



Department of Consumer
and Employment Protection
Government of Western Australia

**Submission of the Department of Consumer and
Employment Protection
Pay Equity Unit**

**to the
House of Representatives Standing Committee on
Employment and Workplace Relations
Inquiry into pay equity and associated issues related to
increasing female participation in the workforce**

Introduction

Pay equity is a fundamental employment issue that requires a stronger focus across Australia. In the 21st century when it is illegal to discriminate on the basis of gender in all areas of employment, Australia still has a significant gender pay gap that needs to be addressed. Improving pay equity and encouraging women's participation in the workforce is a critical strategy to support economic success and overcome current and future labour supply issues.

This submission was developed by the Pay Equity Unit at the Department of Consumer and Employment Protection. Input was gratefully received from the Department of Treasury and Finance, the Office for Women's Policy, the Women's Advisory Network of WA and the Department of Health.

Western Australian is currently the only Australian jurisdiction with a specialist pay equity unit. This submission begins with information about the gender pay gap in Western Australia, which is substantially larger than the national average, and discusses the experiences and the work currently being undertaken by the Pay Equity Unit. The submission then considers each of the terms of reference for the inquiry individually, discussing the issues raised by each term of reference and making a series of recommendations on how pay equity strategies could best be implemented in these areas.

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Executive Summary

Western Australia has the largest gender pay gap of any state or territory in Australia. Research has failed to adequately account for all the factors that underpin WA's relatively large gender pay gap and thus explain why WA's gender pay gap is higher than the rest of Australia.

The Pay Equity Unit in Western Australian was established in 2006, and is the only specialist unit operating in any Australian jurisdiction.

The Pay Equity Unit is working on a range of innovative best practice strategies to address the gender pay gap focusing on four key areas: education and awareness-raising; development of resources for organisations to undertake pay equity audits; providing reports to public sector agencies about their gender pay gaps; and consulting with stakeholders about gender neutral tools and the adoption of an Australian Standard related to this tool.

The Pay Equity Unit has recently developed the WA Pay Equity Audit Tool, a unique best practice resource for employers to use in assessing workforce data and develop strategies to improve pay equity and female career progression in the workplace.

A series of recommendations are made that reflect the experiences of pay equity initiatives in Western Australia, the importance of pay equity to workforce participation and the need for better integration of pay equity considerations into the industrial relations framework.

Summary of Recommendations

Term of reference 1 - The adequacy of current data to reliably monitor employment changes that may impact on pay equity issues.

- **Recommendation 1:** That funding be provided by the federal Government to improve existing data sources on pay equity and female employment.
- **Recommendation 2:** The federal Government provide funding for the Australian Workplace Industrial Relations Survey (AWIRS) or a similar survey to be conducted on a 5 yearly basis.

Term of reference 2 - The need for education and information among employers, employees and trade unions in relation to pay equity issues.

- **Recommendation 3:** A federal Pay Equity Unit be established to promote pay equity issues and assist employers address pay equity at the workplace level.
- **Recommendation 4:** The proposed federal Pay Equity Unit be funded to conduct an extensive advertising campaign on pay equity issues to raise the level of understanding of the gender pay gap within the wider community and the potential for pay equity strategies to assist employers in meeting their labour supply requirements.

Term of reference 3 - Current structural arrangements in the negotiation of wages that may impact disproportionately on women.

- **Recommendation 5:** That the proposed Pay Equity Unit work with the Equal Opportunity for Women in the Workplace Agency and industry stakeholders to develop an Australian Standard on gender inclusive job evaluation.
- **Recommendation 6:** Fair Work Australia be required to monitor and publish market rate pay scales for occupations across a broad range of different industries.

Term of reference 4 - The adequacy of recent and current equal remuneration provisions in state and federal workplace relations legislation.

- **Recommendation 7:** That a robust and effective equal remuneration principle or similar provisions be included in the federal workplace relations legislation, with training in equal remuneration and gender neutral job evaluation being provided for Fair Work Australia members who will be hearing equal remuneration cases.

Term of reference 5 - The adequacy of current arrangements to ensure fair access to training and promotion for women who have taken maternity leave and/or returned to work part time and/or sought flexible work hours.

- **Recommendation 8:** That the Department of Education, Employment and Workplace Relations and Fair Work Australia undertake a program to assist employers implement quality part time work.
- **Recommendation 9:** That Fair Work Australia be funded to educate employers and employees about the right to request in the federal National Employment Standards.
- **Recommendation 10:** That the federal Pay Equity Unit be funded to assist federal public sector agencies undertake pay equity audits, and have as a key role the promotion of pay equity audits to both the public and private sector employers.
- **Recommendation 11:** That the federal Pay Equity Unit work with the Sex Discrimination Commissioner and other relevant agencies to develop a program to address cultural change at the workplace level.

Term of reference 6 - The need for further legislative reform to address pay equity in Australia.

- **Recommendation 12:** A federal Pay Equity Act be introduced to integrate gender pay issues more effectively into the workplace relations framework.

