

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

**Dr Trish Todd & Dr Joan Eveline
School of Economics and Commerce
The University of Western Australia**

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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 holistic 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.

(iii) 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)

Part 1: The Gender Pay Gap Problem and the Nature of the Review

Evidence shows that women in the labour market in Western Australia (WA) are, on average, paid less than men in WA and less than women elsewhere in Australia. Moreover, 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%. This sorry situation continues despite improvements in the levels of education and workplace experience amongst women in WA and a substantial increase in the minimum wage in WA.

The persistence of the gap between men's and women's pay and the apparent difficulties in achieving any improvement in it have been of major concern to those groups representing women's interests. For instance, the Women's Convention in Western Australia in 2002 identified pay equity as a major priority for the State Government to address. The Government has now instigated this review as the first step in the process of addressing what is referred to as 'the gender pay gap'. In section 1.4 we define that term, along with others used in this review.

1.1 The Goals of the Review

The Terms of Reference for the review are as follows:

REVIEW OF THE GENDER PAY GAP IN WESTERN AUSTRALIA

A review is to be conducted into the causes of the gender pay gap, including factors impacting on workers in Western Australia.

The review is to include consideration of:

- recent Australian (and relevant international) research dealing with the gender pay gap
- the extent to which principles of pay equity can be enhanced using the State Wage Fixing Principles as determined by the Western Australian Industrial Relations Commission, or the extent to which the current State Wage Fixing Principles are considered to be a barrier to progressing the issue of pay equity
- strategies to address the gender pay gap which could be developed on a voluntary basis by Section 50 parties (as provided under the Industrial Relations Act 1979)
- minimum conditions of employment (as provided under the Minimum Conditions of Employment Act 1993) and enhancements which would have significant impact on the

gender pay gap

- training which could help address the gender pay gap issues including access to training and management of work and family issues.

During the course of the review relevant organisations and individuals, including representatives of UnionsWA, employer and employee organisations, academics and researchers with expertise in these matters, selected public sector managers will be consulted.

Outcome of the review

A report with recommendations to reduce the gender pay gap in Western Australia to be submitted to the Minister for Consumer and Employment Protection no later than mid September 2004.



This Report of the review is organized into two main parts:

- Part 2 - a summary of the causes of the gender pay gap,
- Part 3 - recommendations to reduce the gender pay gap, including consideration of voluntary strategies, the State's wage fixing principles, the minimum conditions of employment and training needs.

In discussion with the Minister's Office it was made clear that the particular emphasis of this review should be strategies that enable progress. In the subsequent Reference Group with key stakeholders there was also strong consensus that much research had already been done on the problem itself and that the way forward lay in developing strategies to improve gender pay equity and thereby close the gender pay gap. In response, this review draws upon and analyses the existing wealth of information on the causes of the gender pay gap – research literature, reports of previous inquiries, and stakeholders' knowledge. Rather than engaging in new research on causes of the gap itself, we have confined data gathering to the problems, remedies and strategies to be found in Western Australian, Australian and overseas contexts (Part 2), and assessed their potential efficacy in the Western Australian context. Part 3 bases its recommendations on that wide-ranging assessment.

1.2 Limits to the Review

There are two points to be noted here, the first relates to the heterogeneity of 'women' and the second relates to the research focus of this review.

The review focuses on *gender* in relation to pay outcomes. It is important to note the diversity amongst women and the options this raises in terms of the content and focus of the review. There are vast differences amongst women in terms of their earnings, as a comparison with the earnings of women managers and professionals with those of women cleaners and clerical assistants will show. Yet an analysis of those occupational categories will show that in all of them women suffer the consequences of gender pay inequity.

Clearly there are other demographic variables apart from gender which have been found to impact on an individual's employment experience and outcomes. Factors such as ethnicity, country of origin, age and disability have all been found to impact potentially on remuneration outcomes. Whilst we recognize that 'women' and 'men' are not homogeneous groups, we do not attempt to extend our analysis beyond gender. The factors relating to gender are very extensive on their own and other demographic variables such as ethnicity or disability cut across gender in their impact. To tease out those factors is beyond the terms of reference of this review. Nonetheless they are worthy of further research.

In relation to the research focus of this review, we wish to acknowledge Crockett and Preston's 1999 report which provided an extremely useful quantitative analysis of the gender pay gap in WA. The detailed disaggregation of the gap provided in their report is sufficiently recent to be able to inform the current analysis of the causes of the gender pay gap. Given the limited resources associated with this review, we have not replicated their statistical analysis.

In terms of the research on the WA context that preceded this review, two questions have remained unanswered. The first is why the gender pay gap is larger in WA than in the rest of Australia. The second is why there was such a sharp decline in WA women's relative earnings in the early 1990s. This review makes no attempt to answer those questions. We concur with the mood of the Reference Group that it was more important at this point to focus on strategies to address the gender pay gap than to invest further resources in attempting to answer these particular questions in relation to WA. The difficulties associated with identifying and quantifying all of the various factors impacting on women's earnings relative to men's are well known. Economists continue to describe the majority of the gender pay gap as 'unexplained' and the more extensive NSW Pay Equity Inquiry concluded that the factors were unlikely to be able to all be identified and measured precisely.

1.3 The Data Collection Process of the Review

We collected data from four main sources: previous research literature, submissions, interviews, and the reference group.

Literature

An extensive review was made of previous research literature into the gender pay gap and gender pay equity. There has been a very limited amount of research focusing specifically on WA, consequently much of the research was drawn from nationally- and internationally- based studies. There have been a number of inquiries by other governments – for example, New South Wales, Queensland, New Zealand, the United Kingdom , Canada – the reports from which provided fruitful sources of information and ideas.

Submissions

The public call for submissions to this review elicited 18 responses. Submissions were received from employer associations – representing both large and small employers, unions, professional associations, a government department, women’s groups and individuals. The full list is attached in Appendix 2.

We wish to acknowledge those who took the time to submit their views and research to the review. Many of the submissions were extensive, reflecting the investment of considerable time and effort.

Interviews

A series of interviews was conducted with stakeholders and experts (See Appendix 3). An initial round of interviews was conducted at the commencement of the review to assist us to identify critical issues and specific areas, within this otherwise broad topic, needing to be focused upon within the WA context. Another series of interviews was conducted towards the end of the review to enable us to clarify matters that had arisen during the review process.

We wish to acknowledge the time given to us by the interviewees. Every interview provided us with information critical to the shaping of the recommendations. We are grateful also to the DOCEP staff who, whilst not being formally interviewed, provided us with ongoing assistance and answered our numerous and regular questions; in particular, Alison Hall, Ted Anthony, Sean Reid, Brendon Entrekin and Kristin Berger.

Reference group

A reference group was formed to assist the reviewers to identify issues that may be causing the persistence of the gender pay gap in WA and in developing recommendations to reduce it (see Appendix 1 for the list of members). One meeting of the whole group was held early in the review to guide us on the issues of concern and the preferred boundaries for the review. Subsequently

small group meetings were held with most members of the reference group to obtain detailed feedback on aspects of the review most relevant to each person's expertise.

1.4 Definitions

The Terms of Reference for the review refer to the 'Gender Pay Gap' as well as 'gender pay equity'. There is substantial confusion and misunderstanding amongst the industrial parties and in the community about the meaning of these terms and how they relate to equal pay. For instance, within some of the submissions it became apparent that whilst the concept of equal pay was well understood the broader concept of gender pay equity was not. So it is essential to begin by defining each concept.

Gender Pay Gap: the percentage gap between the male average wages and female average wages. For example, in the February 2004 quarter, the average full-time male ordinary time weekly earnings was \$1027.20 whereas for women the comparable figure was \$794.90. This means that women's ordinary full-time earnings constituted 77.4% of men's, on average. The gender pay gap was therefore 22.6%.

Equal Pay: relates to men and women receiving the same rate of pay for work of equal or like value.

Pay Equity: equal remuneration for men and women employees for work of equal or comparable value. Pay equity has a broader meaning than equal pay. It extends beyond wages to include a range of forms of remuneration. It comprehends the valuation of work in terms of its intrinsic worth, on a gender neutral basis, rather than the value an employer may ascribe by rate of payment. It requires that all skills, responsibilities and other elements of work value are assessed objectively and transparently to ascertain the true value of work.

Prior reviews and inquiries, in Australia and overseas, show that achieving the outcome of pay equity is a process that demands multiple and systemic solutions. The overall goal might be fair wages for all women across all occupations and industries within the paid workforce. Crucially, however, the achievement of that goal will require finely-tuned strategies for different occupations and industries.

1.5 The Complexity of the Gender Pay Gap

The gender pay gap is frequently used as an indicator of women's progress and status in the labour market. Because it is based on average wages data, however, the measuring capability of the gender pay gap ratio provides us with limited information on gender pay equity. For example,

the gender pay gap in Australia differs depending upon the method of wage determination: it is narrower for those employees whose pay is determined by award-only, and greater in the higher paying individual and collective agreement streams. International comparisons illustrate how the size of the gap can vary between the lower and upper parts of the wage structure. In some European Union countries the gap is much larger at the top end of the distribution than at the bottom but in others it is reversed (Rubery et al 2002:7). Where the gender pay gap ratio includes wages data for full-time and part-time employees, and permanent and casual employees, again we need to delve deeper to find whether there are differing trends between these groups.

Given this complexity, the gender pay gap as a statistic is likely to mask conflicting trends in gender pay equity. Improvements in pay equity amongst some groups will not be apparent if there is a comparable deterioration amongst other groups. That causal complexity means that any attempt to close the gender pay gap must include a wide spectrum of strategies.

Of equal concern is the point that an improvement in the gender pay gap ratio may be driven by a deterioration in men's wages rather than an improvement in women's wages, as was evidenced in the United States during the 1990s (Whitehouse 2003). Therefore to assume that the male average wage is necessarily the desired optimal outcome – particularly at the lower end of the wages distribution – can mean ignoring the growing inequities in wage dispersion. As Whitehouse (2003:121) suggests, the concept of 'fair' wages becomes more important as wage dispersion increases.

1.6 Recent Trends and Outcomes in the Gender Pay Gap in Western Australia

In the February 2004 quarter the gender wage gap in the full-time WA labour market was 22.61%. In dollar terms this meant that women's average earnings were \$232.30 less than those of men. This was calculated on ordinary time earnings and as can be seen in Table 1.1, the gap increased to 25.81% when based on full time adult total earnings. The corresponding gaps at the national level were 15.20% and 18.79% respectively. WA women's average ordinary time earnings were 93.52% of their national counterparts, whereas the relativity between WA and Australian men was 102.47%.

When the average total earnings of full-time and part-time employees are taken together, the gender pay gap in Western Australia increases to 42.28%. This is not surprising given that the majority of part-time employees are women (see Table 1.2) but again this gap is considerably larger than that at the national level, of 34.31%.

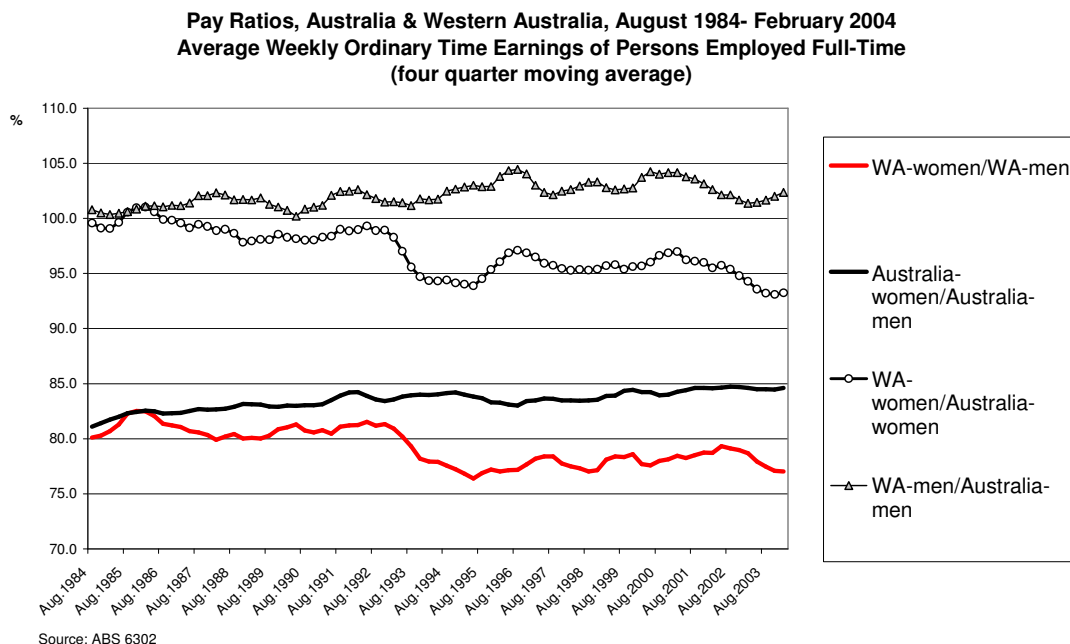
Table 1.1: Adult Employees in Western Australia and Australia, Average Weekly Earnings and Gender Wage Gaps, February Quarter 2004

	Men	Women	Gender Wage Ratio	Gender Wage Gap	\$-gender wage difference
Western Australia	\$	\$	%	%	\$
Full time adult ordinary time earnings	1027.20	794.90	77.39	22.61	-232.30
Full time adult total earnings	1086.80	806.30	74.19	25.81	-280.50
Total earnings	920.10	531.10	57.72	42.28	-389.00
Australia					
Full time adult ordinary time earnings	1002.40	850.00	84.80	15.20	-152.40
Full time adult total earnings	1067.10	866.60	81.21	18.79	-200.50
Total earnings	898.20	587.30	65.69	34.31	-308.20

Source: ABS 6302

Thus the pattern of lower relative earnings for women in WA continues to persist. Figure 1.1, prepared by the Women’s Economic Policy Analysis Unit, illustrates the trends in pay ratios between men and women in WA and Australia over the past 20 years.

Figure 1.1:



In June 2004, women’s labour force participation rate in WA was 57.6%, while men’s participation rate was 73.3%. Nationally, the corresponding figures were 55.5% (women) and 71.7% (men). Women’s participation rates in WA have been consistently higher than the national average and

have been growing steadily. By comparison, men's participation rates have been gradually declining.

The incidence of part-time work is slightly higher in WA than nationally (see Table 1.2) and is noticeably higher amongst WA women than nationally, 47.4% compared with 44.9%.

Table 1.2: The Percentage of Employees in Western Australia and Australia employed part-time, June 2004

	Men	Women	Total
Western Australia	14.29	47.40	28.9
Australia	14.68	44.90	28.13

Source ABS 6202

1.7 Why a Gender Pay Gap is a Problem

Gender pay inequity has economic, social and political consequences for individuals, business and governments.

For individuals and communities, improved gender pay equity is fundamental to gender equality, since it increases women's labour market attachment, financial independence and life choices. With pensions linked to life-time earnings pay equity is crucial to retirement security as well as to life chances in the labour market (Reed 2003:25). Many younger Australians aspire to a more equal sharing of work and family roles, rejecting the traditional male breadwinner/female home-carer model of an earlier era (Charlesworth 1999; Reed *et al* 2003). Yet that goal is undermined when women's incomes are lower than that of their spouses, since research (including international comparative) shows it is the lower paid woman who inevitably reduces her commitment to the paid workforce when the couple are struggling to balance work and family demands (Charlesworth *et al* 2002; Gregory 2002; Mumford and Pereira-Nicolau 2003). The unequal pressure of those demands also feeds into an Australian birth-rate well below replacement level, with women delaying motherhood until their early thirties, or even forgoing it altogether (Pocock 2003). The gender pay gap, therefore, poses crucial concerns for the viability and replacement of future communities and workforces.

At the other end of the gender division, men also tend to benefit from pay equity for women, since it has been shown to improve the wage outcomes of men working in jobs labelled women's work (USA statistics, from ICFTU 2003). An example of this is found in the NSW Crown Librarians, Library Officers and Archivists Award case (2002), where the decision recognised librarians and archivists as a profession which had been subject to historical devaluation. Substantial increases were awarded (16% av). The Commission accepted sufficient commonality for one award across

all worksites, leading to junior library technicians receiving an immediate 90% wage increase (Reed 2003: 23).

