

2.3 Current structural arrangements in the negotiation of wages that may impact disproportionately on women.

- (i) The value of jobs in male dominated industries compared to those in female dominated industries is an issue. For blue collar work, this stems largely from the industrial muscle and the historic concentration of unions. Many male dominated industries (eg metals, mining, construction, shipping transport) have traditionally had strong unions who have been able to use industrial power to achieve higher rates of pay, possibly higher than the true value of the jobs.
- (ii) At a professional or skilled level, teaching and nursing receive the most coverage, and both of these industries are heavily unionised. Interestingly, teaching has always been considered a profession and in the past had a large number of male workers, whereas only in the 1980s was nursing considered a profession, but it is still viewed more commonly as a care function. The issue that currently exists in nursing is that by the time it was recognised as a profession, it was already well behind in pay equity and Australia does not have a



history of making full compensation for past inequities. Pay levels in the teaching profession may be a reflection of the increased number of holidays, however individual performance pay generally does not exist in teaching and this tends to bring everyone back to the lowest common denominator.

- (iii) The service industries by and large move salaries based on National Wage Cases (or Australian Fair Pay decisions), and such changes are generally behind the increases received by either the unionised industries or those that operate on individual common law contracts, which in turn widens the gap between male and female dominated industries.
- (iv) Employers and employees need information and checklists to assist in the bargaining process.
- (v) A review should be undertaken as to what determines remuneration, eg ordinary earnings, overtime, profit and bonuses, as these components may be more or less equitable in different industries.
- (vi) A review of the increasing casualisation of the workforce, particularly the female dominated industries is required. There needs to be some justification from organisations who employ a large casual workforce. In addition the rights for part-time and casual staff need to be more clearly articulated.
- (vii) The use of performance measures in relation to remuneration needs to be investigated. If there is more weighting given to technical skills, as opposed to behavior, or if the behaviours which are rewarded are more aligned to male behaviours leaving female traits undervalued, this imbalance needs to be addressed.
- (viii) Anecdotal reports suggest that there may be gender differences in the ability to negotiate remuneration packages which needs to be further researched to determine if this has any impact on pay outcomes.

2.4 The adequacy of recent and current equal remuneration provisions in state and federal workplace relations legislation.



Overall, our members response is that the current provisions are inadequate as pay inequity still exists. The drivers of salary increases need to be considered when determining equal remuneration. Work value is clearly not the only driver; profitability, labour costs as a percentage of total costs and the ability of organisations to pass these costs on to customers all impact on salaries paid. A simplistic view of comparing salaries across industries is dangerous and erroneous.

2.5 The adequacy of current arrangements to ensure fair access to training and promotion for women who have taken maternity leave and/or returned to work part-time and/or sought flexible work hours.

- (i) There is a need to ensure that all staff, including casuals, part-time and other flexible workers have access to all opportunities available to full-time staff on a pro-rata basis. This is not consistent across all industries, and flexible workers are often marginalised when it comes to worker benefits.
- (ii) The number of women who pursue a formal complaints process when they feel they have been discriminated against on the basis of their maternity leave is low. This may be due to fear of negative repercussions (eg loss of job, loss of benefits) which is particularly relevant when bearing the costs of child care. Discrimination law, at best, achieves minimum compliance, rather than active involvement and proactive initiatives. Accordingly there is a need to create public measures of accountability (eg introducing a reporting model for work/care integration which is similar to that currently used by the Equal Opportunity for Women in the Workplace Agency in relation to gender equity) to supplement legal rights.
- (iii) It is anticipated that inclusion of a “right to request” flexible work practices in the National Employment Standard will address some of the above issues, but as we argued when submissions were called for on the draft Standard, the “right to request” requires expansion to be fully effective.
- (iv) Few organisations have been able to create meaningful part-time senior or executive roles. In the absence of these roles, many women can be expected to continue to opt out of line



management roles, or not pursue executive appointments in favour of functional or more junior roles where part-time hours are more readily accommodated.