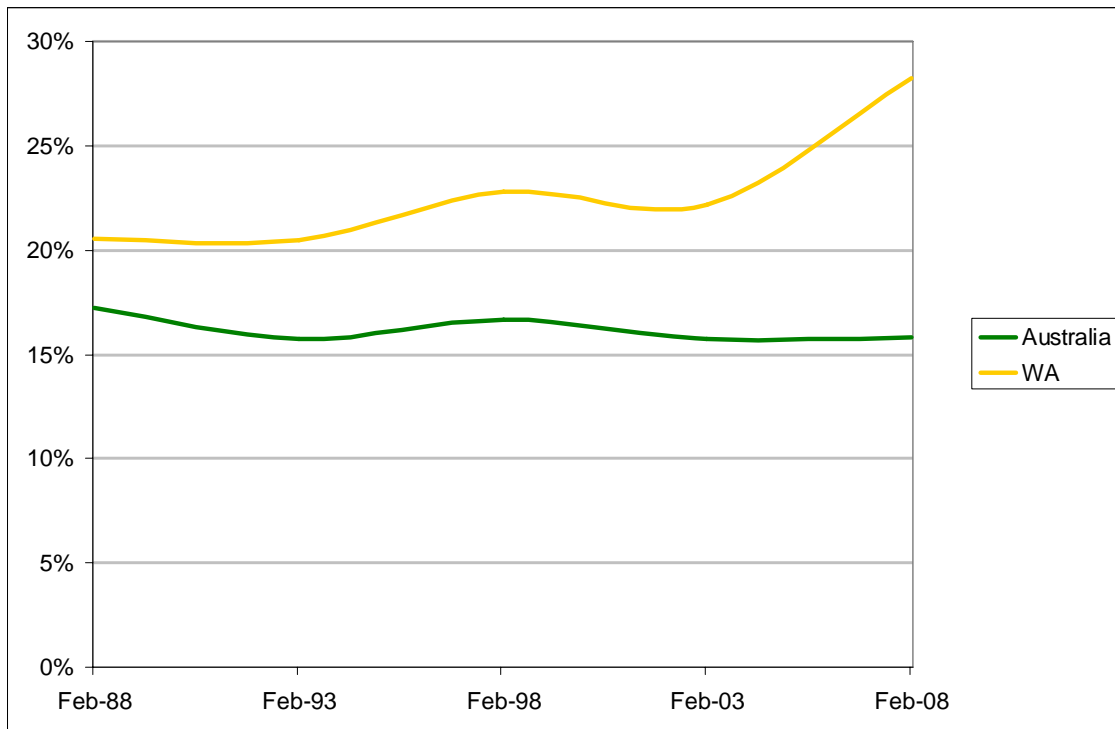
The gender pay gap in Western Australia

Western Australia has the largest gender pay gap of any state or territory in Australia. It is currently 27 per cent.¹ This means that on average for every dollar earned by a full time male employee in Western Australia, full time female employees earn just 73 cents. Nationally the gender pay gap is 16 per cent.

Research has failed to adequately account for all the factors that underpin WA's relatively large gender pay gap and thus explain why WA's gender pay gap is higher than the rest of Australia. One key factor is that the labour force in WA shows a higher degree of gender segmentation than that of other States.

There is a common misconception that the mining boom is responsible for WA's comparatively large gender pay gap. The mining industry accounts for only 5% of employment in WA, and the gender pay gap in the WA mining industry (22.7%) is less than the State average. Even though the mining sector is relatively small, it could still contribute to some of WA's large pay gap and could have flow on effects to other sectors like construction, finance and transport. However, when analysing the sectors with the largest pay gaps between males and females, four other sectors stood out as more likely to contribute to WA's large gender pay gap. Based on ABS Average Weekly Earnings in February 2008, the sectors with higher gender pay gaps than mining were Health and Community Services (40.3%), Property and Business Services (38.5%), Finance and Insurance (30.7%) and Retail Trade (26.9%).²

Graph 1 Gender pay gap Western Australia v Australia³

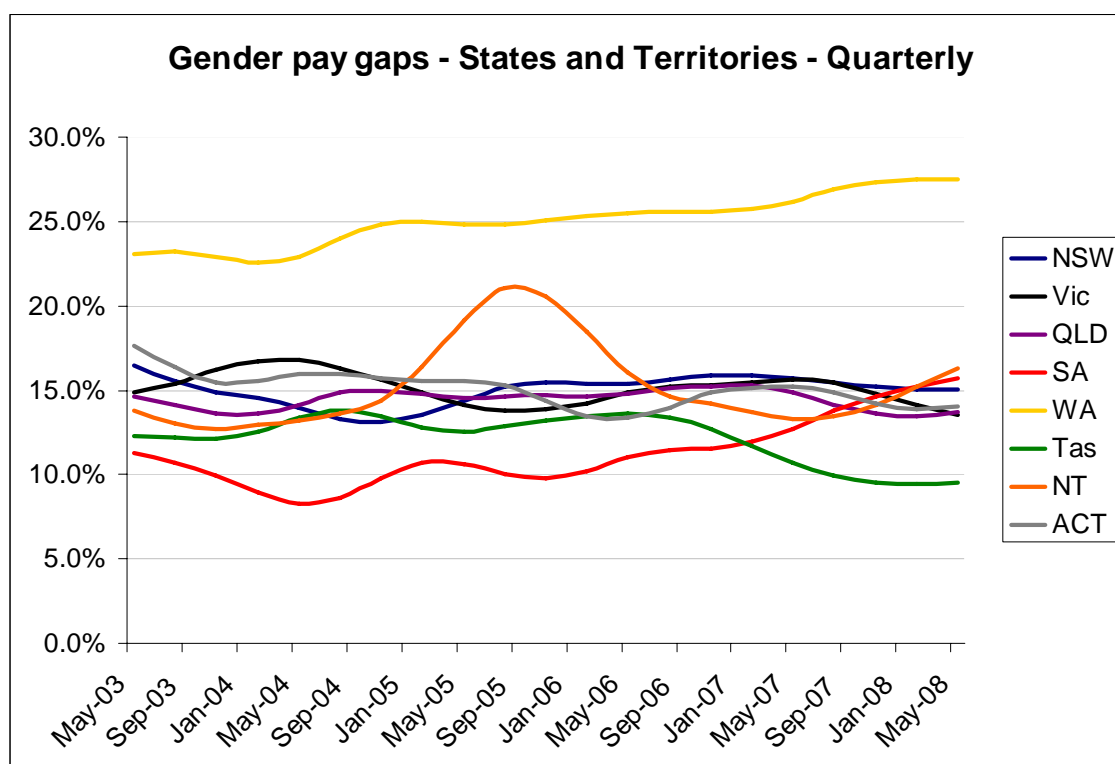


¹ ABS. *Average Weekly Earnings* 6302, May (referred hereafter as ABS. *AWE*, May 2008).

² ABS *AWE*, Full-time ordinary time earnings by sex, all sectors, Feb 2008 unpublished data

³ ABS. *AWE*, May 2008.

Graph 2 Gender pay gaps States and Territories ⁴



Workforce participation of women

The level of participation by women in the workforce is strongly influenced by the fact that many women have dependent children. The workforce participation rate in Western Australia is currently 61% for women and 77% for men.⁵

A recent discussion paper released by Western Australia's Chamber of Commerce and Industry (CCI), *Women in the Workforce*, asserts the urgency of increasing female participation for Western Australian businesses that are facing labour shortages. In October 2008, CCI's Chief Executive James Pearson stated that the biggest challenge for most Western Australian businesses is identifying ways to increase the size of the local labour force and providing additional incentives to attract and retain workers.⁶

CCI's discussion paper states that there is a clear link between the rate of female participation and a nation's policies that allow women to balance work and family commitments. "The notably higher female participation rates in other developed countries are largely a reflection of the generous incentives and opportunities provided in these countries for women to return to the workforce."⁷

The discussion paper also links the cost of child care and paid parental leave with female labour force participation. CCI states that "affordable and accessible childcare is critical to ensure that working parents can balance their work and family

⁴ ABS. AWE, May 2008.