For business purposes, more equitable pay for women would counter currently inefficient labour market matching processes (Watts 2003). An assumption often made is that low wage jobs will stimulate employment. However, as Rubery *et al* (2002) show, low pay creates disincentives for women to participate in the labour market (see also Gregory 2002; Mumford and Pereira-Nicolau 2003). With Australian business highlighting skills shortage as a Number One concern, better utilization of women in the workforce can help secure that all-important skills base. Since gender pay equity has been shown to encourage better utilization of women's participation in the paid labour force, it can also address business concerns about the ageing population and its implications for labour market supply (Austen and Giles 2003). The International Confederation of Free Trade Unions (2003) cites further advantages to employers who promote pay equity. These include: simple, transparent and easily understood pay systems that send a positive message that all staff are valued (averts disputes); and pay reviews, which ensure equitable rewards and thus help improve morale, organisational effectiveness and reduced turnover costs.

For governments, the persistent gender pay gap poses similar problems, plus some additional ones. Since gender pay equity impacts on women's capacity to be economically independent it provides a means for governments to reduce women's claims upon state welfare both during their working lives and in retirement (Preston and Austen 2001; Austen *et al* 2002). Gender pay equity has implications therefore for government policy on the ageing population, for the development of viable and skilled labour markets and for governmental responsibility for the economic and social wellbeing of current and future communities and workforces.

Equally importantly, gender pay inequity contravenes a number of international conventions on equal remuneration and anti-discrimination to which the Australian Government is a signatory. One of the objects of the Federal Government's industrial relations (IR) legislation (initially the Industrial Relations Reform Act 1993 and subsequently the Workplace Relations Act 1996) has been to give effect to various International Labour Organisation and United Nations Conventions regarding equal remuneration and the elimination of discrimination. Current outcomes in terms of gender pay inequity are not in accordance with government commitments to ILO Convention 100 concerning equal remuneration for men and women workers for work of equal value and ILO Convention No.111 concerning discrimination in respect of employment and occupation.

1.8 Prospects for the Achievement of Progress in Women's Pay

There are those who argue that in the current context of decentralized bargaining and emphasis on markets, improvements in gender pay equity are unlikely (Probert *et al* 2002: 9). While such contexts provide constraints, progress is possible where political will is translated into action. The critical impact of the state upon equal opportunity in Australia has been highlighted by Jamieson (2004) and Preston and Burgess (2003). Given that a substantial proportion of WA women workers have their pay determined within the state IR framework then clearly the WA Government can advance policy which impacts positively upon gender pay equity.

The continuing prosperity of the Western Australian economy is currently delivering more economic benefits to men than it is to women. Those economic conditions should also be favourable for advancing gender pay equity. In the past, progress in gender pay equity in Australia has been associated with "a tight labour market, a mobilized women's movement, strong union support, supportive governments, and a centralized wages system that transmits gains quickly" (Pocock and Alexander 1999:88). Whilst there is no indication of change to decentralized bargaining, the state government can impact directly on gender pay equity through its roles as legislator, policymaker, administrator and large employer. This review suggests therefore that in WA a supportive government with the commitment of unions, employers and women's groups can achieve progress in women's pay equity, and hence the gender pay gap.

Part 2: The Causes of the Gender Pay Gap

2.1 Outlining and Explaining the Problem

There is a substantial body of research to explain the gender pay gap both in Australia and internationally. This research provides a comprehensive picture of the factors which contribute to gender pay inequity.

We begin by considering the usefulness and limitations of human capital theory. We then look beyond to the important institutional, sociological and organizational factors that human capital theory cannot adequately accommodate. We conclude with an overview of the previous research on the gender pay gap specifically in WA.

2.2 Human Capital Theory and its Critics

Within economic literature, human capital theory provides the dominant framework for analysis of wage determination. Human capital theory has an important role to play in analyzing the contributors to gender pay inequity – for example, an improvement in the level of female labour market experience helped to reduce the gender pay gap in Australia in the 1980s by about one-quarter (Preston and Crockett 1999:565)

Human capital theory views women's choice of employment and consequent remuneration as the outcome of their rational human capital investment decisions. The starting premise is that women's 'choices' are influenced by their role in social reproduction. Within this framework women may invest in less training and spend less time in the workforce due to their decision to produce children. Traditionally this approach has been used to explain occupational sex segregation and women's lower level of earnings. More recently, human capital researchers have also argued that women may be choosing to place a greater weight than men do on non-wage benefits such as convenient hours and leave arrangements, and that this may also assist in explaining gender pay inequity (Wooden 1999; Hakim 2002).

These econometric studies have been extended to include demographic factors (such as marital status, children) and job characteristics (including occupation, industry, full-time/part-time, casual/permanent, public/private sector etc). This research has contributed a more detailed picture of how the nature of the individual's employment might play a role in explaining the pay gap. It has also enabled detailed analysis of the implications of occupational segmentation for pay outcomes for men and women.

Despite its usefulness, many analysts have recognized the limits of a human capital perspective on gender pay inequality (see O'Donnell 1984; Sharp and Broomhill 1988; Whitehouse 2003; Rubery *et al* 2002; Short 2004). Firstly, it reveals nothing about the large unexplained component it labels as discrimination. For example, it fails to explain why as improvements have occurred in women's education and labour market participation the gender pay gap has not closed further. As Pocock and Alexander (1999:81) ask, why is it that women in the Australian labour market receive a lower return for completing a degree than men do? Or, as Rubery *et al* (2002:5) inquire, why is it that there are such wide differences in returns to women's productivity characteristics by country? Secondly, human capital theory adopts a narrow interpretation of 'discrimination' by ignoring the systemic social and cultural factors that shape the educational and employment differences between men and women. Suggestions that women may 'choose' particular occupations, educational streams and part-time work must recognize that these choices occur within a socio-economic context that can constrain their options in terms of education, careers and aspirations long before it becomes a matter of their individual choice or decision making (Bergman 1989; Sharp and Broomhill 1988). As Bergman (1989) argues, reductions in education or tenure, brought about by disincentives for women to acquire additional qualifications, or to remain in the workforce, would not be counted in the measures of gender difference produced by standard economic models.

Critiques of human capital theory's inadequacy in explaining the gender pay gap are growing within the econometrics field itself (Gregory 1999; Crockett and Preston 1999). To this end Preston and Crockett (1999:Table 1, p.566) provide a succinct summary of an array of econometric studies into the gender pay gap in Australia. They show that these studies separate the gender pay gap into explained and unexplained components. Most of the Australian studies have found that less than one-quarter of the gender wage gap is due to differences in the characteristics of men and women and that therefore three-quarters remains unexplained and is assumed to represent the effects of discrimination (Preston and Crockett 1999:565). Preston and Crockett argue that standard economic models fail to question the legitimacy or supposed gender neutrality of the observed relationships they are measuring (for example that between education and wage outcomes). Yet these relationships are likely to reflect managers' valuation of what constitutes a productive/committed worker and thus also reflect prevailing gender-based stereotypes and norms. Such critiques suggest that improvements in the human capital endowments of women may well help to narrow the gender pay gap. However, they also clearly show the limitations of a human capital approach. It follows that since that theory cannot explain the majority of the gap it can offer only minimal guidance on how to remove it.

It is essential therefore to look beyond standard economic models in order to craft the appropriate policies and strategies to explain and address the gender pay gap.

2.3 The Problem of a Sex-segregated Labour Market

A major explanation of the gender pay gap is that men and women do different jobs. Findings on the sex-segregated labour market point to the critical importance of comparable worth assessments attached to women's traditional jobs. Australia has one of the most sex-segregated labour markets among the OECD countries. Pocock and Alexander (1999:88), in their study utilizing the 1995 AWIRS data, concluded that "between 58 and 81% of the gender pay gap is associated with being in feminised work (whether occupation, industry, workplace or job-cell)." Their results found the largest individual effect was for concentrations at the industry level:

"women in industries that were close to 100per cent female-dominated earned 32per cent less per hour than women with otherwise identical characteristics in industries that were close to 100 per cent male-dominated. At the occupational level...the penalty for women being in a highly feminised occupation, compared to one that is male-dominated, was 15 per cent. Women working in totally female-dominated workplaces...suffered an earnings penalty of 18 per cent, while those in a highly feminised occupation within a particular workplace (that is a highly feminised job-cell..) incurred a penalty of 14 per cent."

Recent studies of registered enterprise agreements have also associated industry with wages outcomes. The highest average annual wage increases were found in male dominated industries while the lowest increases were found in female dominated industries (Heiler, Arsovska and Hall 1999; Whitehouse and Frino 2003). When Heiler *et al* separated out the 'high wage' and 'low wage' agreements to better understand wage trends within industries, once again the analysis reflected gender difference. The male dominated construction industry was the only industry with a large cluster of high wage agreements. Those industries which had no high wage agreements were agriculture, textile clothing and footwear manufacturing, banking, recreational and personal services. With the exception of agriculture these industries have high rates of women's participation. Within the manufacturing industry low wage agreements tended to be located in highly feminised sectors rather than in minimally feminised sectors.

With regard to occupational segregation, Miller (1994) found a gender earnings gap of approximately 6% as a consequence of unequal remuneration of otherwise comparable male and female jobs. Wooden (1999:166) concluded that unequal remuneration of male and female occupations was resulting in an earnings differential between men and women of about 4%, or about one-third of the gender pay gap.

Despite changes in women's educational attainments and labour force participation rates, there has been very little change in the overall level of gender segmentation in the Australian labour

market. Yew and Miller (2003:2) estimate that up to “one half of women would need to change their occupation in order for their occupational distribution to be congruent to that of males.” Given that the occupational distribution has remained so stable over the past few decades – a period of substantial change – there is little reason to presume change in the foreseeable future.

2.4 Job Value/Comparable Worth

The value attached to jobs and skills associated with female and male labour respectively is another key factor that is put forward to explain the gender pay gap. Many argue that the paid work of women has been undervalued and that attempts to describe it have received little recognition (Cox and Leonard 1988; Hunter 1988; Acker 1989; Pocock 1988). Feeding this undervaluation is the assumption that certain types of work – e.g. caring for people, jobs involving manual dexterity – are more suited to women because of their supposed innate abilities. The assumption that women’s skills are ‘natural’, rather than gained through training and work experience, has helped develop the notion that such work is therefore unskilled. The critical problem associated with this lack of skills recognition, particularly in service positions, has been how to define ‘skill’ and ‘worth’ so as to more thoroughly recognize and reward work performance in female-dominated occupations and industries (Probert *et al* 2002:6).

Much of the pay equity movement in North America has focused on comparable worth. While analysts note the success stories associated with the comparable worth campaigns in Canada and parts of the U.S., they lament the limits of such action (see Hallock 1999 and Reed 2002, for useful descriptions). On the one hand, the comparable worth campaigns identified very consistent gender pay differentials and increased wages in some female-dominated jobs. On the other hand, the actual impact of those campaigns on the gender pay gap was small, while pay increases were less than expected. The process regularly resulted in lengthy legal contests which were expensive, time consuming and generally frustrating for those involved. Hallock (1999:69) concludes “The decentralized approach whereby workers try to achieve pay equity at individual firms and organizations, yield unimpressive results for the magnitude of sweat and tears required.” Hence the pay equity movement in North America has broadened its focus beyond comparable worth to ‘living wage’ or ‘fair pay’ campaigns, particularly focusing on low paid jobs (Figart *et al* 2002; Hartmann 2004). In the United States in particular, such campaigns appear to be losing ground, with the gender pay gap widening in 2003 to be at its highest level since 1999 (Feminist Majority Foundation Sept 2, 2004).

In Australia, the implementation of comparable worth has proven extremely difficult. While the 1972 ‘equal pay for work of equal value’ case led to a significant decline in the gender pay gap during the 1970s, its implementation was only partial (see Short 1986 for further detail).

Consequently the Australian Council of Trade Unions took a case to the Australian Industrial Relations Commission (AIRC) involving nurses who had not benefited from the 1972 decision. In this case the AIRC rejected comparable worth using Points Factor Job Evaluation as being incompatible with Australia's wage fixing principles (Short 1986:329). The Commission concluded instead that the ACTU had to base its pay equity claims on the established Australian concept of work value (Probert *et al* 2002: 9).

At an organizational level, job evaluation techniques have been utilized as seemingly objective tools to analyse jobs. These techniques rank a job according to such elements as knowledge, problem solving, responsibility and accountability and the aim is to provide a numerical score that can be compared with the scores for other jobs and subsequently determine a market rate for similarly ranked jobs. Job evaluation systems, however, have been criticized for their inept interpretation of some aspects of traditional female duties and skills (Probert *et al* 2002:6; Hallock 1999; Acker 1989). In particular, it has been argued that the more subtle skills involving human services have been undervalued compared with the more obvious skills associated with using technology (Probert *et al* 2002: 6). Job evaluation is dependent upon accurate description of the tasks associated with a job and again gender bias has been found to enter at this point in terms of the stereotypes and assumptions impacting upon job descriptions.

2.5 Undervaluation: Pay Equity Inquiries and Equal Remuneration Principles

As outlined above, the implementation of 'equal pay for work of equal value' has been difficult in Australia. The 1998 NSW Pay Equity Inquiry is regarded as having charted a new course for understanding and addressing the undervaluation of women's work and the subsequent Equal Remuneration Principles developed in NSW, Tasmania and Queensland are viewed as providing much better possibilities for the implementation of equal remuneration in Australia. Hence, a detailed outline of the NSW Inquiry, the subsequent Inquiries in Tasmania and Queensland, and the resultant equal remuneration principles is provided within this sub-section.

Federally the Industrial Relations Act 1988 was amended in 1993 to include equal remuneration provisions and these were subsequently included in the Workplace Relations Act 1996. The option of pursuing cases under these provisions in the Federal legislation has provided the opportunity for two test cases which amounted to exercises in comparable worth. However, as both these cases achieved negotiated settlements, the opportunity to set a pay equity precedent was lost (Reed 2002: 13-14). With the Federal climate becoming increasingly conservative and deregulated, and with industrial relations tribunals discouraging of gender pay equity cases (Jamieson 2004:10), the focus has shifted to the states.

Focusing on NSW, in 1997 a Pay Equity Taskforce, comprising representatives of employer organisations, unions, government agencies, women's organisations and academic experts, recommended a Pay Equity Inquiry. Conducted by Justice Glynn in 1998, the central focus of the Inquiry was how work can be evaluated and remunerated without that being affected by the sex of the workers. The Inquiry used case studies to investigate the history of wage fixing in the occupations studied and to identify the extent to which institutional arrangements influenced remuneration in ways that favoured one occupation over another.

The Inquiry identified undervaluation of female-dominated work in all the areas in which detailed case studies were considered, thus gender-related undervaluation was found to be persistent.

The Report listed a range of characteristics of occupations that make undervaluation more likely:

- female dominated occupation
- female characterisation of work
- often no work value exercise by the Commission
- inadequate equal pay application
- weak union, few union members
- consent award/agreements
- inadequate recognition of qualifications (including misalignment of qualifications)
- little access to training or career paths
- large component of casuals
- small workplaces
- new industry or occupation
- service industry
- home based occupations (Hall 2004: 27-28)

The main recommendations of the NSW Pay Equity Inquiry were:

- valuing of work should be objective, transparent and non-discriminatory;
- the concept of gender-related undervaluation is central to the equal remuneration provisions and does not require proof of discrimination;
- that comparators are not necessary in establishing the value of work;
- no specific proportion of an occupation, industry or enterprise workforce should be required to be women as a condition for access to equal remuneration provisions (Hall 1999:43).

The Inquiry concluded that the collective industrial system provides the most effective means to rectify pay equity but that some legislative change and new equal remuneration principles were required.

The NSW Industrial Relations Commission established a new Equal Remuneration Principle in 2000, much in line with Justice Glynn's proposals (IRC of NSW File No. ARC 1841 of 1999). A copy of the NSW Principle is attached in Appendix 4. In sum, the NSW Equal Remuneration Principle

- allows for fresh assessments of the value of work and the rates of pay in an award where the current rate is undervalued on a gender basis
- ensures that the reassessment of the value of work is gender-neutral
- allows comparisons to be made across dissimilar work, industries and industry sectors, employers, and across enterprises
- is limited to awards, although account can be taken of actual rates paid (including overaward payments and payments under enterprise agreements and contracts) where they reflect the value of work
- provides a range of measures to remedy gender-related undervaluation
- includes a range of economic safeguards. (Hall 2004: 29).

