

# **Report on the Review of the Gender Pay Gap in Western Australia**

## **Executive Summary and List of Recommendations**

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### **Executive Summary**

In April, 2004, the Minister for Consumer and Employment Protection commissioned an independent Review of the Gender Pay Gap. The terms of reference were recent research dealing with the gender pay gap, the capacity of the State Wage Fixing Principles to close the gap, the efficacy of voluntary strategies, the role of the Minimum Conditions of Employment Act 1993, and strategies for training. This Report is the result of that Review. It draws on previous research literature, submissions, interviews, and the knowledge and views of a key reference group.

### **Collecting the Data**

With very little literature focused specifically on WA we went further afield to draw on the national and international findings, including inquiries by other governments in Australia and overseas. Part 2 of the Report provides our discussion of the literature.

A public call for submissions to the review elicited 18 responses, representing both large and small employers, unions, professional associations, a government department, women's groups and individuals. A Reference Group was formed to facilitate information flows and one joint meeting was held, along with a number of smaller meetings organised around specific interests. In addition, a series of interviews was conducted with stakeholders and experts. In Part 3 we utilize these submissions, the literature, the interviews and the reference group to make our recommendations. Part 1 sets out the goals and limits of the Review, the methodology and definitions, then outlines the problem of the gender pay gap.

## **Findings**

The Report identifies that women in the WA labour market are, on average, paid less than men in WA and less than women elsewhere in Australia. WA has the largest gap between men's and women's wages of any Australian state. In the February 2004 quarter, WA women employed full-time earned, on average, 22.6% less than their male counterparts whereas at a national level the corresponding gender wage gap was 15.2%.

The information from a wide variety of sources led us to conclude that gender pay inequity has economic, social and political consequences for individuals, business and governments and therefore must be addressed. Improved gender pay equity is fundamental to gender equality, since it increases women's labour market attachment, financial independence and life choices, all of which are part of expressed government policy. For business, gender pay equity can result in not only a more committed workforce but also better utilization of women's participation in the paid workforce - thereby addressing concerns about labour market supply.

Part 2 of the Report details the multiple factors contributing to the gender pay gap. We begin by considering the explanations provided by human capital theory and then look beyond that to the important institutional, sociological and organizational factors. These include the nature of jobs and the type of employment in which women are concentrated and the lower level of earnings associated with these jobs; the value attached to jobs and skills associated with female labour; the ongoing legacy of entrenched social norms that impact on wage determination as well as resulting in the persistent barriers to women juggling paid work and caring responsibilities, and the deregulation and decentralization of wage determination.

Having identified a multiplicity of factors contributing to the gender pay gap, we conclude that a multi-dimensional approach is necessary to address it. We advocate, in Part 3, a wholistic approach via gender mainstreaming. Gender mainstreaming calls for a raft of remedial measures that incorporate voluntary and regulatory components and we have recommended accordingly.

## **Summary of Recommendations**

Our recommendations on the regulatory components relate to the Wage Fixing Principles, the Industrial Relations Act 1979 (the IR Act) and the Minimum Conditions of Employment Act 1993 (the MCE Act). We conclude that the Wage Fixing Principles are not well suited to addressing issues of gender pay equity. We therefore recommend that the IR Act be amended to establish an Equal Remuneration Part that can be applied with a high degree of certainty in assessing undervaluation on a gender basis.

We identify three aspects of the MCE Act as being particularly relevant to our considerations: the minimum wage, leave provisions relating to work/family issues and the regulation of casual employment. We endorse the importance of an effective minimum wage system, recommend more extensive leave provisions to allow workers to better balance their caring and paid work responsibilities and, given that women are represented disproportionately amongst casual employees, we have included recommendations relating to compliance and research into casual employment.

In reviewing the Wage Fixing Principles and the minimum conditions of employment, a number of issues pertaining to the IR Act arose. We include recommendations to amend sections of the Act so as to clarify how the Act can improve gender pay equity. These amendments relate to the objects, award modernization and aspects of enterprise bargaining.