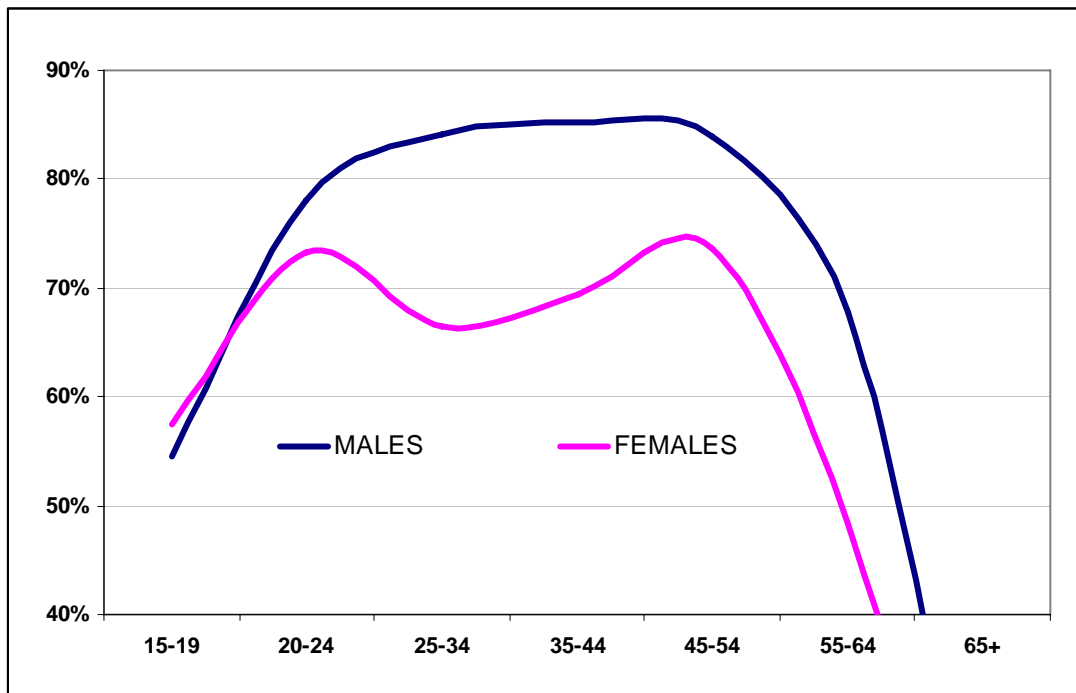
⁵ ABS. (2008). *Labour Force 6202*, August.

⁶ Chamber of Commerce and Industry Western Australia. (2008). Women hold one of the keys to WA's labour shortages. Media Statement, 15 October, East Perth: CCI.

⁷ CCI. (2008). *Women in the Workforce*, p. 38.

commitments.”⁸ As shown by Graph 3, the participation rate for women shows a sharp dip between ages 25 and 40 when many women leave the workforce due to family commitments.

Graph 3 Labour force participation by age cohort Western Australia⁹



Why does the gender pay gap exist?

Many social, historical and labour market factors contribute to the gender pay gap in Australia. Some portion of the gender pay gap may be justifiable and based on differential qualifications, skills and experience of males and females.

However, Baron and Cobb-Clark, using a semi-parametric methodology to break the distribution of the gender wage gap into its separate components, found that educational qualifications and demographic characteristics are generally unimportant in explaining the gender wage gap in Australia (based on HILDA data from 2001 to 2006).¹⁰ Further, Grimshaw and Rubery (2007) found that workplace factors like where one works, how jobs are valued and how payment systems are designed are increasingly found to explain more of the gender pay gap than characteristics of individual employees.¹¹

Thus, a major factor in explaining the current wage gap for full time employees is the undervaluation of women’s work. Men and women still tend to work in different areas of the workforce and be clustered into separate occupations and industries.

⁸ CCI. (2008). *Women in the Workforce*, p. 50.

⁹ ABS. (2006). *Census data*.

¹⁰ Baron, J. D. & Cobb-Clark, D. A. (2008). Occupational Segregation and the Gender Wage Gap in Private- and Public-Sector Employment: A Distributional Analysis. Discussion Paper No. 3562. Institute for the Study of Labor, Bonn, Germany p. 1 and 10.

¹¹ Grimshaw, D. & Rubery, J. (2007). Undervaluing women’s work. Working Paper Series No. 53, European Work and Employment Research Centre, University of Manchester, Manchester: Equal Opportunities Commission, p. viii.

Some employers enjoy a degree of monopsonistic power in the labour market and find advantage in keeping wages and employment below the level that might be found in a freely operating labour market. This may particularly affect some public sector jobs where the state is the primary, or even the sole, employer of that type of labour and more often women tend to be found in these lower wage paying markets.

Some of the other key factors contributing to women earning less than men over their life cycle are due to women taking time out of the work force or working in part time and casual jobs. This pattern can influence the overall pay gap through differential starting wages and different patterns of progression in female and male careers.

A lack of permanent part time jobs and flexible working arrangements restricts the ability to combine quality employment and family care responsibilities and impacts on current and future earnings potential. This applies to all employees, but impacts most on women who have dependant children.

Some economists may argue that advancing equal pay for work of equal value between men and women constitutes interference in the labour market, thus creating “inefficiencies”.¹² However, this ignores the presence of “discrimination” within labour markets. An Organisation for Economic Cooperation and Development (OECD) report in 2008 noted that 30% of the gender pay gap across OECD countries is attributable to discriminatory practices in the labour market.¹³

In its submission to the Pay Equity Task Force in Canada, the Canadian Bankers Association (2002) noted that the objective should not be to close the wage gap altogether because there are well identified legitimate factors that cause it but to eliminate systemic discriminatory practices. The Association noted that Canadian banks have been working with the principles of pay equity since 1977 and have refined their job evaluation and compensation systems against the new guidelines. The submission supported the principle put forward by the Hay Group Limited in their June 2002 submission to the Task Force that “equal pay for work of equal value should be a cornerstone of employment practices in our society. It is not optional.” Further the Association is committed to maintaining equitable, gender neutral pay practices within the regulatory system governing equal pay for work of equal value.¹⁴

The key factors contributing to the gender pay gap are discussed in greater detail below.

Sex segregated labour market

Australia has a highly sex segregated workforce. This means that women and men tend to be clustered into separate occupations and industries. Those occupations and industries that are male dominated have historically been more highly valued with ‘men’s work’ paid more than ‘women’s work’. The notion of ‘men’s work’ and ‘women’s work’ largely persists.

¹² New South Wales Treasury. (1998). *The economic impact of certain pay equity scenarios for New South Wales*. Hobart: Centre for Regional Economic Analysis, University of Tasmania, May.

¹³ OECD. (2008). *OECD Employment Outlook – 2008 Edition*. Paris: OECD.

¹⁴ Pay Equity Review: Submissions. (2002) Submission to the Pay Equity Task Force by the Canadian Bankers Association, November. Accessed July 2008 from:
<http://www.justice.gc.ca/en/payegsal/4467.html>

Research has found that a significant portion of the gender pay gap is associated with being in female dominated work. Women employed in industries that were close to 100 per cent female dominated earned 32 per cent less than women with identical job characteristics employed in industries that were close to 100 per cent male dominated. Women also received lower wages in female dominated occupations within industries.¹⁵

Often the skills and work associated with female labour have been seen as natural and innate and, hence, have not been highly valued in the labour market. Women's work is undervalued because of:

- the absence of appropriate classification structures;
- poor recognition of qualifications;
- the absence of previous and detailed assessments of their work;
- gendered characterisations of the work undertaken by women; and
- inadequate application of previous equal pay measures.