The Principle does not:

- require a specific gender proportion in the occupation or group making the claim
- require a male (or any) comparator
- require the use of any particular method of evaluating work (job evaluations, independent experts etc.)
- require proof that discrimination was/is the cause of a gender-related pay disparity
- require the case to be made out within a particular enterprise, occupation, industry, or single employer
- exempt any bases of gender-related pay disparity (for example, seniority, market factors, job evaluation schemes etc). (Hall 2004:30).

There has been only one arbitrated decision (for librarians and information workers) under the new equal remuneration principle. However, Hall (2004:8) reports that pay equity issues have been considered in other cases including for nurses, psychologists and pre-school teachers, demonstrating how increased awareness of equal remuneration issues is spreading in the NSW industrial system.

By 2001, two other state jurisdictions had followed the lead of NSW in convening an Inquiry and then endorsing an Equal Remuneration Principle. Each has recognized the value of the NSW Inquiry and its subsequent Equal Remuneration Principle, but they nonetheless reworked that Principle to suit their particular industrial relations regimes.

The Tasmanian Pay Equity Taskforce, established in 1999, accepted the findings of the NSW Pay Equity Inquiry and recommended the adoption of an equal remuneration principle as the most effective *“mechanism in this State for working women to find adequate remedy for the undervaluation of their work”* (Review of Wage Fixing Principles T8413 of 1999 and T8483 of 1999). On July 6, 2000, the Tasmanian Industrial Commission adopted a Pay Equity Principle as part of its Wage Fixing Principles. Unlike the NSW jurisdiction, the Tasmanian Industrial Relations Act 1984 makes no specific reference to pay equity, work of equal value or equal remuneration. Nonetheless, the Tasmanian Commission found that its general powers of equity, good conscience and the merits of the case and public interest requirements provided sufficient basis to introduce the principle. A copy of the Tasmanian Principle is attached in Appendix 5.

In Queensland, the terms of reference for its Pay Equity Inquiry, conducted by Commissioner Fisher in 2000, included a specific comparison with the findings, recommendations and outcomes of the New South Wales and Tasmanian Inquiries, for:

- a) the purposes of determining the extent of pay inequity in Queensland,
- b) the adequacy of Queensland legislation for achieving pay equity, and
- c) for the drafting of a pay equity principle which might be adopted in Queensland (QIRC 2001:1).

The Queensland Inquiry found that the industrial relations jurisdiction in Queensland was already well equipped to progress pay equity cases and that the main task was to implement amendments which would remove existing ambiguities and replace them with wage-fixing principles enabling certainty for the industrial parties.

The Queensland report found the findings of the NSW Inquiry, on the process of historical undervaluation, to be directly relevant to Queensland and supported and adopted them. Justice Fisher decided that the scope and detail of the six case studies conducted for the NSW Inquiry should be replicated in Queensland to ascertain whether similar conclusions applied. The subsequent research, conducted by Griffith University, confirmed that the profile of undervaluation indicators developed in NSW were relevant to Queensland. The researchers found that in most of the Queensland studies there were:

- Lack of career path
- Female characterisation of work
- Absence of effective work evaluation examinations
- Low unionisation
- Lack of or inadequate recognition of qualifications
- A large proportion of casual employees (QIRC 2001:4).

In order to demonstrate how undervaluation occurs in female-characterised occupations the Queensland Inquiry conducted its own case study of dental assistants. The case study revealed sets of skills and responsibilities that had not previously been taken into account in the remuneration of dental assistants, namely “delegated responsibility or authority, communication and interpersonal skills, anticipatory skills, dexterity, close concentration and accuracy, multi-tasking, organizational skills and domestic skills” (QIRC 2001: 5).

In comparing the relevant NSW and Queensland legislative provisions, the Fisher report concluded that the Queensland legislation provided a better starting point for achieving pay equity

provided “stakeholders were to address the issues”. Moreover, although the Industrial Relations Act 1999 had no express provision for equal remuneration the report found that “legislative provision relating to making, amending and reviewing awards enable the Commission to remedy undervaluation of work”, through Chapter 2 Part 5 of the Act which allowed for orders overriding industrial agreements, including certified agreements (QIRC 2001:2). Despite such a sound and extensive basis of possibility the Inquiry considered that “certain legislative reform is necessary to ensure consistency and certainty among the various provisions of the Act which are relevant to pay equity” (QIRC 2001: 2).

As in the NSW Inquiry, a key recommendation in Queensland was for the Commission to adopt an equal remuneration principle which does not require gender discrimination in order to establish undervaluation at work. The Queensland Principle differs from the NSW one in which equal remuneration can be applied only to awards. Orders made under the Queensland Principle can also be applied to “employees whose wages and conditions are not governed by an industrial instrument” (QIRC 2001: 54). The Inquiry also recommended a number of amendments to the Industrial Relations Act 1999, including specific requirements on the Commission to refuse to certify an agreement unless satisfied it ensures equal remuneration for all men and women employees of the employer and for all men and women covered by the agreement for work of equal or comparable value. The Inquiry also recommended that legislative amendment was necessary to settle debates over the meaning of the term “remuneration” and that “for any matter involving pay equity or equal remuneration, ‘remuneration’ bears the meaning of ILO Convention 100 Article 1 (a)” (QIRC 2001: 75).

The Queensland Equal Remuneration Principle builds on the traditional elements of work value, with the exception that the Principle deletes the need to demonstrate changes in work value, and adds another element called “other relevant work features”. These latter include matters such as the “regular working of unpaid overtime or the undertaking of training in the employees’ own time at the employees’ expense” (QIRC 2001: 6). Moreover, in the interests of providing certainty, the Principle provides firm guidelines about the type of matters to consider in assessing the valuing of work including:

- (i) whether there has been some characterisation or labeling of the work as “female”;
- (ii) whether there has been some underrating or undervaluation of the skills of female employees;
- (iii) whether remuneration in an industry or occupations has been undervalued as a result of occupational segregation or segmentation;
- (iv) whether there are features of the industry or occupation that may have influenced the value of work such as the degree of occupational segregation, the disproportionate

representation of women in part-time or casual work, low rates of unionisation, limited representation by unions in workplaces covered by formal or informal work agreements, the incidence of consent awards or agreements and other considerations of that type; or

- (v) whether sufficient and adequate weight has been placed on the typical work performed and the skills and responsibilities exercised by women as well as the conditions under which the work is performed and other relevant work features.

A copy of the Queensland Principle is attached in Appendix 6.

An LHMU case building on the findings of the case study on dental assistants undertaken by the Pay Equity Inquiry in 2000 was lodged in 2003 under the new Equal Remuneration Principle set by the Queensland Commission after the Inquiry. Another claim is underway for child care workers and it is noted that Queensland unions will be focussing on pay equity cases for the next five years (Hall 2004:29).

The Queensland Inquiry recognized the significant costs involved in mounting a work value case, even when an equal remuneration principle is adequately spelt out to avoid ambiguity and uncertainty. Funding (to a total value of \$50,000) can be made available to industrial parties in equal remuneration cases, subject to an agreed case plan. Unions in the first two cases to be taken under the new principle, the dental assistants and childcare cases, have gained approved funding (Hall 2004:8).

In summary, the Equal Remuneration Principles developed in NSW, Tasmania and Queensland are regarded as providing the opportunity to address undervaluation of women's work within those states, albeit that it is acknowledged that it will be a slow and arduous process.

2.6 The Industrial Relations System

The gender pay gap in 2004 is a legacy of the last century of wage determination in Australia. As is well known, the 1907 Harvester decision established the concept of wages being determined on a needs basis. A man's need was to provide for a family and therefore to be paid a family wage, while a woman's was to provide only for herself and therefore to be paid 54% of a man's wage. Because occupations were strictly segmented along gender lines, the discriminatory pay rates were applied to occupations; that is female rates for female occupations. This then protected men's jobs by ensuring that employers had to pay the full male rate to any women employed in male occupations and industries.

In 1969 the first equal pay case was taken in the Australian Conciliation and Arbitration Commission. However, the ruling that equal pay was to be paid for equal work only assisted approximately 18% of women workers at that time who were working in male-dominated occupations/industries (Deery and Plowman 1985:310). The 1972 Commission's decision to extend equal pay to work of equal value was more far reaching, resulting in the end of separate male and female job classifications and pay rates in awards. But while the articulated rules changed, the entrenched social norms which influenced what constituted a fair differential were not so easily reformed. It appears that in numerous cases, instead of evaluating former female job classifications systematically, they were simply transferred to the lower end of what had been the men's pay classification (Interview Mayman and Ozich 16/4/04; Short 1986). Indeed there are those who argue that the legacy of the gendered needs analysis of the male breadwinner and the women's work supplementing the family income continues to influence wage determination today. The current Federal Government's portrayal of the typical woman worker as a part-time income earner does nothing to encourage the parties involved in pay setting to think otherwise.

The gender pay gap narrowed rapidly in the 1970s as Australia's highly centralized wage determination system, administered through the Conciliation and Arbitration Commissions, enabled gains made in women's wages in some areas to be flowed on to others through the awards. Indeed, cross-national analysis attributed Australia's comparatively low gender pay gap to its centralized wage fixation processes (Gregory *et al* 1989; Whitehouse 1992). Thus it was not surprising that in the debates surrounding the introduction of enterprise bargaining and the provision for individual agreement making, the risks for women were emphasized and a widening gap was predicted. Commentators claimed that women were in a weaker bargaining position relative to men due to a number of factors: lower levels of unionization, concentration in occupations whose productivity gains were more difficult to demonstrate – such as service and caring areas, concentration in small business and part-time/casual employment (Bennett 1994; Hall and Fruin 1994; Hammond 1994).

Enterprise bargaining was introduced in 1991 and increasingly deregulated to allow for non-union collective agreements and individual agreements. This increased the options by which wages and conditions could be determined in Australia. Given the gender segmentation of the labour market, any change in pay policies can be expected to have differing gendered effects. In assessing the gender pay gap post 1991, one might conclude that as it has not widened, enterprise bargaining has not had the predicted impact on women's remuneration in particular. A closer analysis, however, suggests that the stability of the gender pay gap throughout the 1990s disguises numerous trends.

The first consequence to be noted in relation to enterprise bargaining has been the increased wages dispersion (Heiler *et al* 1999; Whitehouse 2001). This has resulted in growing inequality in men's wages with low paid men doing worse (Preston 2003). This then disguises the poor wage outcomes for women as well as increasing inequity in Australian pay outcomes.

Secondly, the adoption of enterprise bargaining has resulted in a fragmented bargaining system in Australia with wage negotiations occurring within a variety of bargaining streams. Therefore to fully understand the impact of enterprise bargaining upon the gender pay gap, it is necessary to examine the pay outcomes by gender between and within the varying streams. We begin by outlining the distribution of men and women between the various forms of wage determination.

2.7 Wage Determination

Recent studies using ABS data show that women are much more over-represented in the award-only stream and under-represented in the unregistered individual agreements stream (Preston 2003; Whitehouse and Frino 2003)

Table 2.1: Distribution of Male and Female Employees and Average Weekly Total Earnings, by Agreement Type, May 2002

	% Employees(a)		Average Weekly Total Earnings	
	Males	Females	Males	Females
Award-only	15	26	507.2	366.7
Registered collective	35	38	891.0	624.4
Registered individual	2	2	987.3	674.7
Total	100	100	834.1	554.0

(a) Columns do not add to 100 because unregistered agreements are not included in the Table.

Source: Whitehouse and Frino (2003:581). They utilized ABS Employee Earnings and Hours Survey data to compile the Table.

The significance of this becomes clear when it is observed that the award-only average weekly earnings are substantially less than those earned in the other streams, for both males and females. This is likely to increase further as average wage increases are lower for the award-only employees than for employees covered by agreements.

Having established that there is an earnings differential between streams, Whitehouse and Frino (2003) take their analysis one step further and consider the earnings differential within each stream. As can be seen in Tables 2.1 and 2.2, men's average pay based on hourly earnings data

is greater than women's in all three streams. The gap is narrowest for the award-only stream; that is, the category with the most depressed earnings.

Table 2.2: Female/Male Pay Ratio Based on Hourly Total Earnings for Non-Managerial Employees by Agreement Type, May 2000 and 2002, (%)

	May 2000	May 2002
Award-only	97	96
Registered collective	89	89
Registered individual	85	87
Total	90	89

Source: Whitehouse and Frino (2003:582). They utilized ABS Employee Earnings and Hours Survey data to compile the Table.

So the distribution of female employment between wage determination streams and the inequalities within the streams is contributing to the overall gender pay gap. Whitehouse and Frino (2003:584) estimate that if you equalized male and female average hourly earnings within each of the streams, this would improve the gender pay ratio by eight percentage points. Or they suggest that if female award-only employees received the same level of average wages as females covered by registered enterprise agreements (for example, by raising the safety net), this would raise the gender pay ratio by approximately six percentage points.

Analysis of registered collective agreements provides further insight into the causes of the gender earnings inequality within this particular bargaining stream. Simply put, it has been found that male dominated agreements have generally delivered higher increases than female dominated agreements (Whitehouse and Frino 2003:586; Heiler *et al* 1999:112; DEWRSB 1998; Hall and Fruin 1994). In the most recent study, Whitehouse and Frino (2003:586) estimate that annual wage increases in male dominated agreements have been, on average, 4.7% compared with 3.7% in female dominated agreements. This outcome is found to be largely due to the industries in which female employees are located and the comparative lack of union coverage in those workplaces. Heiler *et al* (1999:125) concluded that “union involvement is a more important factor than industry location in the determination of wage outcomes”; Whitehouse and Frino (2003) concur with this but suggest that the outcome is industry-dependent.

A number of commentators have pointed out the need to look beyond wages outcomes when assessing gender equity in relation to enterprise agreements. For example, Wooden (1999) cautioned against focusing solely on earnings when assessing gender equity as this would ignore the value employees attach to other conditions associated with work such as leave arrangements, working time flexibility, physical comfort etc. He hypothesizes that perhaps women

place a greater weight on non-wage benefits than men do. Harbridge and Thickett (2003) reviewed collective agreements in New Zealand and found that the 'mainly female' agreements contained better leave conditions – annual leave, bereavement leave, separate domestic leave and more likely to receive some form of paid parental leave – than the 'mainly male' agreements. Women fared worse in the area of long service leave, however.

Findings from the studies of collective agreements by Heiler *et al* (1999) and Whitehouse and Frino (2003) provide some interesting points in relation to this question of whether there may be gender differences in the conditions included in the agreements in Australia. Heiler *et al* (1999) focused on hours of work and concluded that “male and female-dominated industries are being affected by the erosion of working time conditions in different ways.” This occurs through:

“...more 'open-ended' working time provisions, such as extended span of ordinary hours and reduced penalty rates for weekend and evening work, were concentrated in disproportionately feminised service sector industries such as retail/wholesale trade, financial services and recreational and personal services...However, more 'structured' working time provisions such as 12 hour shifts, shiftwork and the specific removal of allowances and penalties for shift work and overtime were more strongly associated with male-dominated industries such as mining and construction, and transport and storage” (pp. 119-120).

Heiler *et al* (1999) also found that “hours of work provisions that affect working time and compensation adversely are more likely to be found in low wage increase agreements and in non-union agreements”. They concluded that their findings “refute the suggestion that women may be trading off pay for better working conditions” (p.122). Given that women are more likely to be located in industries with low wage increase agreements and are also more likely to be in lowly unionized workplaces, then they are more likely to be encountering both lower than average wage increases plus disadvantageous hours of work provisions in their agreements.

Similarly, Whitehouse and Frino (2003) examined hours flexibility provisions that may impact on earnings, in particular, ordinary working days provisions and time-off-in-lieu (TOIL) arrangements. They found that ordinary working days provisions were more likely to provide greater access to penalty rates in male-dominated than female-dominated agreements. In addition, the latter were less likely than the male-dominated agreements to include TOIL at overtime rates (pp.587-588). These differences were seen to reflect industry location and union presence. Finally, their analysis found no support for the hypothesis associating the trading off of penalty provisions for higher wage increases. Whitehouse and Frino (2003:591) found that the 'double burden' of lower wage increases and penalty reduction measures was more likely.

2.8 Minimum Wage Systems

The importance and potential impact of minimum wage systems is evident in the prior discussion on the consequences of fragmented bargaining arrangements in Australia. Minimum wage edicts can counter the wage dispersion trend and address the inequities of the low paid group. The establishment of new national minimum wage systems in the U.K. and Ireland have benefited women workers and part-timers (Rubery *et al* 2002:15).