With regard to voluntary strategies, we focus on the development of pay equity audits, mandatory within the public sector and voluntary in the private sector. These audits could provide an effective means by which all groups and industry parties can gain an understanding of what the gender pay gap means and thereby build their capacity to implement equal remuneration.

In relation to training, we identify two types of needs: strategies to build women's human capital endowments and strategies to achieve the educative process related to gender. In order to implement the recommendations of this report the latter play a significant role, so that it is essential to develop critical new tools and strategies.

Another effective way for the government to narrow the gender pay gap is through its role as a large employer. That role, as an exemplar of Best Practice, leads us to make recommendations with regard to policy making and practices in the public sector.

Finally, we include recommendations on the process of implementation itself. These hinge upon the formation of a Pay Equity Unit and a high level Steering Committee.

## **Recommendations**

### **A Wholistic Approach: Gender Mainstreaming**

1. That the WA government take a gender mainstreaming approach to policy and practices in its commitment to closing the gender pay gap by applying a systematic process of 'gender analysis' to existing policies and policy proposals to identify any differential impact the policy would have on each gender. (p.49)

### **Voluntary Strategies**

2. That a combination of voluntary and regulatory strategies be adopted to address the gender pay gap. (p.52)
3.
  - (i) That employers conduct gender pay equity audits, based on the model of the Equal Pay Review process developed by the Equal Opportunity Commission in the United Kingdom, and that this be mandatory within the public sector and voluntary within the private sector.  
Where gender pay gaps are identified, employers should then produce action plans to close them.  
That this requirement to complete mandatory gender pay equity audits be extended to contractors for public services.
  - (ii) That these audits become part of the annual reporting process in the public sector while employers in the private sector should be encouraged to include the results in their annual reports.

- (iii) That the proposed Pay Equity Unit (see Recommendation 34) be responsible for developing a model and detailed explanatory materials on how to conduct a gender pay equity audit.
  - (iv) That the Office of EEO be resourced to work with public sector organizations to build their capacity for conducting gender pay equity audits efficiently and effectively.
  - (v) That the government urge employer associations and professional bodies to encourage and assist employers to conduct gender pay equity audits. (pp.54-5)
4. That the government urge UnionsWA to take the lead in encouraging trade unions to place gender pay equity as a priority on the bargaining agenda. (p.55)

### **The Wage Fixing Principles**

5. (i) That the IR Act 1979 be amended to establish a new Equal Remuneration Part that would ensure the following:
- with the making and amending of awards and orders, including enterprise orders, that the Commission has addressed gender pay equity;
  - with the registering of industrial agreements and employer-employee agreements that the Commission is able to be satisfied that the parties have addressed gender pay equity;
  - the ability of the parties and the Commission on its own motion to bring applications to achieve gender pay equity in awards.
- (ii) That the proposed Equal Remuneration Part in the IR Act 1979 provide that for any matter involving pay equity or equal remuneration, “remuneration” bears the meaning of ILO Convention 100 Article 1(a).
- (iii) That the proposed Equal Remuneration Part in the IR Act 1979 include provisions

- acknowledging that the previous application of wage fixing principles cannot be assumed to have been free of assumptions based on gender, and
  - ensuring that the use of the Part is not restricted by the operation of the Wage Fixing Principles.
- (iv) That the proposed WA Equal Remuneration Part in the IR Act 1979 include the option to phase in any resultant increases in specified stages. (p.60)
6. That the government fund s50 parties and any other industrial organisations who press or respond to pay equity cases, to a maximum determined by government and subject to an agreed case plan demonstrating commitment to the achievement of improved gender pay equity within their occupation and/or industry. (p.61)
7. That the Chief Commissioner be urged to ensure that equal remuneration cases only be determined by Commission members who have completed the requisite training on matters relating to gender pay equity. (p.61)

### **The Industrial Relations Act 1979**

8. (i) That section 6(ac) of the IR Act 1979 be amended to read “to promote equal remuneration for men and women for work of equal or comparable value”.
- (ii) That section 6 of the IR Act 1979 be amended to include the following two additional objects:
- “to promote gender pay equity”.
  - “to promote employment and workplace practices that will enable employees to achieve a satisfactory balance between their paid work and family responsibilities.” (p.62)
9. That s40B(1) of the IR Act 1979 have the following clause added to it empowering the Commission to vary an award “to ensure that undervaluation of work is addressed”. (p.63)