Unsupportive working arrangements

A lack of permanent part time jobs and flexible working arrangements restricts workers' ability to combine quality employment and family care responsibilities. This means women with children or other caring responsibilities are less able to participate in the paid workforce and this impacts on women's career development and lifetime earnings. When there is inflexibility in working arrangements, this can significantly reduce women's earning potential in the short and longer terms, as well as their capacity to accrue superannuation and retirement savings.

Women may be forced to 'choose' the flexibility of lower paying part time or casual work or not seek career advancement because of caring responsibilities. Often there are fewer opportunities for training and career development in part time or casual employment or in industries where these types of employment are widespread.

The adoption by many organisations of flexible working arrangements that support greater work life balance for all employees, including those with families, will assist women in maximising their workforce participation and career progression.

The introduction of flexible work arrangements is being recognised as a key strategy to increase female participation, provide greater opportunities for women to work and make their skills available to employers. A recent survey of employee perception conducted by the Chamber of Commerce and Industry of Western Australia (CCI) found that the provision of more flexibility in the workplace is the single most important measure to attract and retain female workers.¹⁶

Over representation of women in casual and non-career part time employment

There is a greater proportion of women than men employed on a casual basis. This type of employment is associated with a lower overall level of wages and in recent

¹⁵ Pocock, B. & Alexander, M. (1999). The Price of Feminised Jobs: New Evidence on the Gender Pay Gap in Australia, *Labour and Industry*, 10(2), pp. 75-100.

¹⁶ Chamber of Commerce and Industry Western Australia. (2008). *Women in the Workforce: A Discussion Paper*, October, East Perth: CCI Economics, p. 42 (hereafter referred to as CCI. (2008). *Women in the Workforce*).

years the gap between part time/casual and full time average hourly earnings has been increasing. Full time employees are more likely to be paid above the award or minimum wage rate and to be covered by an enterprise agreement.

This trend has major negative implications for the current and long term gender pay gap.¹⁷ Fortunately in recent years there has been significant growth in 'quality' part time employment. This is secure part time work with equitable status, pay and working arrangements. Further growth in this area should help reduce the gender pay gap and provide employees with greater opportunities to work part time for family or other lifestyle reasons. People in quality part time jobs have similar job content and status as full-timers; they are encouraged to participate in training, career and professional development programs; and they feel confident in applying for promotion.

¹⁷ Todd, P. & Eveline, J. (2004). Report on the Review of the Gender Pay Gap in Western Australia Tabled in Parliament November (referred hereafter as Todd & Eveline Review. (2004)).

The pay equity experience in Western Australia

Successive Western Australian governments have been aware of the issue of pay equity. This is demonstrated by the government-commissioned research reports and the establishment of the Pay Equity Unit. This section describes the actions taken by governments and the initiatives of the Pay Equity Unit.

Crockett and Preston report 1999¹⁸

To develop appropriate strategies to reduce the gender pay gap for women in Western Australia, independent research was commissioned in 1998. The academic researchers, Geoffrey Crockett and Alison Preston from Curtin University, were asked to identify the causes and/or reasons for the pay gap between WA females and males, and between WA females and Australian females, and identify how these pay gaps could be significantly reduced.

The researchers were able to identify the causes for only one third of the gender pay gap in WA. The remaining two thirds of the gap remained “unexplained”. The researchers found one third of the gap was attributed to:

- productivity effects that are considered acceptable differences resulting from differences in education and experience of males and females; and
- wage structure effects that are how the market pays for differences in characteristics such as qualifications, occupation and industry of employment. These factors are considered to be the main discriminatory factors causing the pay gap. They are attributed to the undervaluation of women’s skills and qualifications.

2004 Review of the Gender Pay Gap in Western Australia¹⁹

In 2004, Trish Todd and Joan Eveline from the University of Western Australia were commissioned to conduct a review of the gender pay gap in Western Australia. The *Report of the Review of the Gender Pay Gap in Western Australia* (Todd & Eveline Review), tabled in Parliament in November 2004, provided 34 recommendations on strategies to address the gender pay gap.

A major theme of the Todd/Eveline Review recommendations was that both voluntary and regulatory strategies should be used to address the gender pay gap. Eighteen of the 34 recommendations of the Review were legal strategies, proposing either direct legislative change or actions based upon legislative change. Key recommendations of the Todd & Eveline Review were:

- a) the inclusion of an Equal Remuneration Part in the Industrial Relations Act to allow the Commission to hear applications to achieve gender pay equity in awards;

¹⁸ Crockett, G. & Preston, A. (1999), *Pay Equity for Women in Western Australia: Research Report*, Department of Productivity and Labour Relations, Western Australia (referred hereafter as Crockett & Preston (1999) Report to WA Govt.).

¹⁹ Todd & Eveline Review. (2004).

- b) the inclusion of a requirement for employers to demonstrate that they have taken account of gender issues in relation to remuneration when registering industrial agreements and employer-employee agreements;
- c) that pay equity audits be undertaken, with audits being mandatory for the public sector, and voluntary within the private sector; and
- d) the establishment of a Pay Equity Unit for Western Australia with the responsibility for implementing the recommendations of the Review.

Following the High Court decision in 2006 upholding the Commonwealth Government's use of the corporations power in the Australian Constitution to regulate industrial relations for previously state based employers and employees, the potential efficacy of many of the legal strategies recommended by the Todd/Eveline Review has been reduced.

The Pay Equity Unit

The Pay Equity Unit was established in 2006, within the Labour Relations Division of the Department of Consumer and Employment Protection. The Pay Equity Unit is the only specialist unit addressing gender pay issues in any Australian jurisdiction. In the last 2 years, the Pay Equity Unit has been leading the way in implementing initiatives to address pay equity and encourage greater opportunities for workforce participation and career development for women.

The Unit is working in partnership with business and industry stakeholders to address pay equity. The key aims of the Pay Equity Unit are to raise awareness within business and the community about pay equity through education and training; and to work with public and private sector employers to implement pay equity audits and other strategies to remove barriers to workforce participation and career progression for female employees.

Pay equity initiatives in Western Australia

The Pay Equity Unit has been working in four broad areas: education and awareness-raising campaign; developing resources for organisations to undertake pay equity audits; providing reports to public sector agencies about their gender pay gaps; and consulting with stakeholders about gender neutral tools and the adoption of an Australian Standard related to this tool. In addition, the Unit engages in research on pay equity strategies and consults with pay equity experts locally, nationally and internationally. It holds seminars and initiates research projects on pay equity issues and writes submissions to relevant inquiries. These strategies are outlined below.

Education and awareness-raising campaign

The Pay Equity Unit is engaged in an information, education and awareness-raising campaign on pay equity issues. In the Western Australian experience, there is a low level of understanding and often significant confusion about the concepts of pay equity within the community and the workplace.