Effective implementation of minimum wage protection is described as 'critically important' for gender pay equality by Rubery *et al* (2002). Women are more likely than men to be located in workplaces in which they have limited scope for collective bargaining and are more likely to be concentrated in jobs affected by minimum wage regulation.

Rubery *et al* (2002:18) highlights the contradiction in wages policymaking in a number of countries within the EU in relation to the gender pay gap and the minimum wage. While policymakers are advocating policies to reduce the gender pay gap, policy towards low pay is being driven by employment creation objectives; that is, they are assuming that lower pay will stimulate the development of low wage jobs. The latter clearly impacts negatively on the gender pay gap, being likely to result in new forms of gender stratification and continuing disincentives to female participation in the labour market.

2.9 The Role of Unions

Unions play a critical role in wage determination which means their potential impact on gender pay equity is significant. The literature portrays unions as impacting both positively and negatively upon the gender pay gap. On the one hand, the Australian union movement has presented a limited number of pay equity cases to the tribunals and, on the other hand, they have been complicit in the undervaluation of women's work. The Australian union movement has been historically male dominated and has sought to protect men's jobs and pay rates, a legacy which it continues to address (Pocock 1997). Women's lack of participation in bargaining has contributed to the difficulties associated with correcting the undervaluation of women's work (Probert *et al* 2002:7). Wage settlements negotiated between union officials and employer representatives often lacked transparency, while consensus arrangements provided little opportunity for tribunals to question the impact of the agreed outcomes upon gender pay equity (Pocock 1999:3; Jamieson 2004:5).

The relationship between union coverage of an industry and/or workplace and annual wage increases was highlighted in the previous sub-section. Similarly Pocock and Alexander (1999)

found that high levels of union density at the workplace were associated with higher wage rates. For women, however, the impact was less than for men.

2.10 Training

Accessing training and career development opportunities is influential for skill acquisition and consequent career and pay progression. For many years, literature reported women workers experiencing lower access than men to participation in training (e.g. Green 1991; Booth 1991; Greenhalgh and Stewart 1987). More recent studies, such as those of Wooden and VandenHeuvel (1997) of training in Australia and Green and Zanchi (1997) of training in Britain, suggest a lessening of this trend. Green and Zanchi (1997:635) conclude that “there has been a convergence in the experience of women and men regarding access to training in Britain”. Wooden and VandenHeuvel (1997:631) state “that the pattern of participation in training has been changing in favour of women”.

In arriving at these conclusions, the authors have controlled for personal and job characteristics that are known to influence access to training, yet it is these very characteristics that particularly impact on women workers. So while such studies might report that ‘unjustified’ discrimination against women in the provision of training has diminished, they are far from showing that all women workers have equal access to training.

Factors that have been identified as impacting on employees’ likelihood of receiving training from their employers include occupation, industry, size of employer, nature of employment, length of service, education level, age, marital status and carer responsibilities. An analysis of training in Australia showed that there was less training in feminised industries (Wallace 2000) and most studies concur that substantially more training is invested in those in high-level jobs. More structured training occurs within the public sector than in the private sector and larger organizations are more likely than smaller organizations to provide training (Keaveny and Inderrieden 1999; Miller 1994a; Wallace 2000). It has been well documented that part-time work affects access to training and, similarly, that employers are more likely to provide training to permanent than casual employees (Whittard 2003; Green and Zanchi 1997; Miller 1994a; Tisdall 1999). In terms of personal characteristics, there is evidence from a number of studies that caring for children reduces training probability (Roussel 2002; Whittard 2003; Miller 1994a). Interestingly, Miller (1994a:546) reported that “the presence of a child aged 0-2 is associated with a large reduction in the probability of females undertaking structured training while the incidence of training across males is not affected by this characteristic”. Level of education has been identified as a strong influence on the distribution of in-house training (Miller 1994a:550) and

finally, that younger rather than older women are more likely to be discriminated against in the provision of training (Miller 1994a; Green 1991).

It is not surprising that employers would choose to invest in those employees whom they perceive to have the stronger labour force attachment; that is, full-time, permanent, longer period of time in their employment. Moreover, even in the case of an employer with the stated intention of including part-time and casual employees in their training and development program, the non-standard employees encountered less opportunities to participate (Whittard 2003). With considerable growth of part-time and casual employment in Australia, policymakers face major challenges in generating an equitable training climate for large numbers of women.

Finally, it is worth noting Wallace's (2000) observations on gender in relation to the National Training Reform Agenda (NTRA). The NTRA was the major initiative from 1989 to improve human resource development in Australia. While it ceased to exist in 1996, its work has been carried on by the Australian National Training Authority (ANTA). Wallace commented that while NTRA aimed to be inclusive, women were not targeted as a group specifically needing to benefit from this initiative to increase training and development. ANTA(2004) has recently acknowledged the need to better address women's issues in vocational education and training and have released a policy paper with strategies to achieve that. The diversity of women is recognized with specific strategies relating to indigenous women and cross-referencing to their strategies for people with a disability.

2.11 Work and Family

Caring responsibilities result in significant pressures on participation in paid work. When communities show a lack of support to enable employees to balance work and family needs it is women who bear the consequences of those pressures. Having children has a positive impact on men's wages but a negative impact on women's (Preston 1997; Pocock and Alexander 1999). Numerous studies have itemized the significant costs to mothers in terms of reduced lifetime earnings (Gray and Chapman 2001). And motherhood appears to impact more severely on women's employment participation rates in Australia than it does in other comparable countries, suggesting that the barriers to combining parenting and paid work here are more substantial than in most other OECD countries (Campbell and Charlesworth 2004).

Analysis of the impact of motherhood upon women's participation in paid work shows that it usually results in a series of labour market transitions (Pocock 2003; Campbell and Charlesworth 2004). Women today generally make temporary withdrawals for varying periods of time both at the time of giving birth and during the early years of child rearing but continue to seek to re-enter

paid employment. For example, Glezer and Wolcott (1997, cited in Campbell and Charlesworth 2004:10) reported the finding from the 1996 Australian Family Life Case Study that 87% of women with a child aged 0-4 years who were not in paid work declared their intention to return to the paid workforce. Thus today's model of female participation in the labour market differs enormously from the old male breadwinner/female homemaker model in which women exited the paid workforce permanently upon entering motherhood. The statistics illustrate this: the employment rate for mothers with dependent children has increased from 45.6% in 1985 to 60.4% in 2003. Pocock's (2003) disaggregation of the data shows that the highest level of withdrawal from paid employment for mothers occurs when the child is under one. However, women's re-entry to the workforce increases quite quickly as the youngest child moves beyond this early stage of infancy and at this point the option of part-time work is clearly important. In 2003, 35.4% of mothers with dependent children were employed part-time, and 27.5% full-time, the remainder not in paid employment.

Thus the critical point to be drawn here is that the workplace and society needs to enable these transitions to occur to maximize women's participation in the paid labour force. At this stage, there is much evidence to show that there are many barriers to women making temporary withdrawals or changing to part-time employment and retaining their previous earnings and career status. For many women, such transitions lock them into peripheral employment or unemployment.

Campbell and Charlesworth (2004) developed a straightforward typology of the pressures of caring responsibilities on participation in paid work. This provides a useful starting point when considering what measures are needed to enable a better balance of work and family. Their typology separates the pressures into three main groups:

- unpredictable pressures: e.g. sickness of dependents, failure of care arrangements;
- predictable pressures which are substantial: e.g. childbirth, school holidays;
- predictable pressures which are small: need to take a dependent to a specialist appointment, daily deadlines for collecting children from child carer.

Each of these groups of pressures has different implications for what is needed in terms of family-friendly measures. The critical family-friendly benefits can be summarized as follows:

- long-term and short-term leave arrangements to enable temporary withdrawal for caring responsibilities;
- good quality part-time work;
- employee-oriented flexible working time arrangements (Campbell and Charlesworth 2004:41).

These mechanisms facilitate the ongoing employment of the employee albeit sometimes on a reduced basis.

Assessments of the provision of family-friendly arrangements in Australian workplaces conclude that such initiatives are confined to the minority (Pocock 2003). For example, up to 65% of managers and 54% of professional women have access to paid maternity leave while only 18% of clerical, sales and service workers and 0.4% of casual workers are entitled to it (Watts and Mitchell 2004:179). Almost one-third of women workers are employed as casuals and almost all of these are consequently excluded from family-friendly benefits.

As is pointed out in the literature, there is a gap between the provision of family-friendly benefits and the utilization of these measures (Chapman 2004; Campbell and Charlesworth 2004; Probert *et al* 2000). Barriers to employees using these benefits include their not being aware of their existence, concern about the impact upon their career, management and peer discouragement or overt opposition, financial difficulties associated with unpaid leave. Thus much depends on the organisation's culture in ensuring that the implementation of family-friendly benefits does not result in women being compromised in their careers.

In addition to the relative lack of access to family-friendly measures in Australian workplaces, there is also growing concern about the 'family-hostile' developments in work organization. These include long working hours and work intensification which negate any attempts by employers to provide a family-friendly workplace (Pocock, 2003).

In summary, women want to continue to participate in the paid workforce after giving birth to children although most will seek a series of transitional arrangements to enable this. The model desired by the majority of two-parent families is dual earning where one of the two parents may move between full-time and part-time employment to accommodate caring arrangements. The institutions, however, that determine the organisation of work and employment still largely regard employees as 'unencumbered' by responsibility for caring and domestic work. Consequently, mothers bear the cost of responding to this conundrum in the process of moving between full-time and part-time work and organizing work hours that will enable them to combine parental and paid work responsibilities. Such action inevitably results in reduced earnings for women and thereby contributes to the gender pay gap.

2.12 The Effects of Part-time and Casual Work

Analysing part-time and casual work has important implications for understanding and addressing the gender pay gap. In Australia, women's increased participation in paid employment has not

impacted on their proportion in full-time work (Gregory 2002; Preston and Burgess 2003:509). Since women continue to be the primary caregivers within families, they cope with their work and family responsibilities by engaging in part-time and casual, rather than full-time, employment. In 2001 in Australia, 42.3% of women employees were working part-time compared with 11% of men. 32.3% of women and 23% of men were employed on a casual basis. While there are some casual full-time jobs, there is substantial overlap between the part-time and casual groupings; 59% of part-time women and 80% of part-time men employees were 'casual' (Preston and Burgess 2003:508-512)

Over the past two decades, much of the jobs growth has been in the part-time sector and many of these jobs have been on a casual employment basis. There is a lower level of earnings associated with this type of employment and a greater predominance of women than men employed on a part-time and/or casual basis.

Australia, in common with several other OECD countries, has not followed the lead of The Netherlands and developed union and business support for quality part-time work, a policy which in The Netherlands has seen part-time work retain its share of wage increases (see Probert *et al* 2002:7-8). Distinctive features of part-time work in Australia are that it is highly casualised and that it includes very short working hours (Charlesworth *et al* 2002). In consequence, as with the relationship between casual and permanent wage rates, growth in part-time employment in Australia has been accompanied by an increasing gap between part-time and full-time average hourly earnings. Research by Whitehouse (2001) illustrates this very clearly. Between 1990 and 1998 the part-time/full-time ratio for non-managerial average hourly earnings declined from 0.94 to 0.86. Similarly the ratio of casual to permanent average hourly earnings dropped from 0.94 to 0.88. Thus part-time casuals are incurring the greatest penalty in comparison with full-time permanent employees with an earnings ratio of 0.83 in 1998.

Table 2.3: Average earnings of part-time and casual employees as a proportion of full-time permanent earnings, total hourly earnings, non-managerial employees, 1990-1998

Earnings ratios	1990	1998
All pt/ft permanent	0.94	0.85
Pt casual/ft permanent	0.92	0.83
Pt permanent/ft permanent	0.96	0.88
All casual/ft permanent	0.93	0.87
Ft casual/ft permanent	0.95	0.93

Source: Whitehouse (2001:69). She utilized ABS Employee Earnings and Hours Survey data to compile the Table.

This deterioration in the relative earnings of part-time and casual employees affects both men and women. However, as women are represented disproportionately in these sectors there are negative implications for current and long-term gender pay gap outcomes. Until the mid 1990s wage returns to part-time work in Australia were viewed as better than that in the United Kingdom or North America. This was usually explained by reasonably comprehensive regulation of their employment conditions (Gornick and Jacobs 1996). Since then, deregulation and decentralisation of bargaining have eroded relative returns to part-time work.

Research by Wooden (1999) and Pocock and Alexander (1999) confirm that casual employees are substantially worse off than permanent employees. Wooden's findings suggested "a negative wage premium (of around six per cent) associated with casual employment" (1999:165). Pocock and Alexander, based on the 1995 AWIRS data, found a negative impact of 17% on women casual employees and 23-24% on men. Both sets of researchers hypothesize that this may reflect the growth of casual employment outside the regulated system together with evasion of award requirements.

In summary, while the Netherlands experience would suggest that part-time work can be an equitable form of employment, the poor quality of a significant number of part-time jobs in Australia is resulting in earnings inequities. That lack limits access to over-award payments and overtime and impacts on access to training and career development (Whittard 2003). Given women's disproportionate representation in part-time and/or casual employment, this lack of a quality approach exacerbates the gender pay gap. Although women's options of part-time and casual employment are often portrayed as a matter of 'choice', a low level of institutionalized support to balance work and family, coupled with an IR system which has never developed a quality approach to part-time work, limits those options dramatically.

2.13 Public Sector

In most developed countries women account for a disproportionate share of public sector employment, particularly at the lower levels. Wage determination in the public sector, therefore, impacts on the overall gender pay gap. In Australia, the ratio of female to male pay has been higher in the public sector than in the private sector.

Although gender pay equity may be somewhat better in the public sector than in the private sector, researchers have raised a number of areas of concern. These include:

- the public sector as a monopsonistic employer using its power to keep wages down in specific areas such as health and education (Rubery *et al* 2002:20);

- the influence of public policy upon public sector pay and, in particular, current economic rationalist thinking that encourages restraint on public sector expenditure (Lonti and May 2004);
- the threat of the restructuring of the public sector involving privatization and subcontracting with its inherent risk to wage levels (Briar and Ang 2004).

Probert *et al* (2002:ii) in their review of gender pay equity in the Victorian public service found “small but persistent gender differences in average base salary for full-time ongoing and fixed term contract staff”. Women were more concentrated at the lower levels and men at the higher levels. Average starting salaries favoured men significantly because women continued to be appointed at lower levels.

Reports for the New Zealand Task Force on Pay and Employment Equity in the Public Sector found “broad and persistent patterns of occupational segregation and that women are generally still lower paid and lower in the relevant hierarchies than men” (Jones and Torrie 2004:3). Nonetheless, there was considerable variation in the gender pay gap between areas of health services, education services and the rest of the public service. A key finding was that a full analysis of the gender pay gap could not be made without available data on differences between occupational categories (*ibid*).

2.14 Previous Research on the Gender Pay Gap in WA

There has been very limited research into the gender pay gap specifically in WA although two comparatively recent research projects have provided a substantial starting point. In 1999 Geoffrey Crockett and Alison Preston prepared a report for the Department of Productivity and Labour Relations on the extent of the earnings gap between men and women in WA. Their analysis was based primarily on a one per cent sample file from the 1996 Population Census and focused on full-time workers. Subsequently, Christine Short’s research (2001 and 2002) built on the work of Crockett and Preston (1999) but focused on awards and agreements to see how the wage determination process might have resulted in differing outcomes for men and women.

Crockett and Preston found a 26 percentage point earnings differential in the average weekly ordinary time earnings of WA men and women employed full-time, compared with 19 per cent at the national level. Subsequent decomposition of the gap showed that approximately one-third (9.7 percentage points) could be explained in terms of differences in the characteristics of males and females: more favourable industrial distribution of males, more favourable education levels, overtime work. These ‘explained’ differences themselves highlight fundamental issues associated with gender inequity in the workplace. Firstly, the point that WA males are more concentrated

than WA females in industries which provide higher rates of pay raises such questions as why women are not employed to the same degree in these industries and why are men's jobs more highly paid? Secondly, the fact that men are earning more income from overtime raises another set of questions: is this paid overtime related to the industries in which men are located? to what extent does this reflect the less demanding role played by men as carers? Deducting the 'explained' 9.7 percentage points from the raw 26 percentage point gap left a remaining 'unexplained' gender pay gap of 16.3 percentage points which was 3.3 percentage points worse than the corresponding 13 per cent gap at the national level.