- (v) Enabling access to flexible hours/part-time work is only one part of the solution to increasing women's levels of workforce participation. As noted by the Taskforce on Care Costs in "The Hidden Face of Care" (2007)¹, enhancing support structures (eg quality, accessible and affordable care) is as important as creating workplace flexibility. Plus there is a need for public campaigns which endorse the value of balancing work and care.
- (vi) Finally, we draw to your attention research we currently conducted on the gap between flexibility policy and workplace practice (which is summarized in Attachment A).

2.6 The need for further legislative reform to address pay equity in Australia

Legislation will only provide compliance, which is the minimum requirement. Pay equity addressed through legislative reform will therefore provide equity at the base of the salary structure, whilst not addressing the broader issues discussed above. Any legislative reform need to be supported by education and plain English guidance. The SDA enables discrimination cases to be lodged by individual complainants, and although lodging systemic complaints is indirectly possible, it is very difficult to meet the parameters. This also has the effect of reducing the ability to compare pay across organisations.

In summary, we commend the House of Representatives Standing Committee on Employment and Workplace Relations for considering current impediments to women's workforce participation, and identifying solutions.

Should you have any queries, please do not hesitate to contact me on (02) 9810 7176 or via email: juliet.bourke@aequus.com.au.

¹ See www.tocc.org



Yours faithfully

Juliet Bourke, Chair, EEONA



2008 Status report on diversity and equality

Background

In 2003, 2005 and now 2008 EEONA has administered the Australasian Diversity and Equality Survey (ADES) to track the implementation of diversity and equality through the eyes of diversity practitioners in Australia (and New Zealand). Key questions in the ADES concern (i) why are organisations interested in diversity?; (ii) how do organisations implement a diversity agenda?; (iii) what are the challenges to diversity implementation?; and (iv) how are issues/responses changing over time? In addition to these general questions, each ADES includes a special section on a topical diversity related issue. In 2008 the ADES reported on workplace flexibility (as well as diversity), a topic which clearly has relevance to the Inquiry's interest in family responsibilities discrimination.

Methodology

In terms of methodology, in 2008 the ADES research comprised a survey of 48 members (and a follow-up focus group), who represent a diverse range of small, medium and large organisations from private, government and community sectors. In total the survey respondents represented nearly one quarter of a million employees (238,580). In terms of the generalizations which can be made based on this data, it should be noted that members of EEONA are likely to be drawn from best practice organisations in terms of their commitment to eliminate discrimination².

Key findings in relation to workplace flexibility

There is considerable room for improving the implementation of workplace flexibility. 81% of respondents rated the current implementation of flexibility in their organisation as average or below average. In addition to expanding the ambit of the "family responsibilities" provisions of the SDA to bring them into line with best practice provisions in state discrimination law (eg the *Anti-Discrimination*

² This is evident from the number of member organisations who are the recipients of awards and citations for best practice, eg Employer of Choice for Women and Work and Family Awards.



Act 1977 (NSW) and the *Equal Opportunity Act 1995 (VIC)*, the HREOC could provide guidance to employers about implementing flexible work practices to address the findings identified below:

- a. **There is a gap between flexibility policy and practice.** Organisations are highly likely to offer a broad range of flexible work practices on paper, however implementation is less effective than it could be, eg only 28% of organisations consistently implement flexibility across their organisation.
- b. **There is a lack of awareness of the legal drivers for flexibility.** 60% of respondents nominated “legal compliance” as a driver for flexibility in comparison to 76% for diversity. The report found that this suggests that “organisations are unaware of, or have not yet geared up for, the impact of the (Australian) *National Employment Standards*” with regard to the right for employed parents of young children to request flexibility.
- c. **Managers hold the flexibility key.** Building managerial capability is the key to closing the gap between flexibility policy and practice. When comparing high functioning organisations with respect to flexibility, and low functioning organisations, the ADES found that the key differentiators in terms of managerial capability concerned: managerial commitment to flexibility; managerial knowledge about, and support for, flexible work practices; and managerial confidence to manage difficult implementation issues.
- d. **A lack of flexibility for managers.** The ADES found that a key differentiator between organisations implementing flexibility and those which are not, is the extent to which managers (as well as employees) are able to access flexibility.
- e. **A lack of managerial metrics for flexibility.** The ADES found that, as with diversity, managers are not held accountable, or rewarded for, their commitment to flexibility.