It meets with employers and community groups to raise general awareness about pay equity issues, engages in speaking activities and distributes promotional information. The Unit maintains a comprehensive website on the issue of pay equity,

www.payequity.wa.gov.au, which contains general community information and specific tools for employers.

A range of fact sheets and solutions sheets have been developed to assist in promoting the understanding of pay equity issues and encouraging employers to develop pay equity strategies. The pay equity fact sheets provide key information on the gender pay gap in Western Australia.

- Fact sheet one - The gender pay gap in Western Australia
- Fact sheet two - Women in the Western Australian workforce
- Fact sheet three - History of pay equity in Western Australia
- Fact sheet four - Why is there a gender pay gap?
- Fact sheet five - The gender pay gap in the WA public sector
- Pay equity - the business imperative
- Conducting a pay equity audit

The Pay Equity Unit has also developed the *Pay Equity Audit Toolkit*, a detailed resource for organisations on the process of undertaking a pay equity audit and review.

The Pay Equity Audit Toolkit outlines how to turn data from a pay equity audit into achievable pay equity strategies, by analysing the data from a pay equity audit and developing a pay equity action plan. Approximately 800 copies have been distributed to WA employers since its launch in July 2007. The pay equity audit process and tools developed by the Pay Equity Unit are discussed in greater detail below.

Resources for pay equity audits

The Pay Equity Unit is advocating the use of pay equity audits in the public and private sectors as a tool to address the gender pay gap at an organisational level. A pay equity audit is an analysis of payroll data and human resource practices to identify where gender pay gaps and gender issues exist within an organisation.

A pay equity audit is the first part of undertaking a pay equity review, in which an organisation uses the data from the audit to develop and implement ongoing strategies to improve gender equity throughout its workforce. One element of undertaking a pay equity audit within an organisation is to determine which areas are female dominated occupations, and analyse whether the skills of employees in these areas are being appropriately valued and adequately rewarded.

The purpose of a pay equity audit is to provide the data needed to develop pay equity strategies that are appropriate and beneficial to the organisation. The findings can also provide a benchmark to assess improvement in gender equity in subsequent years. The long term outcomes of a pay equity audit should be a range of targeted strategies to assist in attraction and retention of quality employees and remove barriers to workforce participation and career progression for female employees. These include making flexible working arrangements such as part time work, home based work and flexible hours available for all employees and promoting a workplace culture that supports their use.

To assist organisations undertake pay equity audits, the Pay Equity Unit has developed a range of resources. The major resource is the WA Pay Equity Audit Tool. It is an automated spreadsheet that creates tables and charts based on payroll data, showing

gender pay gaps and other indicators such as the prevalence of flexible working arrangements.

Using the tool streamlines the technical process of data analysis, so that the organisation can instead focus on other aspects of a pay equity audit. The broader review process includes:

- analysing the results of the data analysis;
- attempting to assess whether gender-based discrepancies that are found are justifiable or explainable;
- identifying areas for further investigation; and
- developing recommendations for corrective action.

The *Developing pay equity strategies* handbook in the toolkit details five steps to analyse audit data, develop a pay equity action plan and implement and communicate gender pay strategies. The toolkit also contains six pay equity solution sheets that provide suggested strategies and actions to address gender pay issues.

- Solution sheet one - Increasing female representation in senior roles
- Solution sheet two - Gender equity in performance payments
- Solution sheet three - Gender equity in career development and promotion
- Solution sheet four - Flexible work arrangements
- Solution sheet five - Job sharing
- Solution sheet six - Part time work

Pay equity in the WA public sector

In 2007 the Pay Equity Unit provided an individualised Pay Equity Report to each of the 26 large public sector agencies in WA (those with more than 400 FTEs). The aim of these reports was to provide an overview of the gender pay gap data for the agency and encourage public sector agencies to undertake detailed pay equity audits.

These reports are done on an annual basis enabling each agency to measure its progress across time against the benchmark of the 2006 agency gender pay gap. In 2008 the Pay Equity Unit sent the second Pay Equity Report to 25 large agencies (omitting one agency that had recently completed its pay equity audit). These reports compared the progress in gender pay equity achieved since the previous reports.

In response to the first report, four agencies initiated pay equity audits. Since the 2008 reports were released in late August, an additional four agencies have contacted the Pay Equity Unit to implement pay equity audits.

In 2008, three large agencies completed pay equity audits and developed recommendations based on their payroll data analysis. The Pay Equity Unit is currently working with the Department of Health, which will undertake its audit in the latter part of 2008. Due to the number of employees in the department, this will be the largest single pay equity audit ever undertaken in Australia.

In 2008, the Pay Equity Unit also met with the four public universities in the state to interest them in undertaking audits. If each university undertakes a similar audit, this will allow a unique opportunity for benchmarking against similar organisations. With assistance from the Pay Equity Unit and utilising the audit tool, The University of Western Australia completed its data analysis report in September and its Vice

Chancellor's Equity and Diversity Committee will make recommendations emanating from the findings. Several private sector companies have also approached the Unit for assistance with pay equity audits.

To assist organisations in undertaking pay equity audits, the Unit provides examples of model audits, trains human resources officers in the technical aspects of the audits and collaborates with organisations in identifying recommendations emanating from the findings. The organisation itself undertakes the audit.

After undertaking a pay equity audit, agencies are better able to identify where gender pay inequities exist within their organisations and can then adopt strategies to remove barriers to workforce participation and career progression for female employees. The first step in a pay equity audit is to produce a detailed analysis of the areas and occupations in which gender pay differences are occurring. A gender pay gap of 5 per cent or more is regarded as significant and warrants further investigation.²⁰ Identifying those areas where there are larger than average gender pay gaps can facilitate the development of targeted pay equity strategies.

Gender neutral job evaluation systems

The Pay Equity Unit is also undertaking a long term project examining ways of encouraging the use of more gender neutral job evaluation tools within the public and private sectors.

A job evaluation system is a tool that assesses the value (and therefore the appropriate remuneration) of the skills and requirements of particular jobs or occupations. In the Western Australian public sector, the BIPERS job evaluation system is currently used to classify public service positions and allocate jobs to particular levels.

Job evaluation tools can be a factor in creating pay differences between male and female dominated occupations. Many job evaluation systems may undervalue traditional female skills, particularly skills relating to work of a caring and compassionate nature, or the social and emotional skills required to successfully undertake a particular role.

The New Zealand Government has developed a comprehensive gender neutral job evaluation system for use by government agencies. It has also recently introduced a New Zealand Standard relating to gender neutral job evaluation systems that sets criteria by which private sector job evaluation systems can be assessed to ensure that their classification factors are gender neutral.

The Pay Equity Unit is undertaking preliminary work and stakeholder consultation on the feasibility of adopting a similar Standard in Australia. There are a number of joint New Zealand and Australian Standards across all areas, and the New Zealand Standard may be able to be adopted in Australia without significant amendment.