Crockett and Preston also compared the earnings of WA females to women nationally. Based on 1996 data, they found an unexplained earnings gap between WA women and Australian women employed full-time of 3.2 percentage points. Crockett and Preston (1999:46) concluded that WA women were receiving lower returns on several of their characteristics compared with Australian women in general:

- a lower rate of return on their educational investments,
- earning less from working overtime,
- earning less from working in government and/or in a metropolitan area;
- incurring a greater penalty from having dependent children.

Crockett and Preston's analysis revealed that the industries where the gender pay gap had widened most were Health Services, Education, and Retail Trade. These three industries accounted for 45.8% of the WA female workforce in 1996. Such a finding indicates where more-focused research would be worthwhile. The importance of disaggregated statistics is also exemplified within their analysis of the WA/Australia female earnings ratio by occupation (1999: 29). While WA female managers and administrators earned 11.2% less than their national counterparts, associate professionals 7.6% less and elementary clerical, sales and related workers 4.4% less, intermediate production and transport workers earned 28.7% more than their female national counterparts. This suggests that case study research of specific industries and occupations is necessary to identify what combination of factors has resulted in the particular outcome associated with each industry/occupation.

Crockett and Preston concluded that it was not possible to directly locate all of the causes of the gap. They ruled out the introduction of workplace agreements as an explanatory factor, as a large part of the deterioration in the male/female earnings gap occurred prior to their implementation. They speculated that a slower move to enterprise bargaining in WA than elsewhere may have contributed to the WA women/Australian women earnings gap. Similarly, they hypothesized that male-dominated industries may have gained enterprise bargaining based increases earlier than in

female-dominated industries (p.47). Sensitivity analysis conducted by Crockett and Preston to explore these hypotheses demonstrated that timing effects could not account for all of the decline in the relative pay position of WA women over this period. They concluded with a recommendation that more detailed information regarding the coverage and content of industrial agreements, by gender, be obtained to enable further insight not only into the earnings differential but the other components of remuneration as well.

Turning now to Short's research, Short analysed 11 awards (five male-dominated, five female-dominated, one mixed) and a number of related enterprise agreements as in force in 1998/1999 in WA. In addition, Short compared the WA female awards to relevant Victorian federal female awards.

Short's findings (2001, 2002) provide evidence of differential treatment between male- and female-dominated areas in wage determination in WA:

- male-dominated awards tended to have had structural efficiency or work value adjustment exercises carried out earlier;
- male-dominated awards were more likely to have benefited from advantageous minimum rate adjustment processes than female-dominated awards;
- safety net adjustments were generally applied at an earlier date to male-dominated awards;
- female-dominated areas of employment were less likely to be covered by enterprise agreements and, where they did exist, they were likely to have occurred two to three years later. Early enterprise agreements in WA predominately covered employees in male-dominated industries and occupations. Similar differences were also evident in the public sector, Short compared the enterprise agreements in the male-dominated Main Roads Department with those of the female-dominated Health Department. The agreements for Main Roads employees had been registered and renewed earlier than those for the Health Department;
- female-dominated agreements usually had considerably lower increases on the award; within male-dominated agreements there was a much wider range of increases suggesting some men doing better than women, but not all;
- the application of percentage increases was widening the gap between upper and lower ends of the pay scale with women likely to be in the majority at the lower end and the minority at the upper end.

In comparing the WA female-dominated awards and agreements with comparable ones in Victoria, Short found that:

- WA clerical and teachers awards paid significantly less than their counterparts in Victoria during most of the 1990s. By comparison, retail awards paid very similar rates between the two states. WA clerical workers had only three levels in their skills-based career structure, Victoria had six levels;
- WA enterprise agreements (male and female) were generally registered later than federal Victorian enterprise agreements.

2.15 Conclusion

There are multiple factors contributing to the gender pay gap:

- human capital acquisition continues to account for a portion of the gap;
- a substantial proportion of the gender pay gap is associated with the sex segregation of the Australian labour market;
- the undervaluation of skills and work associated with female labour and the barriers that have been encountered to attempts to implement 'comparable worth';
- the ongoing legacy of the entrenched social norms in Australian wage determination, in particular, the historical view of the male breadwinner and female primary carer/homemaker;
- the decentralization of wage determination in Australia has resulted in a variety of bargaining streams but men's earnings are greater than women's in each stream. Women are over-represented in the award-only stream which has the lowest level of earnings. Nor does the available research in Australia suggest that women may be trading off pay for better working conditions, quite the opposite;
- the gendered relationship between accredited training and education programs and pay outcomes, with women more likely to receive less training as part-time and casual workers and less pay for the educational qualifications they do gain;
- the impact of the barriers to combining parenting and paid work upon women's participation in paid work and their subsequent earnings;
- the greater predominance of women than men employed on a part-time and/or casual basis and the lower level of earnings associated with this type of employment contributes to gender pay inequity;
- the influence of broader neo-liberal ideology upon public policy may be working counter to gender pay equity outcomes in the public sector;

Given the array of factors that have been identified as contributing to the gender pay gap, it is not surprising that so many analysts recommend a multi-dimensional approach to address the issue. The next Part of the report details recommendations to improve gender pay equity

and thereby reduce the gender pay gap. The array of recommendations reflects a multi-dimensional approach coordinated through a gender mainstreaming approach.

Part 3: The Way Forward

3.1 A Wholistic Approach: Gender Mainstreaming

To achieve a substantial narrowing of the gender pay gap, a wholistic approach to policy development is essential. Currently, that wholistic approach is sadly lacking - with some policies actively narrowing the gender pay gap while others are widening it. For example, within the WA public service, the current government set as a priority the goal of improving the distribution of women at higher levels. However, this goal was undermined by the same government's public sector restructuring policies, including its commitment to reduce SES numbers. In short, the unequal gender impact of the second policy was either not anticipated or was not prioritised. Consequently, that lack of a co-ordinated and committed approach to a gender analysis of policy and practices means that the goal of reducing the gender pay gap remains elusive.

A new approach to the problem is required. The concept of 'gender mainstreaming' pay and employment policy provides this wholistic approach.

The focus of gender mainstreaming is to identify and remove gender discrimination effects from policies and practices that may appear gender neutral until they are examined more closely. Gender mainstreaming gained international recognition at the 1995 Beijing Women's Conference. Prior to that it had been used in developing countries but after Beijing it was embraced in countries such as Canada, The Netherlands, Ireland and New Zealand.

A gender mainstream approach to pay policy:

shifts the focus from deficits or deficiencies in female characteristics, behaviour and preferences to the investigation and rooting out of gender pay discrimination as embedded in institutional arrangements, social norms, market systems and pay policies (Rubery *et al* 2002:1).

The basis of our argument for a gender mainstreaming approach can be found in the research literature on factors contributing to the gender pay gap. Economic analysts are usually forced to admit that the factors they identify as causes of the gender pay gap – human capital, demographic factors and job characteristics – tell only part of the story. Telling the whole story means adding institutional arrangements such as minimum wage systems, centralization or decentralization of wage determination, and job evaluation systems. It also means, as the literature shows, including the social norms entrenched historically in relation to 'breadwinning' and 'caring' responsibilities.

Gender mainstreaming of policy acknowledges that gender pay inequity occurs in an economic system which views women's unpaid household and caring labour as unproductive. In turn that assumption places a lack of value on activities and employment associated with women. Industrial economies have grown reliant upon women's household and caring work remaining unpaid, as well as on their low paid employment. Redressing that systemic undervaluing of women's economic and community contributions requires systemic remedies that can achieve a significant shift in awareness. Gender mainstreaming takes as a model the environmental impact statements that change community awareness and many social and economic priorities. Similarly, gender mainstreaming assesses all policy and programmes for their impact on gender inequities.

Gender analysis is the principal tool associated with mainstreaming. It offers a systematic procedure for analysing policy proposals and existing policies to determine their differential impact on women and men. Most of the major international organisations, including the United Nations, the World Bank and the ILO, employ forms of gender analysis (UNDP 1998; Landuyt 2001; World Bank 2002). It is also being used in many Western democracies, including Canada, New Zealand, parts of Europe and the European Commission (1998). As a sign of its significance, gender analysis was endorsed by the Platform for Action of the Fourth World Conference on Women in Beijing in 1995 (Mazey 2000).

In Australia elements of mainstreaming are appearing in public policy and in some organisational policies (Bacchi 2000; Bacchi 2001; Eveline and Todd 2002). In Western Australia a gender analysis tool is being developed by the Office for Women's Policy, in collaboration with the University of Western Australia, for public sector agencies to assess systematic bias and discrimination in policy and legislative processes. It would seem timely, therefore, to apply the same approach to the problem of the gender pay gap in WA.

Recommendation 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.

3.2 Voluntary Strategies

The Terms of Reference included

“consideration of...

-strategies to address the gender pay gap which could be developed on a voluntary basis by Section 50 parties...”

In considering voluntary strategies to address the gender pay gap, there are two general issues to be addressed. Firstly, there is a debate about the relative merit of voluntary strategies compared with regulatory remedies. Secondly, there is the question of what types of voluntary strategies would be most useful in resolving the problem. Another question which arose for us relates to the role of the public service in relation to the implementation of voluntary strategies in the private sector. We will consider each of these questions within this sub-section.

With regard to the gender pay gap unions and employer groups have been deeply divided on the question of whether mandatory or voluntary measures are more effective, with employer groups much more likely to advocate voluntary remedies and unions arguing for a more comprehensive mix of voluntary and mandatory measures. (see Rubery 1995; Grimshaw *et al* 2001; McDermott 1999). Submissions and interviews for this review show a similar pattern. Submissions from women's groups and unions expressed considerable doubts about relying on voluntary strategies. Whilst they acknowledged the importance of voluntary strategies in achieving change in the workplace, they argued that they needed to be combined with regulatory strategies.

Submissions from most employer groups generally denied the need for regulation on the grounds that market forces ensure the best outcomes for the majority and that additional layers of complex legislation burden small and medium business in unacceptable ways. In favouring the voluntary approach, employers argued that it permits arrangements suited to particular industries, and leaves decision-making with those best able to satisfy both business and employee preferences. Both the CCI and AMMA suggested that, if left to self-regulation, their organizations would be willing to put resources into a voluntary, long term, educational approach. Such an approach could draw on expertise from members, particularly those in large organizations, to develop Best Practice strategies and ideas for how to promote them (Interview 23/8/04).

The international research supports the concern that a reliance on voluntary strategies does not produce satisfactory results (as shown in the Canadian provinces, see Reed 2001; Austen *et al* 2004). In noting such research the UK Kingsmill Inquiry (2001) adds a codicil to its recommendations for voluntary strategies outside the public sector. Should it become clear that employers are not making full use of the opportunity to show that voluntary provisions can

achieve desired effects, Kingsmill recommends that policymakers return to the issue of a mandatory requirement.

Given that we are adopting a wholistic approach to addressing the gender pay gap, we advocate the need for a combination of regulatory and voluntary strategies. We do not accept that voluntary strategies on their own will close the gender pay gap.

Recommendation 2

That a combination of voluntary and regulatory strategies be adopted to address the gender pay gap.

Having recognized the need for a combination, we would not want to understate the importance of voluntary strategies. In the field of IR, statutory processes have their limitation, and it is in the workplace where the gender pay gap will eventually be resolved. The resolution of issues impacting on the gender pay gap is dependent upon the commitment of the main industrial parties in the workplace. This leads to the second question, that is, what types of voluntary strategies would be most useful in resolving the problem.

There are clearly a vast array of possible strategies that could be adopted to improve gender pay equity and thereby impact on the gender pay gap as has been evidenced by exemplary organizations. For example, in Australia AMP Life – a company with over 4000 female employees –developed an innovative campaign to lift the profile and recognition of personal assistants, giving them a voice and empowering their roles within AMP. This campaign included new approaches to their job evaluation process and increased opportunities for training and networking. The Australian Mines and Metals Association (AMMA) submission, offered a long list of voluntary strategies used in their industrial sector, particularly focused on improving the participation rates of women. Strategies included implementing enhanced recruitment procedures, flexible shifts, scholarships and traineeships for women, as well as campaigns in media and educational establishments to attract more women.

Along with several other employer submissions, AMMA claims that the pay gap is not related to pay rates in awards and agreements but to job access and opportunities. This review sees little value, however, in a framework which divorces access and opportunity from wage fixation processes. In both the NSW and Queensland pay equity inquiries, for example, the question of women's lack of access and opportunities is identified as only one part of the process of undervaluation. Undervaluation of women's labour, those inquiries argue, not only shapes the

invisible assumptions that underpin wage fixing and bargaining processes, but also can be maintained by those processes.

We are backed up in that view by a submission from the Law Society of WA, which includes a paper suggesting that it is not enough to attract women into male-dominated occupations. The paper reports on a survey conducted by The Young Lawyers Committee and Data Analysis Australia. It shows that, based on the average gross salary for each career step, male lawyers earn more than females on each step and that the gap between male and female averages increases with each step. The WA Retailers Association, in their submission, also suggested that in managerial positions (which attract higher salaries), “a discriminatory ‘glass ceiling’” ensures that “men are paid more than women”. These findings are in line with research on a number of professions suggesting that wage disparities within each profession and occupation must be addressed in any analysis of the gender pay gap.

Thus while we would certainly encourage strategies such as those outlined by AMMA which help to attract more women into the relatively high paid jobs in the mining sector, we also recommend a more targeted approach to voluntary strategies focused around pay. Employers need to take the first step of examining whether they have gender inequalities in their pay system. Those employers who identify a gender pay gap then need to establish the causes and devise an action plan to address them. We draw here from the United Kingdom Kingsmill Report which recommended equal pay audits. Importantly, the Kingsmill recommendations combine both mandatory and voluntary strategies. The Report recommended that the Civil Service be required to undertake Equal Pay Audits (implemented in April 2003). It also recommended that private sector employers do the same, but on a voluntary basis. With regard to the Civil Service the report decided that compliance should be mandatory so as to take a lead on this issue. When it came to the corporate sector, however, ‘measures will be most effective when they are driven by business incentives and tied to corporate objectives. . . It is for this reason that I believe that the most successful programmes are likely to be those undertaken voluntarily’ (Kingsmill 2001:9). The Report (2001:114) cites the case of Citigroup as evidence of successful voluntarism. Citigroup is the world’s largest financial sector organization. In the UK the group conducts annual pay reviews, including a pay equity audit, and during the review process expressed an intent to build in further equity guidelines.

We too would expect the government and public service employers to take a lead on this issue and this would be consistent with its stated commitment to “being a role model for an equitable workforce” (Equity and Diversity Plan For the Public Sector Workforce, 2001-2005). The government can exert influence on sections of the labour market through its own actions and

must lead by example when advocating that private sector employers embrace particular voluntary strategies. It would also be appropriate for the requirement to complete mandatory pay equity audits to be extended to contractors for public services.

Such a proposal needs to be accompanied by a plan to build capacity among employers to enable them to carry out these audits. We see joint working between the proposed Pay Equity Unit (see sub-section 3.8), employers, unions and other relevant agencies as the key to this capacity building. Government support will be essential.

We would envisage the proposed Pay Equity Unit as being responsible for helping employers to carry out gender pay equity audits efficiently and effectively. Their role would be developmental. This would include

- developing a model and detailed explanatory materials for gender pay equity audits;
- ensuring that the agencies and associations that advise business, particularly small business, on remuneration issues are equipped with sufficient expertise to be able to help employers carry out a gender pay equity audit.

It may also include developing techniques to enable employers to use existing payroll software to collate and analyse remuneration data.

We recommend that the Equal Pay Review process developed by the Equal Opportunity Commission in the United Kingdom serve as a model for a gender pay equity audit here in WA. The Commission has developed an Equal Pay Review Kit (a copy is attached in Appendix 7) as well as a guide specifically for small business “Equal Pay, Fair Pay”. Both are available on their website (www.eoc.org.uk) and would provide useful starting points for those people developing the explanatory material.

Once the developmental work has been completed in relation to the audits, we would envisage that the Office of EEO would assist with their implementation in the public sector while employer associations and professional bodies would assist with implementation in the private sector. We would also urge employer associations and professional bodies to take the lead in encouraging their affiliates to conduct gender pay equity audits.

Recommendation 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.