10. That further analysis of individual and collective agreements registered in WA (that is, industrial agreements and employer-employee agreements) be undertaken to
  - (i) compare complete outcomes by gender of wages and non-wage benefits and
  - (ii) better understand what factors are resulting in the gender wages gap in these streams of wage determination. (p.66)
  
11. That s41A(1)(c) of the IR Act 1979 be amended to read “includes an estimate of the number of employees *by gender and employment type, ie full-time, part-time and casual*, who will be bound by the agreement upon registration.” (p.66)
  
12. That the IR Act 1979 be amended to require employers to demonstrate that they have taken account of gender equity issues in relation to remuneration when registering industrial agreements and employer-employee agreements. (p.67)

### **Minimum Conditions of Employment Act 1993**

13. That the Government encourage the Commission in setting minimum weekly rates of pay to take account of the impact of their decision on the gender pay gap. (p.68)
  
14.
  - (i) That the Government set as a goal the introduction of paid parental leave within both the public and private sectors in WA in accordance with the ILO standard of 14 weeks.
  
  - (ii) That the Government liaise closely with its federal and other state government counterparts in support of a nationwide strategy to introduce paid parental leave.
  
  - (iii) That the government increase paid parental leave for public sector employees to the ILO standard of 14 weeks.
  
  - (iv) That the Government promote the benefits of paid parental leave to employers in the private sector.

- (v) That the Government establish a public database of all public and private sector employers offering paid parental leave to their employees, including details of eligibility and how much paid parental leave is available. (p.70)
- 15.
- (i) That the Government amend the Minimum Conditions of Employment Act 1993 to entitle employees to request an additional four weeks purchased leave per annum and to take a reduced salary – 48/52 – spread over the 52 weeks of the year.  
That employers not refuse such requests unreasonably.
  - (ii) That employers give priority access to those employees with carer responsibilities, when considering such requests.
  - (iii) That purchased leave if not taken would be reimbursed and would not be able to be accrued. (p.71)
16. That the Government amend the Minimum Conditions of Employment Act 1993 to include the right for employees to request to change their employment status to part-time within their substantive or an equivalent position for a stipulated period of time. Where that stipulated period of time does not exceed 12 months, this should also include the right for such an employee to revert to full-time status. Where the stipulated period of time extends beyond 12 months, the legislation should allow the employee to apply to revert to full-time status in their substantive or an equivalent position. That employers not refuse such requests unreasonably. (p.72)
17. That the Government amend the Minimum Conditions of Employment Act 1993 to extend the entitlement to unpaid parental leave to long-term casual employees who have been engaged on a regular and systematic basis for at least 12 months with the employer and who have a reasonable expectation of on-going employment on that basis. (p.72)
18. That the government conduct research into the earnings penalty incurred by casual employees in WA relative to permanent employees and its specific

impact on the gender pay gap, given that casualisation is increasing and is concentrated amongst women. (p.74)

19. That the government fund DOCEP to develop a targeted plan to increase their monitoring of compliance by employers in their wages payments to casual employees. (p74 )
20. That DOCEP apply gender analysis to the issue of increasing casualisation of the workforce so as to take account of the impact of casualisation upon gender pay equity. (p.74)

### **The Western Australian Public Sector**

21. The Government place greater emphasis on the achievement of its priority within the Equity and Diversity Plan to increase the proportion of women employed at senior levels. (p.76)
22. That the Government apply gender analysis to all policies and practices in relation to the public sector so as to identify gendered employment and pay outcomes. (p.77)
23. That the government ensure that all employees at all levels of the public sector may access work/family provisions by implementing the following strategies:
  - the provision of training for public sector supervisors and managers to increase knowledge and understanding of the following issues: employee entitlements; implications of managing part-time employees; creation of part-time employment opportunities at all levels of the organization; how to develop a public sector culture in which employees feel comfortable accessing family friendly entitlements.
  - the recording of data on accessing paid parental leave, requests for conversion to part-time, purchased leave, utilization of personal leave.
  - analysis of this data to assess utilization of these provisions. (p.79)
24. That the government conduct research into the work value assessment process and outcomes within the public service. (p.79)