The Pay Equity Unit is also discussing with key public sector stakeholders the potential for replacement of the current BIPERS classification system with a more gender neutral

²⁰ This is the figure considered significant by New Zealand's Department of Labour and the Equality Commission for Northern Ireland, which stated, "There is no legal guidance on what constitutes a significant difference but techniques of statistical analysis suggest that a 5% or greater difference can be regarded as significant, wherever it occurs" (Equal Pay Review Kit, p. 14, Belfast, Northern Ireland 2006; Pay and Employment Equity Review Workbook — 2nd Edition, Wellington, New Zealand, January 2006).

tool. The BIPERS system has been used in the public sector for more than 20 years and may not adequately accommodate the skills required in current public service jobs.

The issue of gender neutral job evaluation is discussed further in Term of Reference 3.

Research and consultation

International consultation

The Pay Equity Unit has conducted extensive research on international best practice in pay equity strategies. In July 2007 the Unit met with Philippa Hall, Director of the Pay and Employment Equity Unit in New Zealand's Department of Labour to discuss the successful program of pay equity reviews that New Zealand has undertaken. The New Zealand Government made pay equity reviews mandatory for all Government agencies in 2004, and has developed a New Zealand Standard on gender neutral job evaluation applicable to both the public and private sectors.

Direct consultation has also occurred with pay equity officials in Ontario, Canada. Canada has included pay equity, specifically equal pay for work of equal or similar value within its *Human Rights Act 1976-77* and a number of Canadian provinces have legislation requiring employers to undertake pay equity audits and take remedial action if any unjustifiable pay differences are identified.

In July 2008, the Pay Equity Unit invited Dr Liisa Husu, a former senior adviser to the Finnish Government's Gender Equality Unit, to present a seminar on Finland's long history of gender equality whilst Dr Husu was in Australia for an international conference.

In 1906 Finland became the first country in the world to grant women full political rights. Today Finland has the highest proportion of women in the Cabinet in the world and among the highest proportion of women in Parliament. Women also make up 70 percent of employees in the public sector. Despite all this progress towards gender equality, there is a persistent pay equity gap of 20 percent that has remained constant over the past two decades. In 2006 the government developed a comprehensive national Equal Pay Program to reduce the gap to 15 percent by the year 2015.

Dr Husu outlined how the social partners of government, employers and trade unions have joined together in developing this program involving 30 measures, including legislative reforms for equality planning in organisations (with 30 employees or larger), reducing gender segregation in education and the labour market, and developing career counselling programs to combat Finland's highly segregated labour market.

Research on women's labour market participation in Western Australia

The National Institute of Labour Studies (NILS) was commissioned to produce an econometric report analysing the relationship between women's labour supply and wages in Western Australia. The report highlighted a number of statistically significant relationships for participation in the labour force and the number of hours worked by demographic variables, such as educational attainment, relationship status and the number and age of children in a household. The key findings were:

- increasing educational attainment for women will increase their labour force

- participation (women with a university degree have an increased participation probability of 50 per cent);
- the availability of maternity leave is a key factor for women staying in the labour force and increases the amount of hours worked by 16 per cent;
 - the number of hours worked by migrant women decreases as their length of residence increases;
 - having children below the age of five years reduces the probability of labour force participation (couple females with children below the age of five years reduces the probability by 41 per cent for one child, by 57 per cent for more than one child); and
 - the higher a partner's wage and level of education the lower the probability of women participating in the labour force and the number of hours worked.

Submission to Productivity Commission inquiry into paid parental leave

Paid parental leave is important from a pay equity perspective as it supports ongoing workforce attachment for women, which can result in higher long term earnings and increased retirement savings for working women.

The Pay Equity Unit coordinated a series of submissions on behalf of the Western Australian Government to the Productivity Commission inquiry.

Term of reference 1

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

Good reliable data on the earnings and employment patterns of women (and of men) is essential to gain a better understanding of pay inequities and female participation issues in Australia. Such data will help to develop workforce strategies that appropriately target these issues.

This section discusses the types of gender based data currently available, problems that have been found with this data, and makes recommendations for improving the quality and quantity of gender pay data available in Australia.

The gender pay gap is the key measure of pay inequity. The gender pay gap is however, a relatively crude measure that can mask a multiplicity of labour market trends.²¹ There are a number of methods to calculate the gender pay gap. The most common method of calculating the gender pay gap is using average earnings of males and females. This may sometimes obscure countervailing trends in gender equity.

For example, the headline gender pay gap figure obtained from average weekly earnings data does not provide any information about the variation in the size of the gap for employees employed under different methods of wage determination (award versus individual bargaining, for example), nor the size of the gap at different points along the earnings spectrum.

To obtain a full understanding of the differences in earnings between men and women, the headline gender pay gap needs to be analysed in concert with other measures of labour market gender equity. In particular, the gender pay gap by occupations, industries and by jurisdiction and type of industrial instrument would help us to explain the causes of the gender pay gap in Australia. A range of labour market data needs to be available in order to:

- understand the nature of the gender pay gap and its various dimensions;
- assess the impact of legislative and other regulatory change on pay equity;
- provide guidance for areas to target to improve pay inequity (for example, particular industries, occupations and types of industrial instrument); and
- provide benchmarks to be used in the pay equity audit process.

Current data collections are inadequate for the above purposes, and do not give a full and accurate picture of the extent of pay inequity in Australia and the various states and territories.

Some specific issues with the adequacy of existing data sources are outlined below, and improvements are suggested in the breadth and depth of data collections pertaining to pay equity issues.

²¹ Todd & Eveline Review. (2004). p.18.

Average Weekly Earnings (ABS 6302.0)

The *Average Weekly Earnings* survey provides data crucial to monitoring pay equity. The headline gender pay gap is calculated using average weekly ordinary time earnings (AWOTE) for full time male and female employees. *Average Weekly Earnings* data facilitates a comparison of gender pay gaps among the states and over time. The publicly released data also includes data on earnings by industry, which enables a comparison of industry gender pay gaps at the national level. The survey is released every three months and therefore enables close monitoring of earnings trends by state, industry and gender.

The *Average Weekly Earnings* survey is considered deficient in the following key respects:

- measuring gender pay gaps by industry and by state is not possible without a high degree of data reliability, as the sample sizes are not sufficiently large;
- the survey does not ask respondents about their jurisdiction or the type of industrial instrument under which employees are employed (see the response to Term 3 in this Submission for the importance of this data);
- the survey does not include data on earnings of different occupations or occupational categories, therefore precluding analysis of gender pay gaps by occupation;
- the data is not disaggregated to separate managerial and non-managerial employees;
- the data provides no indication as to compositional change (for example, an increase in the number of casual employees working full time hours) that would artificially inflate or deflate average earnings.²²

Labour Force (ABS 6202.0)

Labour Force is a key labour market report. The report shows participation rates by gender and facilitates comparisons over time. The detailed data cubes included with the report enable analysis of the gender profile of different industries by state over time. Researchers are therefore able to calculate female employees as a proportion of each industry's employees and female employees in each industry as a proportion of all female employees. Rates of part time work by state and industry are also included. This information assists in targeting action related to pay equity and provides benchmarks for organisations' pay equity audit reports.