Finally, with regard to voluntary strategies, a number of unions have expressed substantial interest in progressing gender pay equity. There is an important role for unions to further gender pay equity by prioritizing it within their own agendas.

Recommendation 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.

3.3 The Wage Fixing Principles

The Terms of Reference requested the review to consider “the extent to which principles of pay equity can be enhanced using the State Wage Fixing Principles as determined by the Western Australian Industrial Relations Commission, or the extent to which the current State Wage Fixing Principles are considered to be a barrier to progressing the issue of pay equity.”

The Wage Fixing Principles provide the mechanism for amending wages and conditions in awards. Apart from the annual safety net increase, awards can only be amended pursuant to the

Principles. It is our view that the Wage Fixing Principles could potentially address issues of pay equity but past history would suggest that there are barriers to their utilization for this purpose.

Minimum Rates Adjustment Principle

The reclassifications that occurred pursuant to the Structural Efficiency Principle (1988) tended to entrench pay inequities by simply moving female dominated jobs, in their entirety, from one form of classification to another. Attempts by unions to use the Minimum Rates Adjustment Principle to address the undervaluation of women's work were far from successful. UnionsWA cite the example of the LHMU who in 1992 made an application under the Minimum Rates Adjustment Principle to review the rates for child care workers. The LHMU argued that the appropriate relativity for a child care worker who holds an Associate Diploma from TAFE was the C3 level of the Metal Industry Award for employees who had also completed an Associate Diploma or equivalent level of accredited training. The Commission rejected the union's argument and found that the most relevant relationship for child carers' rates was with those of pre-primary teachers. Thus an occupation which was perceived as undervaluing women's work on a gender basis was compared to another undervalued occupation. The Commission also determined that there was no necessity to assess any equity arguments as the matter before them was in setting properly fixed minimum rates.

We conclude that it is not sufficiently explicit that the Minimum Rates Adjustment Principle will achieve what is being sought; that is, to address undervaluation of primarily women's work.

Work Value Principle

Secondly, the Work Value Principle which allows the Commission to reassess the value of work being performed and the relative wages. It is difficult to see, however, how pay equity issues could be pursued under this Principle. Applications under the Work Value Principle are limited to where there has been a change in the nature of the work, skill and responsibility required or the conditions under which the work is performed. It is necessary to demonstrate that sufficient change occurred within a certain imposed time limit. In most gender pay equity claims it would be argued that undervaluation was occurring in past and current contexts on the basis of social, institutional and occupational characteristics, such as female-dominated employment, lack of access to training, casualised work, small workplaces and low levels of over-award payments, rather than being due to any actual changes in the work. Since the case would therefore require an historical overview of the wage fixing circumstances to explain the undervaluation, the Work Value Principle would not appear to provide for most equal remuneration claims. It was the recognition of the possibilities but also inadequacies of their existing work value principle which

led the Queensland Pay Equity Inquiry to suggest adding to certain clauses and amendments to reflect the ILO Convention 100 definition of remuneration, and to ensure some certainty in Commission decision making.

Special Case Principle

Thirdly, the Special Case principle gives the Commission some discretion to allow matters that do not fit within the other Principles. One would anticipate, however, that to bring a pay equity case under this Principle would require substantial resources to be invested in a scenario with an unpredictable outcome, given that the only reference in the Act to pay equity is in section 6(ac) and there is no other guidance for the Commission on how to adequately deal with pay equity matters.

Equal Remuneration Principle

During both the 2000 and 2003 State Wage Cases UnionsWA sought to have an Equal Remuneration Principle inserted in the Wage Fixing Principles, to enable cases relating to historical undervaluation based on gender to be heard. In 2000 the WAIRC separated the application for an Equal Remuneration Principle from the State Wage proceedings and UnionsWA has not pursued the application subsequently. In 2003 the Commission in Court determined that there was no scope for an equal remuneration principle to be inserted as part of the State Wage proceedings as it was not a matter “having effect under the National Wage Decision”.

It is worth noting that the 2003 decision was made within the context of amendments having been made to s51 to allow the WAIRC greater discretion in applying the national wage principles. The Commission in Court explained their refusal to adopt an Equal Remuneration Principle by finding that in adopting the principles under s51(2)(b)

“the focus remains on adopting those matters which have effect under the National Wage Decision. They cannot be extraneous to that decision but must be considered within the legislative framework of the Act, as now amended.”¹

Consequently we concur with those submissions that concluded that the Wage Fixing Principles are not suited to addressing issues of gender pay equity, that applications under the existing Wage Fixing Principles would be likely to result in lengthy and costly arguments about the applicability of the Principle(s) which would delay or ultimately prevent the consideration of the undervaluation of women’s work.

¹ 83WAIG 57

A mechanism is needed to enable parties to pursue work value cases based on historical undervaluation. Thus to expedite the consideration of the undervaluation of women's work we advocate the IR Act 1979 be amended to establish a new Equal Remuneration Part that can be applied with a high degree of certainty in assessing undervaluation on a gender basis. The object of the Part would be to provide a source of power for the Commission to review awards, orders, collective and individual agreements with respect to gender pay equity.

As outlined in Part 2 of this report, NSW, Queensland and Tasmania have all now implemented an Equal Remuneration Principle. In NSW and Tasmania the Equal Remuneration Principle forms part of their wage fixing principles whereas Queensland have equal remuneration orders provisions within their IR Act 1999 (ch.2 Part 5) together with a Statement of Policy pursuant to the Act. In developing our recommendations in this regard we have drawn substantially on the decisions and developments in those three states. We did, however, find much of the Queensland model preferable as it is more comprehensive in its application and provides sufficient direction to the parties and the Commission in terms of what pay equity matters need to consider without being too prescriptive.

Given the barriers identified within the existing wage fixing principles in WA, we advocate that an Equal Remuneration mechanism be established via an amendment to the IR Act 1979.

While conducting this Review we have been struck by the need for transparency of decision making and certainty of definition in addressing the gender pay gap. In the Western Australian industrial relations context, doubt and uncertainty have surrounded the question of which matters are allowable in assessing pay equity cases. That degree of uncertainty has led parties who have otherwise expressed goodwill to err on the side of caution in their wish to move forward. The Queensland Inquiry found a similar situation in that state. Drawing from the experience in the other states, it can be seen that it is necessary for the Part to address the following points:

- definition of remuneration
- the relationship between the Equal Remuneration Part and the Wage Fixing Principles.

Turning firstly to the definition of remuneration, in WA the IR Act does not define 'remuneration'. Such a definition is important to prevent unproductive argument over the term. The definition decided on in the NSW Inquiry, and later used to amend the Queensland Act, was that "for any matter involving pay equity or equal remuneration, 'remuneration' bears the meaning of ILO Convention 100 Article 1 (a)" (Fisher 2001:75). Article 1 (a) of ILO Convention 100 states that

“For the purpose of this Convention-

(a) the term “remuneration” includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment”

Similarly, for WA we conclude that for any matter involving pay equity or equal remuneration a broad definition in accordance with ILO Convention 100 definition is critical. We advocate, therefore, the inclusion of such a definition within the proposed Equal Remuneration Part of the IR Act 1979.

The second aspect needing clarification in the proposed WA Equal Remuneration Part is the relationship between that Part and the Wage Fixing Principles. In NSW, the new equal remuneration principle can overcome the assumption of earlier rates being correctly set (for example, *Preschool Teachers* case at para 114, cited in Hall 2004). Moreover, equal remuneration claims can be made independently of other wage fixing principles and are not excluded by the operation of other principles (Hall 2004:9). Similarly, in Tasmania the operation of the Principle is not restricted by the operation of other wage fixing principles. In both Queensland and Tasmania the Principle includes a statement clearly identifying that past wage fixing processes may have been clouded by assumptions based on gender.

In NSW, Queensland and Tasmania each of the Equal Remuneration Principles includes guidelines on the assessment of the value of the work. Sections 2 to 8 of the Queensland Statement of Policy provide a comprehensive list of important factors to be considered in guiding the process of evaluating work for the purpose of the application of equal remuneration on the basis of gender. We would envisage the Commission in applying the proposed Equal Remuneration Part consider the types of factors raised in Sections 2 to 8 of the Queensland Statement of Policy (see Appendix 6).

In the process of this review, employers expressed concern about the potential impact of decisions under an Equal Remuneration Principle, or equivalent, for particular industries. One of the considerations of the NSW Pay Equity Inquiry was the economic implications of equal remuneration. The Inquiry found that the predictions of adverse economic impacts overstated the impact of pay equity increases. Evidence presented to the Inquiry on the impact of the 1969 and 1972 Equal Pay decisions showed that levels of women’s employment had been “remarkably unresponsive to the equal pay decisions”. The Inquiry concluded that there would not be significant economic dislocation from pay equity increases of the type envisaged during the Inquiry, provided there was a reasonable rate of

economic growth and given that pay equity was likely to be implemented on a case by case basis spreading adjustments over time (NSW Industrial Relations Commission 1998: 19).

While we acknowledge that a potential increase in labour costs is a critical matter for employers, this does not justify continued gender pay inequity. The Queensland and NSW jurisdictions responded to this potential problem by including the option to phase in any increases in specified stages.

Recommendation 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.

No matter how clear and precise the mechanism of an Equal Remuneration Part proves to be, there will nonetheless be significant costs involved in mounting cases under this Part. For example, the legal costs to the NSW Public Service Association in the librarians’ equal

remuneration case are reported to have exceeded \$100,000 (Hall 2004:7). The Queensland Inquiry recognized this. In order to encourage such cases, the Queensland Government provides for funding, to a maximum value of \$50,000 per case, to be made available to industrial parties in equal remuneration cases, subject to an agreed case plan. Unions in the first two cases taken under the new principle, the dental assistants and childcare cases, have gained approved funding (Hall 2004:8).

Recommendation 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.

Finally, we draw attention to Recommendation 30, later in this Part, that recommends training for the members of the Commission on matters relating to gender pay equity. We would urge the Chief Commissioner to ensure that equal remuneration cases only be determined by Commission members who have completed the requisite training on such matters.

Recommendation 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.

3.4 The Industrial Relations Act 1979

In reviewing the Wage Fixing Principles and the minimum conditions of employment (see the next sub-section) in terms of enhancements to gender pay equity through these regulatory mechanisms, a number of issues pertaining to the Industrial Relations Act 1979 (the IR Act) arose. Several submissions also included recommendations to amend sections of the IR Act 1979. Hence it is worthwhile at this point to consider how provisions within the IR Act 1979 can contribute to the achievement of gender pay equity.

Objects

In Western Australia, the Labour Relations Amendment Act 2002 amended the objects of the Industrial Relations Act 1979 to include:

“6(ac) to promote equal remuneration for men and women for work of equal value.”

In introducing the amendments to parliament, the Hon. J. Kobelke stated

The amendments are designed to support fundamental tenets of the Industrial Relations Act, including...the long overdue need for the recognition of the importance of equal remuneration for men and women for work of equal value.

We note that section 6(ac) applies equal remuneration to work of equal value. The difficulties associated with establishing ‘work of equal value’ have been well noted within equal pay cases in Australia in the past and are certainly applicable in WA where there is a very high level of gender segregation in jobs. To ensure the meaning is not interpreted so narrowly as to make it meaningless for those groups of women in female-dominated occupations, we propose that the object be extended to “work of equal or comparable value”. This wording, including ‘comparable value’, is also used in the Queensland Industrial Relations Act 1999, Ch.2, Part 5.

Within the WA context, section 6(ac) is not necessarily confined to the promotion of gender pay equity. Given our recommendation to insert an Equal Remuneration Part to promote gender pay equity, and to ensure clarity of intent, we believe that an additional object should be included in the IR Act 1979 specifically “to promote gender pay equity”.

The continuing barriers to combining parenting and paid work and the impact of this upon women’s involvement in the labour market, their choices of jobs and their earnings capacity was noted in the previous chapter. The need to address work/family balance has been well recognized and therefore it would be appropriate to include recognition of this within the Objects of the IR Act 1979.

Recommendation 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.”**

Award Modernisation

Another change introduced by the Labour Relations Reform Act 2002 with the potential to impact on gender equity was the provision requiring the WA Industrial Relations Commission to review Awards of the tribunal for a range of purposes including at S.40B(1)(c)

“to ensure that the award does not contain provisions that discriminate against an employee on any ground on which discrimination in work is unlawful under the Equal Opportunity Act 1984.”

In our discussions with the industrial parties we were made aware that neither the unions nor the employers supported the use of award modernization to address gender pay equity. We note though that the Commission in Court session (2004 WAIRC 12690) determined that pay equity is a matter that can be dealt with under s40B(1)(c). We would advocate that it is in accordance with the philosophy of gender mainstreaming that gender equity be included as a goal within the award modernization process. Gender analysis should be applied in all procedures and this would complement, rather than substitute for, the Equal Remuneration Part.

This process is, of course, limited to awards. It is also limited by its focus on discrimination. While this amendment plays an important role in addressing discrimination, gender pay inequities arise for reasons other than discrimination. The New South Wales equal remuneration principle was expressly designed to overcome this problem of ‘getting stuck’ on discrimination. In her report to the PEI in NSW Glynn, J. “cautioned that a focus on discrimination without recognition of the Act’s role in elimination of discrimination and establishing equal remuneration, could result in a situation where discrimination needs to be shown in order to access a remedy under the equal remuneration clause, which could in turn reinforce undervaluation rather than resolving the problem” (Freeman 2003: 6).

To extend the Commission’s ability to address gender pay equity issues within the award modernization process, we recommend that an additional clause be inserted in section 40B(1) “to ensure that undervaluation of work is addressed”.

Recommendation 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”.

Enterprise Bargaining

There have been substantial changes in the regulation of enterprise bargaining in WA with implications for gender equity. Table 3.1 summarises the hourly rate of pay by bargaining stream and by gender. The trends revealed are similar to those found in the studies of enterprise

bargaining Australia wide, discussed in the previous chapter: lowest hourly rates occur in the award-only stream, men's hourly rates are greater than women's in all streams albeit that they are almost identical in the award-only stream; that is, the lowest paid category.

The one stream that stands out in the WA analysis is the registered individual agreements in which there is a 26.64% gap compared with 12.66% at the national level. In 2000, the gender pay gap for this stream in WA was similarly 23.68%. In 2002, 9.4% of the WA workforce had their wages and conditions covered by registered individual agreements, 7.7% under a WA workplace agreement (WPA) and 1.7% under a federal Australian Workplace Agreement (AWA). The lack of detailed data on the contents and coverage of the agreements by gender prevents a proper analysis of the resultant gendered outcome. One would hypothesise, however, that the industry distribution of the WPAs would partially explain the gender pay gap in the registered individual agreements stream. The wages outcomes in the WPAs in the male-dominated mining industry were certainly superior to those in the WPAs in the service sector in which a higher proportion of women were employed. The evidence presented in Table 3.1 would suggest that the repealing of the Workplace Agreements Act 1993 should contribute to an improvement in gender pay equity. During 2002 and 2003, however, many employers replaced WPAs with AWAs in the federal system thereby limiting the impact of the WA Government's legislative amendment.

Table 3.1: The gender wages gap x bargaining stream in Western Australia and Australia, average hourly rates of pay, 2002

	Males	Females	% gap	Amount
Western Australia				
Awards only	15.30	15.20	0.65	0.10
Registered collective agreements	23.40	20.30	13.2	3.10
Unregistered collective agreements	19.90	18.20	8.54	1.70
Registered individual Agreements	21.40	15.70	26.64	5.70
Unregistered individual Agreements	20.70	18.10	12.56	2.60
Australia				
Awards only	15.80	15.20	3.80	0.60
Registered collective agreements	23.80	21.30	10.50	2.50
Unregistered collective agreements	21.50	19.20	10.70	2.30
Registered individual Agreements	23.70	20.70	12.66	3.00
Unregistered individual Agreements	21.30	19.10	10.33	2.20

Source: ABS 6306.0

Note: These statistics are based on non-managerial employees' average hourly rates of pay and therefore are likely to understate the gap particularly in terms of individual agreements.