## Training

25. That the Department of Education and Training apply ANTA's recent initiative focusing on women's issues in training to Western Australia and, in the process, take account of the specified groups of women identified in previous research as being less likely to receive training. (p.80)
26. That the Department of Education and Training investigate the implementation of a training credits scheme for employers who invest in training strategies for women in these particular groups that have been identified as being less likely to receive training. (p.80)
27. That the Department of Education and Training target training and development opportunities for part-time and casual workers which will enable them to move into better paid jobs. (p.81)
28. That the government encourage employers to conduct gender analysis of their provision of training to assess
  - whether male and female employees are being given equal opportunities to access training to increase their skills and enhance their opportunities for promotion;
  - whether male and female employees are accessing training opportunities equally. (p.81)
29. That the government encourage employers to develop strategies to improve the participation of their part-time employees in training and development opportunities. (p.81)
30.
  - (i) That the Office of EEO or Office of Women's Policy be funded to develop training modules on gender pay equity.
  - (ii) That the government act as an exemplar employer by implementing training for public sector supervisors and managers to increase knowledge and understanding of matters related to gender pay equity.
  - (ii) That the Chief Commissioner of the WAIRC be encouraged to be responsible for ensuring that the members of the Commission become

well informed on issues impacting on gender pay equity, including gender-neutral language to describe tasks and skills, the scope of the term “remuneration” with regard to gender equity in pay and employment, and gender-based undervaluation of work and skills. That the Commission be funded to enable relevant training to occur.

- (iv) That employer associations and other professional bodies be encouraged to implement training for employers on matters related to gender pay equity, including gender-neutral language to describe tasks and skills, the scope of the term “remuneration” with regard to gender equity in pay and employment, and the issues of gender-based undervaluation.
  - (v) That UnionsWA be encouraged to implement training for union officials on issues impacting on gender pay equity, including gender-neutral language to describe tasks and skills, the scope of the term “remuneration” with regard to gender equity in pay and employment, and the issues of gender-based undervaluation.
  - (vi) That the government provide a funding scheme to assist employer associations, professional bodies and UnionsWA with the implementation of gender pay equity training. (pp.82-3)
31. That the government liaise with management education and training bodies such as universities, TAFE colleges and the Australian Institute of Management to encourage the inclusion of components on gender equity, gender mainstreaming and pay equity in their curriculum for management education. (p.83)
32. That the proposed Pay Equity Unit (see Recommendation 34) be responsible for implementing a broad community awareness campaign on the gender pay gap and related issues in Western Australia, including an evaluation strategy. (p.83)
33. That the Commission in conjunction with the Equal Opportunity Commissioner and the s50 parties conduct an equal remuneration case study involving a female-dominated occupation as a learning exercise. (p.84)

## **Implementation of Recommendations**

34. (i) That the Government form a Pay Equity Unit with responsibility and resources for implementing the recommendations of the report as directed by the government.
- That the Pay Equity unit be located within one of the following: the Department of Premier and Cabinet, the Equal Opportunity Commission or DOCEP.
- That the Pay Equity Unit be established for a 3-year term initially.
- (ii) That a high level Steering Committee be established drawing on expertise from DOCEP, the Department of Premier and Cabinet, the Equal Opportunity Commission, the Office of Equal Employment Opportunity and on the expertise of union and employer bodies.
- (iii) That the Steering Committee develop and oversee the implementation plan with the Pay Equity Unit, including identification of who is responsible for the implementation of each recommendation and the time frame associated with it. (p.85)

**The full Report on the Review of the Gender Pay Gap in Western Australia is available on the Department of Consumer and Employment Protection website [www.docep.wa.gov.au/labour relations](http://www.docep.wa.gov.au/labour_relations).**