The usefulness of *Labour Force*, particularly when disaggregated by state, gender and industry, will decrease with the reduction in sample size. The ABS has advised²³ that the sample size will be reduced for 2008-09. The size of the sample for the July 2008 survey was reduced by 24%. This reduces the reliability of the data and undermines efforts to better understand and monitor developments related to pay equity and female participation. The ABS notes²⁴ that the reduction in sample size has been designed in such a way that the sample may be enlarged in the future if the ABS' funding improves.

²² This was noted as a key issue by WiSER Women's pay and conditions in an era of changing workplace relations: Towards a "Women's Employment Status Key Indicators" (WESKI) database, September, p. 21.

²³ ABS. (2007). *Information Paper: Labour Force Survey Sample Design*, November (second edition), ABS 6269.0.

²⁴ ABS, *ibid*.

Household, Income and Labour Dynamics in Australia (HILDA)

The Household, Income and Labour Dynamics in Australia (HILDA) survey²⁵ provides useful information on a range of topics, including employment. The survey draws upon longitudinal data and is therefore particularly useful when seeking to measure factors affecting labour force participation. The survey is household-based, which provides a helpful counterpoint to employer- or workplace-based surveys. Respondents are not, however, asked about their type of employment contract. The inclusion of a question relating to the type of employment contract (also known as the method of setting pay or type of industrial instrument) would be a valuable addition to the survey.

Trends in Federal Enterprise Bargaining

The *Trends in Federal Enterprise Bargaining* report produced by the Department of Education, Employment and Workplace Relations provides information regarding the average increases in wages for employees employed on agreements in the federal industrial relations system. It also provides information regarding the number of employees covered by these agreements. This information is disaggregated by sector, industry, agreement type, and state.

The publicly released data from this report does not allow the data to be disaggregated by several simultaneous variables, such as state, industry and agreement type. Publicly released data tables to facilitate this form of analysis would be advantageous to the measurement of pay inequity. The report also does not disaggregate any data by gender. The rate of trade offs or forfeiture of entitlements is also not included. This undermines the usefulness of the data, as it is not possible to ascertain the extent to which wage increases are intended to compensate for the loss of other forms of remuneration or conditions.

Agreement Making in Australia under the *Workplace Relations Act*

The *Agreement Making in Australia under the Workplace Relations Act* report is created by the Department of Education, Employment and Workplace Relations in accordance with s.844 of the *Workplace Relations Act 1996*. Under this Act, the report must provide details of developments in bargaining, and in particular must provide details about the effects that bargaining has had on particular specified groups. Women are one of the specified groups. The report is of some use as a guide to the evolving nature of bargaining in the federal industrial relations system and the impact that this is having on the earnings of women.

The usefulness of the report is undermined by the length of time between each of its editions. The report had previously been published every two years, but an amendment to the Act has changed the frequency to once every three years. Under the Act as it stands, future editions of the report from 2010 onwards are to be published only once every five years. This will significantly undermine the report's usefulness as a guide to trends in bargaining outcomes.

There are also concerns regarding the content of the report. Despite the Act's requirement that the report focus upon the effects of bargaining on particular specified groups, relatively little of the information in the report is systematically disaggregated

²⁵ Melbourne Institute of Applied Economic and Social Research carries out this survey in collaboration with the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs.

by gender.²⁶ For example, wage information regarding collective agreements has not been subject to gender breakdown. Furthermore, the report measures only the prevalence, not the quantum, of industrial entitlements. This means that the report will contain details of one entitlement being traded off for another (for example, lost penalty rates traded for an increase in base salary), but will not contain details of the extent of the entitlements lost and gained.

Despite these deficiencies, the report provides a vital guide to emerging trends in industrial bargaining. Amendment of the Act to restore the previous requirement of publication every two years would be advantageous to those monitoring issues related to pay equity and female employment.

Employee Earnings and Hours

This *Employee Earnings and Hours* (ABS 6306.0) survey, (*EEH*), provides the most useful estimate of the gender pay gap. This is because *EEH* includes details of hourly earnings, so the earnings of full time and part time employees are able to be compared on an equal basis. The survey also details the distribution of earnings, so that the gender pay gap can be measured at different deciles along the income distribution scale. *EEH* reports on earnings by type of industrial instrument (or method of setting pay), enabling a breakdown of gender pay gaps by different forms of instrument. The survey separates managerial and non-managerial employees and employs a relatively large sample size. All these factors ensure that *EEH* is possibly the most valuable publicly released earnings dataset with information relevant to pay equity. Any proposal to reduce the survey's sample size and/or its frequency should be firmly resisted.

However, there are some deficiencies associated with *EEH*. The survey is only conducted every two years, therefore undermining its usefulness when seeking to measure emerging and evolving labour market trends. It is not designed to measure change over time. Therefore it is more difficult to analyse gender differences on a time series basis.

The survey also suffers from deficiencies common to other data sources: it does not measure the spread of hours (e. g. split shifts), nor the time of hours (e. g. weekends). Employees who work non-standard hours (e. g. nurses working shifts) may therefore appear to have artificially high salaries, but it is impossible to ascertain the extent to which earnings are inflated in this way.

Similarly, the survey does not track the substitution of increased salaries for all lower non-salary remuneration components. It does track the amounts salary sacrificed but does not capture employer benefits. While capturing all these factors would be difficult, if not impossible, to incorporate into the survey design, it is important to note them as deficiencies. Although *EEH* is invaluable as a source of information regarding pay equity, these shortcomings mean that other sources are required to complement the survey in areas that it does not address.

²⁶ Women in Social and Economic Research, (2006). *Women's pay and conditions in an era of changing workplace relations: Towards a "Women's Employment Status Key Indicators" (WESKI) database*, September, p. xi (referred to hereafter as WiSER. WESKI)

Australian Workplace Industrial Relations Survey (AWIRS)

The Australian Workplace Industrial Relations Survey (AWIRS) was first conducted in 1990 and then again in 1995 by the then federal Department of Industrial Relations. It was intended to provide a comprehensive, reliable database on workplace relations.

The AWIRS had two objectives. The first was to describe the different patterns of workplace industrial relations in order to map out the key features of their structures, processes and outcomes. Secondly, it was to collect information that would be useful for secondary analysis of why efficiency and equity outcomes differ between workplaces.

The 1990 and 1995 reports focused on the following issues:

- characteristics of workplaces and employees;
- management practices;
- union presence;
- pay and conditions;
- directions in workplace relations;
- employees in the workplace - hours, safety and health and employee attitudes; and
- small business workplace relations.