The pay outcomes reported in Table 3.1 illustrate the concerns raised in relation to the introduction of both enterprise bargaining and the option for registered individual agreements, that these bargaining arrangements would be more likely to exacerbate the gender pay gap. The difference in the percentage gap in the registered individual agreements between WA and Australia also suggests that it is preferable to underpin the individual agreements with awards rather than statutory minimum wages and conditions as it was in WA formerly. As was noted in the submission from the WA Retailers Association Inc, it is imperative that the No Disadvantage Test be administered rigorously to ensure that individual agreements include wages and conditions at least at the level prescribed in awards. The CEO of the WA Retailers Association Inc expressed dissatisfaction with the current situation in which the lax interpretation of the No Disadvantage Test by the Office of the Employment Advocate is resulting in employers within the retail industry in WA incurring differing labour costs depending upon whether they are utilizing AWAs in the federal jurisdiction or awards and/or agreements in the state jurisdiction.

Finally, the low hourly pay rates in awards highlights the need for the awards to be kept up to date, particularly given that a substantially higher proportion of women than men are likely to be employed on an award-only basis.

Statement of Endorsement

Thus this Review endorses:

- the importance of collective bargaining, in preference to individual agreements, in wage determination for the achievement of a narrowing of the gender pay gap.**
- that, if registered individual agreements are utilized as an option for wage determination, that they be underpinned by a strong set of benchmarks. In this sense, a properly applied No Disadvantage Test using the award system would usually provide a preferable benchmark to the Minimum Conditions of Employment Act.**
- the importance of maintaining the awards both in terms of wage rates and conditions.**

The 13.2% gender pay gap in the registered collective agreements stream is also of concern for it too contributes to the gender pay gap in WA and is higher than the 10.50% gap at the national level. Further analysis of these WA-registered agreements is necessary to understand what factors are resulting in this outcome.

Registered collective and individual agreements: The need to look beyond wages outcomes when assessing gender equity in relation to enterprise agreements was noted within the review of the literature. Given the contrasting outcomes that have been found in the limited studies that have

been conducted into conditions in enterprise agreements in Australia and New Zealand, this issue is of particular interest.

In addition, currently such an analysis is hampered by the lack of information available on the coverage of each agreement by gender and employment type. It is critical that coverage data reported at the time of registration of the agreement include a breakdown by gender and employment type.

Recommendation 10

That further analysis of individual and collective agreements registered in WA (that is, industrial agreements and employer-employee agreements) be undertaken to

- (ii) compare complete outcomes by gender of wages and non-wage benefits and**
- (iii) better understand what factors are resulting in the gender wages gap in these streams of wage determination.**

Recommendation 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.*”

Finally, it should be noted that there is no specified requirement for equal remuneration issues to be considered or addressed when registering agreements in WA. To strengthen the implementation of the Object to promote equal remuneration, we believe that it should be incumbent upon the employers to demonstrate that they have taken account of gender pay equity issues when registering collective and individual agreements. One appropriate method by which an employer may demonstrate that they have taken account of this would be for the employer to complete a gender pay equity audit. Another appropriate indicator – not necessarily replacing the aforementioned audit – would be demonstration of taking into account employees’ caring responsibilities when making the agreement.

It should be noted that this concern, that employers demonstrate that they have taken account of gender pay equity issues when registering agreements, may be addressed adequately by Recommendation 5 if it is implemented as proposed. If not, then we would recommend as follows.

Recommendation 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.

General Orders

Division 3 section 50 empowers the Commission to make General Orders relating to industrial matters which “may be made to apply generally to employees throughout the State whether or not they are employed under and subject to awards or industrial agreements.”

There seems little doubt that equal remuneration is an industrial matter that the WAIRC can consider in making any general order. Indeed in 2003 the Commission in Court indicated that UnionsWA could make an application for an Equal Remuneration Principle under s50 of the IR Act. Up to this point UnionsWA have not submitted such an application. While the Commission’s suggestion might appear to provide an opportunity to achieve an Equal Remuneration Principle, UnionsWA anticipate that such an application would be contested and that there would be costly jurisdictional arguments even prior to being able to proceed to substantive matters. In practice, the making of General Orders has been limited to the implementation of the National Wage Decision, in particular, as it relates to wages and the resultant wage adjustment to all state awards.

Thus to ensure certainty of process we concluded that it was essential to establish an Equal Remuneration Part within the IR Act, as recommended earlier, so as to provide the most effective means of rectifying pay inequity due to undervaluation.

3.5 Minimum Conditions of Employment Act 1993

The Minimum Conditions of Employment Act 1993 provides for minimum employment standards, including minimum rates of pay and leave entitlements. The Act was introduced alongside the Workplace Agreements Act 1993 and applies to almost all employees working in the state labour relations system. The minima are an implied part of any state award, enterprise agreement, employer-employee agreement or contract of employment.

There are three aspects of the MCE Act 1993 which are particularly relevant to our considerations:

- the minimum wage
- leave provisions relating to work/family issues
- the regulation of casual employment.

Minimum Wage

The importance of minimum wage systems in addressing the inequities of the low paid group was noted in the previous chapter. Given that women are more likely than men to be located in workplaces in which they have limited scope for collective bargaining and are more likely to be concentrated in jobs affected by minimum wage regulation, effective implementation of minimum wage protection is crucial for gender pay equality. Policymakers in WA have faced the ongoing tension between those who argue that the minimum wage should be increased to better protect the low paid and, on the other hand, those who argue that a lower minimum wage is necessary to stimulate job creation. Decisionmakers on the minimum wage need also take account of the fact that an increase in the minimum wage will impact positively on the gender pay gap and provide greater incentive for women's participation in the labour market.

Prior to 2002, in WA the Minister responsible for labour relations set the statutory minimum wage and it was set at a level substantially lower than the award minimum wage determined by industrial tribunals and covered a longer span of hours (40 rather than 38). In August 2002 the Minister brought the statutory and award minimum wages into alignment resulting in significant increases to the adult minimum wage in WA. Apart from impacting on the gender earnings gap in WA, the closer alignment of the WA minimum wage and the adult minimum wage in the federal jurisdiction should also help to reduce any gap arising from this source.

Statement of Endorsement

Thus this Review endorses the importance of the effective implementation of a fair minimum wage and recognizes the need to link debates on the minimum wage and job creation to the gender pay gap.

Recommendation 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.

Work/Family – leave provisions

The MCE Act 1993 currently includes entitlements for WA workers in relation to parental and carers' leave although these entitlements are not extended to casual employees.

An employee who has completed 12 months of service with an employer is entitled to 52 weeks unpaid parental leave following the birth or adoption of a child. Such an employee is entitled to return to the position they held before going on leave. In addition, an employee is entitled to take

one week of parental leave at the same time as their spouse or partner, immediately after the birth or adoption of a child.

Full-time and part-time employees who are the primary care giver are permitted to use up to 5 days of their sick leave entitlement as carers' leave for a member of their family or household who is ill or injured.

These entitlements are particularly important for women juggling paid work and family responsibilities. They do, however, fall far short of what is needed to address the predictable and unpredictable pressures associated with employees with caring responsibilities. The critical family-friendly benefits identified in the previous chapter were

- long-term and short-term leave arrangements to enable temporary withdrawal for caring responsibilities;
- good quality part-time work;
- employee-oriented flexible working time arrangements.

The first issue – leave provisions – is being addressed by the MCE Act 1993 but only partially. As was found by Baird and Litwin (2004) utilization rates of unpaid parental leave are low, thus the objective of the provision is not being achieved.

We endorse the current campaign within Australia to introduce paid parental leave. While the WA Government could introduce paid parental leave within the MCE Act 1993, as suggested by both the WAC and UnionsWA in their submissions, clearly such a provision would need to be considered within the context of the policy-making on this occurring at the federal government level. In particular, such a provision would put the onus on employers to bear the cost of paid parental leave whereas the campaign at the federal level has promoted a plan based primarily on government funding.

Thus at this point we would urge the WA Government to 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. As the Government has stated itself, the public sector should be a role model for an equitable workforce and the Government should therefore increase paid parental leave for public servants to 14 weeks. In addition, it should promote the benefits of paid parental leave to employers in the private sector. We propose that a public database be established listing all employers offering paid parental leave to their employees, including details of eligibility and how much paid parental leave is made available. The Government should also liaise closely with

its federal government counterparts in support of a nationwide strategy to introduce paid parental leave.

Recommendation 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.

The ACTU Work and Family Test Case includes the option for employees to be allowed to 'purchase' up to six weeks a year extra annual leave through averaged salary adjustments. This is currently offered in the WA public sector and on a voluntary basis by some employers. This proposal, included in the submissions from UnionsWA and the WAC, addresses needs for parents in paid work such as caring for their children during school holidays. This is a predictable pressure and as such should not continue to be ignored or dealt with on an 'ad hoc' basis. Purchased leave arrangements reduce the stress for those parents committed to their paid work and simultaneously committed to caring for their children. It also provides a greater degree of predictability of arrangements for both the employee and the employer. Thus we advocate that the entitlement for employees to purchase four weeks extra leave be included in the MCE Act 1993. Employers may seek to extend this entitlement beyond four weeks and, similarly, unions may include an extension beyond four weeks on their bargaining agenda.

Recommendation 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.

The right to request part-time work: the ACTU Test Case is seeking the right for a full-time employee returning from parental leave to return to their former job in a part-time capacity; this was also proposed in the submissions from UnionsWA and the WAC. The research has shown that many women use part-time employment as the main mechanism by which they manage to combine their earning and caring responsibilities. The lack of quality part-time jobs and the barriers for many women needing to change to part-time employment and wanting to continue in their existing careers, were discussed in the previous chapter. We believe that it is clear that the need to change from employment on a full-time to part-time basis arises not only at the point when an employee returns from parental leave but can also arise at later stages as children develop or alternatively in relation to elder care. The need for employers to design more jobs on a part-time basis can be expected to rise also in response to the pressures associated with the ageing workforce.

If employees were given the right to request to change their employment status to part-time within their substantive position, this would

- increase substantially the opportunity for good quality part-time work;
- increase the retention and better utilization of the skills and experience of employees who would otherwise be forced to resign;
- make an important contribution to addressing the needs of employees juggling work and caring responsibilities.

We acknowledge that managing part-time employees potentially increases the number of personnel to be managed by an employer. However, as has been evidenced by the need for part-time work opportunities to enable employees to balance work and caring responsibilities, we

regard such a change as critical to advancing both gender pay equity and work/family balance. This should also ensure better utilization of the existing labour force as it will enable and encourage some parents to either remain or re-enter the labour force who otherwise may not have done so. Given the current concerns about skills shortages, this emphasizes the need for such a change in employment arrangements.

We recommend, therefore, that the MCE Act 1993 be amended to include the right for employees to request to change their employment status to part-time within their existing position for a stipulated period of time.

Recommendation 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.

Finally, as noted at the commencement of this sub-section, casual employees are not entitled to parental leave. Given the growth of casual employment and, in particular, the expanding group of long-term casuals, this matter needs to be reconsidered. In addition, as women are represented disproportionately in the ranks of casual employment, this matter impacts on overall remuneration in relation to gender.

Within the Australian IR regulatory environment the trend to differentiate between long-term regular and irregular casual employees has developed. We propose that the Government follow the example of the legislative provisions in New South Wales and Queensland that extend entitlement to unpaid parental leave to long-term casual employees (Queensland Industrial Relations Act 1999, s.18; New South Wales Industrial Relations Act 1996, s.53).

Recommendation 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.

Casual Employment

The MCE Act 1993 requires employers to pay a 20% loading on the wages of casual employees, having been increased from 15% in 2002. The loading is certainly not deterring employers from utilizing casual labour as is evidenced in the growing proportion of the WA, and Australian, workforce employed on a casual basis.

In the previous chapter it was seen that the growth of casual employment in Australia has been accompanied by a deterioration in the relative earnings of casual employees. As women are represented disproportionately in these sectors, it has negative implications for the gender pay gap.

There is a lack of data to enable an accurate analysis of the causes of the deterioration in the earnings of casual employees compared with those of permanent employees. Several submissions (UnionsWA and the WAC) recommended that an immediate solution to this would be to increase the casual loading. On the other hand, another explanation for the outcome could relate to compliance. The CEO of the WA Retailers Association Inc, in his submission, appealed for a much more active DOCEP inspectorate to enforce compliance with award requirements. Anecdotal evidence was also presented by a number of interviewees suggesting that a number of employers evade payment of the casual loading. This also reiterates the concern expressed by Wooden (1999) and Pocock and Alexander (1999) about the possibility of non-payment of the casual loading. Both sets of researchers also speculated that casual employment may be growing outside of the award system.

We conclude that it would be inappropriate to address the gender pay gap by increasing the casual loading prior to further research being carried out to clarify the causes of the earnings penalty incurred by casual employees. Such an increase may exacerbate the problem of non-compliance. It would appear preferable to place greater emphasis on strategies to encourage the conversion of long term casual employees to permanent status rather than necessarily increasing the cost of casual labour. We are aware that there is a broader debate occurring on the issue of casualisation and would urge those considering this issue to take account of the impact of casualisation upon gender pay equity. Strategies to address increasing casualisation would potentially impact on the gender pay gap because of the greater proportion of women than men employed currently on a casual basis.

Recommendation 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.

Recommendation 19

That the government resource DOCEP to develop a targeted plan to increase their monitoring of compliance by employers in their wages payments to casual employees.

Recommendation 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.

3.6 The Western Australian Public Sector

The Terms of Reference did not require us to look at the gender pay gap specifically in relation to the public sector. Nevertheless, we believe there are a number of reasons for focusing on the public sector separately. As was indicated in sub-section 3.2, we envisage the public sector being a role model for the implementation of this review and we have proposed that it be mandatory for the public sector to conduct gender pay equity reviews. In addition, it is such a large employer and women account for a disproportionate share of public sector employment, hence it is worth considering gender pay equity within the public service and how it might be impacting on the overall gender pay gap.

The percentage of females in the WA public sector² has increased from 49% in 1989 to 62.8% in 2003.

Profile of Employment by Gender

There are distinct differences in the profile of employment by gender in the WA public sector (see Table 3.2). The most notable difference in Table 3.2 is that whereas three-quarters of males are employed on a permanent full-time basis, less than one-half of the females are. The main driver of this difference is the spread of part-time employment with 35.2% (permanent and fixed term) of the women employed part-time compared with 6.6% of the men. A lower percentage of women than men are employed on a permanent basis, 66.7% to 79%. And a higher percentage of women than men are employed on a casual basis, 12.1% to 7.2%.

² In August 2002: the public sector employed 19% of the WA workforce. 79% of these were employees of the State Government, 11% Commonwealth Government, 10% local government. The discussion of 'public sector' here refers solely to WA State Government employees.

Table 3.2: The WA State Government Workforce: Employment Status by Sex, June 2003.

	All Employees	Females	Males
Permanent Full-time	54.0%	41.7%	74.8%
Permanent Part-time	17.3%	25.0%	4.2%
Fixed term Full-time	9.9%	10.1%	9.5%
Fixed term Part-time	7.3%	10.2%	2.4%
Casual	10.3%	12.1%	7.2%
Trainee	0.2%	0.2%	0.1%
Other	1.1%	0.7%	1.8%
TOTAL	100%	100%	100%

Source: Government of Western Australia, *Profile of the Western Australian State Government Workforce June 2003*, Section 6, p.4

Women are congregated disproportionately in the lower positions. In the wider public sector some unions claimed a glass ceiling operates above Level One for many women. Research is needed into why this barrier persists. In 2003, 8.5% of female public servants held positions in the higher salary ranges of SR6 and above, compared with 24.8% of the male public servants³. In 2003 women constituted 20.5% of the Senior Executive Service (SES) and 20%, 27% and 30% of Management Tiers 1, 2 and 3.

Part-time employment is located overwhelmingly in the lower levels (see Table 3.3). Only 3.8% of part-time employees are in the salary brackets \$60,000 and above (full-time equivalent).

Table 3.3: The WA State Government Workforce: Part-time permanent employees, June 2003 – gender x salary groups

Salary Groups (full-time equivalent)	Female	Male	Total
\$10,000 to \$19,999	0.9%	1.5%	1.0%
\$20,000 to \$29,999	31.1%	43.7%	32.2%
\$30,000 to \$39,999	20.9%	10.9%	20.0%
\$40,000 to \$49,999	18.2%	13.7%	17.7%
\$50,000 to \$59,999	25.7%	20.0%	25.2%
\$60,000 to \$69,999	2.3%	4.8%	2.5%
\$70,000 to \$79,999	0.5%	2.2%	0.7%
\$80,000 to \$89,999	0.1%	0.5%	0.2%
\$90,000 to \$99,999	0.1%	0.4%	0.1%
\$100,000 to \$199,999	0.2%	2.2%	0.4%
More than \$200,000	0.0%	0.1%	0
Total	100%	100%	100%

Source: Department of Premier and Cabinet, Government of Western Australia, unpublished statistics.

³ This did not include casual employees.

The public sector is highly gender segregated by occupation (Interview, Director of Equal Opportunity in Public Employment). An analysis of agencies also indicates gender segregation. Of the 58 agencies with more than 100 employees, more than one-half are dominated by one gender, that is more than 60% of their employees. 13 were male-dominated and 18 were female-dominated (Government of WA 2003:Table 6.4).

Equity Policy

The Government has developed a laudable Equity and Diversity Plan for the public sector workforce, 2001-2005, aiming to ensure a more diverse workforce at all levels of public employment and to promote “equal opportunity in a work environment that is inclusive and free from discrimination”. For the first time the government has set measurable equity targets. Each agency is required to indicate their contribution to the achievement of those targets. The CEOs set their own targets in conjunction with the DEOPE and these targets are then included in each CEO’s performance agreement. The DEOPE provides feedback for the agencies on their progress in the form of reports comparing each agency’s performance with the others. Similar reports are also prepared for Ministers in relation to their portfolios (Interview, DEOPE).

One area that has been set as a priority within the Equity and Diversity Plan has been to improve the distribution of women at higher levels, particularly in management positions. In 1989, 7% of the SES were females; this increased steadily to 20% by 2001 but has stalled at that point since then. The representation of women in the SES in WA is lower than in the Commonwealth and in other Australian states (DEOPE, Annual Report 2002-2003:29). Similarly, the representation of women in the top three management tiers decreased from 32% to 29% during 2002-'03, contrary to stated performance objectives. We urge the government to 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.

Recommendation 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.

An important factor that has impacted on the government’s ability to achieve its goal of increased representation of women in the senior levels of the public sector has been restructuring. The decrease in the percentage of women in the top three management tiers was attributed to restructuring, in particular, amalgamation of the health sector into a single department. With regard to the SES, the current government has been fulfilling an election commitment to reduce

SES numbers with consequent low levels of recruitment at that level. This highlights the importance of gender mainstreaming, the need to evaluate all policies and practices impacting on the public sector workforce in terms of gendered employment and pay outcomes. Restructuring will undoubtedly continue to occur within and across public sector departments and we would urge public sector management to evaluate the consequences in terms of gender.

Recommendation 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.

Bargaining Structures

Under the previous government, bargaining over wages and conditions was decentralized to each agency resulting in differing outcomes between agencies. The perception is that employees in male-dominated agencies generally gained higher pay rises than those in female-dominated agencies (Interview DEOPE; Unions WA submission). Berger's analysis (2000) of workplace and enterprise agreements in the public service provides evidence of this, for example, over a five year period the wages of employees in the Health Department increased 10.5% compared with 27.5% for those in Main Roads. This would clearly impact on gender equity.

The current government has re-centralised the process of determining wages and conditions but some differences still persist as the transition arrangements proceed.

Work/Family Practices

Employees in the WA public service have a number of leave and working arrangements to assist balancing their work and family responsibilities:

- paid parental leave: in 2002, six weeks of paid parental leave was introduced for all public servants⁴, this will increase to seven weeks on 1 January 2005 and to eight weeks on 1 January 2006;
- employees returning from parental leave may request part-time employment;
- employees can now 'purchase' up to eight weeks additional leave per annum;
- Personal Leave: the 2004 Public Service General Agreement introduced Personal Leave (2004 WAIRC 12164). Personal leave rolls together sick leave, carers' leave and short leave into one leave entitlement to give greater flexibility to employees' use of their leave entitlements.

⁴ The agency-based agreements negotiated under the former government resulted in differing paid maternity leave entitlements between agencies, ranging from zero to six weeks.

- employees can utilize flexible commencement and finishing times and flexi-leave;
- employees can negotiate to work from home.

These conditions provide an excellent start to developing a workplace in which employees may balance their work and private interests. There are, however, two issues which we seek to raise to ensure that the government's commitment to providing employees with work/life balance is achieved.

Firstly, in accordance with Recommendation 14, the government should increase the number of weeks of paid parental leave to 14. This is in accordance with the ILO prescribed standard and would enable the government to provide leadership to the private sector.

Secondly, it is widely recognized that written agreements do not necessarily provide an accurate reflection of what actually occurs in the workplace. Thus further information is needed on the accessibility of these conditions. It was suggested to us that there was a need to change attitudes, particularly at the managerial levels, to ensure that the potential for a family-friendly work environment is converted into a reality (Interview DEOPE). The barriers to employees seeking to convert to part-time employment were provided as an example. Table 3.3 shows that there are very small numbers of public servants employed on a part-time basis in jobs classified at SRS 6 or higher. This suggests that there may well be a blockage for employees seeking part-time employment at those levels. The perception amongst many employees is that such requests are blocked by managers who perceive it as 'inconvenient' or simply believe that many jobs cannot be performed adequately on a part-time or job-share basis. Thus it was claimed that it is not unusual for women returning from parental leave who request part-time employment to be told that they may have to take a job at a lower level or, if remaining at the same level, to find themselves allocated less attractive work. In contrast, it was pointed out that part-time appointments are offered to doctors and lawyers working in the public sector as it is understood that "they have another job to fulfil".

Recommendation 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.**

Work Value/Job Classification

In the process of gathering data for this section of the Review, the job evaluations and classification system emerged as a contentious issue. Several interviewees expressed concern about the use of the BIPERS system to assess some of the jobs associated with 'female' skills, for example, caring, inter-relations with people. We note that in the recent case in the WA Industrial Relations Commission dealing with pay increases for WA public servants (2004 WAIRC 12131), the Civil Service Association was critical of the classification process as perpetuating gender bias. The government rejected this assertion and argued otherwise.

In discussion with the Workforce Analysis branch of Premier and Cabinet, it was revealed that preliminary work looking at cost of employment supports the need for further research into work value issues.

Clearly it is beyond the terms of reference of this review to pass judgement on the appropriateness or otherwise of the job evaluation and classification system utilized in the public sector. We would, however, indicate at this point that this is an issue in need of further research.

Recommendation 24

That the government conduct research into the work value assessment process and outcomes within the public service.

3.7 Training

From the research literature and from submissions we conclude that there are two types of training needed:

- (i) training strategies to build women's human capital endowments
- (ii) training to achieve the educative process related to gender equity and to implement the recommendations included in this report to make remuneration outcomes more equitable

(i) human capital endowments

In Part 2 it was recognized that, on average, women's access to and participation in training opportunities has improved in recent years. What was identified, however, was that access is uneven and certain groups are still missing out. The particular groups that were identified as being less likely to receive training included women employed on a part-time and/or casual basis, women caring for very young children, women in lower level jobs, and workers in feminised industries.

Currently in WA the Department of Education and Training attempts to encourage training providers to improve access and equity to ensure that a more diverse population participates in training opportunities (for example, refer to its publication "Building Diversity and the AQTF: A guide to access and equity"). It does not, however, focus specifically on gender.

Training policy in WA is linked closely to national training policies. ANTA's recently released policy paper with strategies to better address women's issues in vocational education and training is expected to inform policymaking in WA in the near future. We would urge DET to take account of the research that identifies the specific groups of women needing to be targeted with training initiatives when they implement the recent ANTA initiative in relation to women. In particular, we propose that DET investigate the implementation of a training credits scheme to be targeted at employers of women in these specified groups who invest in training strategies to increase their skill levels and career opportunities.

Recommendation 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.

Recommendation 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.

Recommendation 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.

A substantial amount of the change needed to improve the training opportunities for targeted groups of women in the workforce is dependent upon policies and practices internal to organizations. As with pay, employers need to conduct a gender analysis of their training provisions to assess whether men and women are accessing training opportunities equally and to act on their finding accordingly.

Recommendation 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.**

We would urge employers to focus specifically on their part-time employees – both permanent and casual – and to develop strategies to improve their access to training. This may require

- changing managerial attitudes to recognize that this group needs to access training;
- recognition that some part-time employees ‘de-select’ themselves from training and therefore need encouragement;
- consideration of the timing of the courses to maximize attendance by part-time employees;
- being prepared to pay part-time employees who attend training outside of contracted hours or give time off in lieu;
- assistance with childcare arrangements for those attending training outside of their usual working hours.

Recommendation 29

That the government encourage employers to develop strategies to improve the participation of their part-time employees in training and development opportunities.

(ii) training for the educative and capacity building processes

As with several earlier Inquiries (for example the UK Equal Pay Taskforce, NSW Pay Equity Inquiry, the Review of Gender Pay Equity in the Victorian Public Service) this review has found a widespread lack of awareness and understanding of the existence and persistence of the gap between women's and men's pay. Understanding often does not extend beyond equal pay; there is the presumption that now that men and women are paid the same rate for the same job there is no longer a problem. Even when there is an evident willingness to address pay equity issues, there are many barriers to pay equity for women. These include the requirement to compare women's jobs with male-dominated occupations, the gender assumptions underpinning historical assessments of work value, and job descriptions and occupational standards that project caring and relational skills as women's 'attributes'. If the system is to be fair and transparent, and capable of overcoming that historical undervaluation, it must be supported by the training of managers and decision makers to ensure an awareness of the problems and to develop capacity building for the task of implementation of all aspects of this report.

Training needs to occur at two levels: firstly, for the decision makers impacting on remuneration outcomes and, secondly, to raise community and public awareness. The educative and building capacity process requires the collaboration of employers, unions, the Commission and experts in gender equity provisions such as the Office of Women's Policy, the Equal Opportunity Commission and the Office of Equal Employment Opportunity. With regard to the training of decision makers, we note that Justice Malcolm instituted training for Supreme Court judges on gender relations in order to address their evident lack of understanding of violence against women. A similar process could benefit decision makers in management, the Industrial Relations Commission and in unions. We see the training of such decision makers as a priority. Government support for the training and educative process will be critical. Existing expertise such as that within the Office of Equal Employment Opportunity and the Office of Women's Policy should be utilized in the development of training modules that could then be implemented by umbrella groups such as employer associations, professional bodies and UnionsWA. In addition, we urge the government to invest resources into the training process so as to facilitate the achievement of these outcomes.

Recommendation 30

(i) That the Office of EEO or Office of Women's Policy be resourced 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.

(iii) 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.

Recommendation 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.

Recommendation 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.

Finally, given that we view the undervaluation of women's work and the introduction of a new Equal Remuneration regulatory mechanism to address this as such a critical component of this report, we propose that the Commission in conjunction with the Equal Opportunity Commissioner and the s50 parties conduct a case study as part of this learning process. We draw here from the experience of the NSW Pay Equity Inquiry and the Queensland Inquiry where in both instances the parties learnt to understand and negotiate gender pay equity issues through such case studies.

The main aims of the case study would be

- to provide the parties with the opportunity to describe, assess and value the work and skills of a female-dominated occupation in a gender neutral way; and
- to provide the parties with the opportunity to consider the application of the proposed new Equal Remuneration Part of the IR Act 1979.

The Commission should choose an appropriate female-dominated occupation in consultation with the s50 parties. It is critical that such a case study be a co-operative exercise, not adversarial, as it is to serve primarily as a learning experience. Therefore we would not expect it to produce a tangible outcome for the occupation concerned.

Recommendation 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.

3.8 Implementation of Recommendations

This report highlights why the gender pay gap is a problem for employees, for business and for the broader society. It identifies an array of factors that contribute to the gender pay gap and makes recommendations to address these factors. This then leads to the question of "what happens next?". We offer here an implementation plan to ensure that the next step is taken.

Clearly one body should have responsibility for implementing the recommendations that are adopted from the report by the government. Such a body will need to have an appropriate level of resources attached to it, separate to the resources of the department in which it is located. We suggest that this unit be based within one of the following locations: the Department of Premier and Cabinet, the Equal Opportunity Commission or DOCEP. The Department of Premier and Cabinet would provide a centralized location for the unit with the backing of the most powerful government office within the state and would be consistent with the philosophy of gender

mainstreaming. The Equal Opportunity Commission (EOC) has the powers and expertise on gender equity to sustain such a unit and we see some parallel between the educational work of a Pay Equity unit with that of the Public Sector Anti Racism and Equality Unit which is currently being located within the EOC. And the nature of the work associated with this report is akin to the work of the Labour Relations division of DOCEP.

In addition to the Pay Equity Unit a high-level Steering Committee should guide the unit and monitor the progress of the implementation of the report. It will be critical to have a Chair of the Committee who has sufficient status within both the public and private sectors to be able to hold all parties accountable for the progress of the implementation plan. This committee should draw on the public sector expertise of DOCEP, the Department of Premier and Cabinet, the EOC, the Office of EEO and the Office of Women's Policy and include representation from union and employer bodies.

From the start, a process will need to be developed for reporting on and assessing outcomes. Each recommendation requires individual(s) designated accountable for its implementation and a time frame attached to it. Each meeting of the Steering Committee should then monitor progress accordingly.

Recommendation 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.

Appendix 1: Reference Group Membership List

Ms C. Cook, Acting Director, Organisational Development, Department of Education and Training.

Ms H. Creed, National President, Australian Liquor, Hospitality and Miscellaneous Workers Union.

Ms M. Dhalamanda, Principal Policy Officer, Office of Cabinet, Department of Premier and Cabinet.

Mr G. Etreoezis, Managing Director, Small Business Development Corporation.

Ms A. Hall, Assistant Director, Policy and Economic Analysis, Department of Consumer and Employment Protection.

Ms Y. Henderson, Equal Opportunity Commissioner, Equal Opportunity Commission.

Ms S. Mayman, General Secretary, UnionsWA.

Ms M. Osman, Executive Director, Office of Women's Policy.

Mr S. Reid, Principal Labour Relations Adviser, Department of Consumer and Employment Protection.

Mr B. Williams, Divisional Director, Employee Relations Services, Chamber of Commerce and Industry.

Appendix 2: Submissions Received

Submissions were received from the following organizations:

Master Cleaners Guild of WA
Restaurant and Catering Industry Assoc'n of WA
Motor Trade Association of WA
WA Retailers Assoc'n
Women's Electoral Lobby (WA) Inc
Australian Library and Information Association
The West Australian Small Business and Enterprise Assoc'n Inc
Chamber of Commerce and Industry, WA
Australian Manufacturing Workers Union
The Law Society of WA
UnionsWA
Women's Economic Policy Unit, Curtin University of Technology
Australian Hotels Association, WA Branch
Australian Mines and Metals Assoc'n Inc
Women's Advisory Council
Office for Women's Policy, Dept for Community Development, Government of Western Australia.

Submissions were received from the following individuals:

Kathleen Irwin
Janine Freeman

Appendix 3: Interviews

(Listed in chronological order)

Mr R. Horstman, Office of the Minister for Consumer and Employment Protection, 15/4/04

Ms S. Mayman, General Secretary, and Ms C. Ozich, UnionsWA, 16/4/04, 26/8/04

Ms M. Osman, Executive Director, Office of Women's Policy 16/4/04, 27/8/04

Ms. N. Taylor, Director of Equal Opportunity in Public Employment, and Ms M. White, Office of Equal Employment Opportunity, 5/8/04

Chief Commissioner Bill Coleman, Western Australian Industrial Relations Commission, 16/8/04

Ms C. Short, Director, Work Matters Research Consultancy and PhD. student, Curtin University, 26/3/04

Dr S. Charlesworth, Centre for Applied Social Research, RMIT University 3/6/04

Philippa Hall (telephone interview), former Deputy Director-General, NSW Department for Women.

Ms M. Dharmananda, Principal Policy Officer, Office of Cabinet, Department of Premier and Cabinet, 27/8/04

Ms Y. Henderson, Equal Opportunity Commissioner, Equal Opportunity Commission 23/8/04

Mr B. Williams, Divisional Director, Employee Relations, Chamber of Commerce and Industry, WA and Mr R. Gifford, Australian Mines and Metals Association 23/8/04

Ms S. Howard, Industrial Relations Manager, and Ms K. Gaden, Industrial Relations Officer, Australian Hotels Association, 27/8/04

Martin Dempsey (telephone interview), Chief Executive Officer, WA Retailers Association.

Commissioner Jennifer Harrison, Western Australian Industrial Relations Commission, 10/9/04.

Ms H. Creed, National President, Australian Liquor, Hospitality and Miscellaneous Workers' Union, 14/9/04

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