In 1995 the focus of the sample population for AWIRS was changed from being solely managers and union delegates to include employees. The 1995 report indicated that "despite the evidence of organisational change and changes in the working lives of employees, the development of Australian workplace relations in the first half of the 1990's was not dramatic".²⁷

Matters related to pay equity and female participation across Australia could be better understood through the creation of a new AWIRS style survey conducted on a regular basis. A new AWIRS would be useful in highlighting the changes that have occurred in the last 14 years. In the area of pay equity it should provide solid data on the discrepancies that exist and the extent of any change since 1995. Ideally, such a new survey would:

- be conducted regularly (no less than every 5 years);
- include all variables relating to gender equity issues;
- allow state-level analysis;
- compare disaggregated survey results over time; and
- be developed in consultation with stakeholders, including the states.

Other data deficiencies

There is no publicly available data that describes the characteristics of jobs of those individuals who have multiple jobs. Women in Social and Economic Research (WiSER) at the Curtin Business School estimates that 10 per cent of women in non-managerial, non-professional positions hold multiple jobs.²⁸ Detailed data on multiple job holding will be available from the Survey of Employment Arrangements, Retirement and

²⁷ Department of Industrial Relations. (1995). *Australian Workplace Industrial Relations Survey*.

²⁸ WiSER. (2006). *WESKI*.

Superannuation (SEARS), which is due for release in late October. This is a welcome addition to the data currently available.

Analysis is also restricted by small sample sizes in some areas. The difficulty in measuring matters related to the employment of women is magnified when looking at particular subsets of the female workforce, including (for example) migrant women, women of particular ages, women of Indigenous backgrounds, and women with a disability. This difficulty will be increased if the ABS cuts the sample size of their existing surveys.

RECOMMENDATIONS

Recommendation 1 - That funding be provided by the Federal Government to improve existing data sources on pay equity and female employment.

Additional funding for data collection on the earnings and employment patterns of women (and of men) would assist governments, researchers and employers to gain a better understanding of pay inequities in Australia and to develop strategies that appropriately target these inequities in the workforce. In particular it is recommended that:

- the sample sizes and frequency of ABS surveys should not be cut;
- *AWE* should be augmented once a year with a larger sample and published by industry, occupation and state (breaking this data down by several variables at once increases the need for a larger sample size to maintain reliability);
- the frequency of the *EEH* survey should be increased;
- a question regarding the type of employment contract/method of setting pay should be added to *HILDA*;
- Department of Education, Employment and Workplace Relations should include bargaining outcomes by gender in *Trends in Federal Enterprise Bargaining* and allow the data to be disaggregated by several simultaneous variables;
- s.844 of the *Workplace Relations Act* or its successor should be amended to require the *Agreement Making in Australia* report to be published not less than every two years; and
- the ABS should be provided with sufficient additional funding to reinstate the *Multiple Job Holding* survey or integrate a question regarding multiple job holding into an existing survey.

Recommendation 2 - The Federal Government provide funding for the Australian Workplace Industrial Relations Survey (AWIRS) or a similar survey to be conducted on a 5 yearly basis.

The establishment of a regular AWIRS or similar style survey would provide valuable information on a wide range of industrial and employment issues, including pay and employment equity for women. Such a survey would need to be conducted regularly (no less than every 5 years), include all variables relating to gender equity issues; allow state-level analysis; provide an ability to easily compare disaggregated survey results over time; and be developed in consultation with stakeholders, including the states.

Term of reference 2

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

A key strategy of the Western Australian Pay Equity Unit has been an education and awareness-raising campaign on gender pay equity issues. The emphasis of the Pay Equity Unit's activities has been on voluntary strategies to promote pay equity based on international best practice. This has included general awareness-raising about pay equity with employers and employees and community groups and in particular the provision of education and assistance to employers and public sector agencies about utilising pay equity audits as a business strategy to increase potential labour supply.

This section details the experiences of the Pay Equity Unit to date on the need for education and information on pay equity issues and provides recommendations on how pay equity education could best be undertaken at a national level.

A fundamental lack of understanding

During its two years of operation, the Pay Equity Unit has discussed pay equity issues with a large number of individuals and groups from a wide range of organisations. A critical recurring issue is that there appears to be a fundamental lack of understanding in the community and Australia's workplaces about the existence of a gender pay gap, the associated issues of pay inequity, its causes and its impact on women and on Australia's labour market. This lack of understanding is evident from employees, from human resources and industrial relations practitioners, and from senior management within large and small organisations.

Equal pay and pay equity

The existence in Western Australia of a 27 per cent gender pay gap is not a widely known fact. The concept of a significant gender pay gap is often misunderstood, as many believe that equal opportunity legislation making it unlawful to pay men and women different wages for the same job would have solved any pay differentials between males and females.

There is significant confusion throughout the community regarding the difference between the concept of 'equal pay' and the concept of 'pay equity'.

The *Sex Discrimination Act 1984* and the *WA Equal Opportunity Act 1984* prohibit employers paying men and women differently if they are doing equal work. Pay equity is broader than *equal pay for equal work*. *Pay equity* means that employees' pay and work experiences are not affected by gender. It means paying women the same as men for work of *equal or comparable value*. It means ensuring that pay, conditions, access to the full range of jobs at all levels of the workplace and experiences in the workplace are not affected by gender. Pay equity also includes a consideration of access to, and the nature of, part time and casual employment, the ability of people to balance caring and work responsibilities and the under valuation of female dominated jobs and industries.

Equal opportunity legislation is generally intended to enable a particular employee to pursue a claim on the basis that he or she was discriminated against on the basis of

some personal characteristic (such as gender). However, such claims do not extend to situations in which there may be systemic or structural gender inequity. For example, a female motor mechanic who felt that she was being underpaid relative to her male co-workers, and that this underpayment was due to her gender, could pursue a discrimination claim. However, a female hairdresser who was performing work of equal or comparable value to that of a male motor mechanic, but was being paid less than the motor mechanic, would not be able to pursue any form of legal remedy.

A key factor underpinning the gender pay gap is inequitable remuneration between occupations of equal or comparable value. Inequity between occupations and industries in the award system is, in part, a legacy of the pre-equal pay era. This inequity has never been systematically addressed. The decentralisation of industrial bargaining has curtailed the ability of central arbitral authorities (such as the Australian Industrial Relations Commission) to affect the gender pay gap through the award system.

This is a critical issue requiring extensive education and awareness-raising Australia-wide.

Women's workplace choices

Another key question that often arises when addressing public forums is whether the gender pay gap is simply a result of the 'choices' that women make in relation to employment. The follow up question to this is that why then is this an issue to be addressed by employers and government?

It has been found that less than one quarter of the gender pay gap is due to differences in the characteristics of men and women and that therefore three quarters remains unexplained.²⁹ It is clear that women's choices about education and work do not fully, or even substantially, explain the gender pay gap. As mentioned earlier, Baron and Cobb-Clark (2008) argue that the disparity in educational qualifications and demographic characteristics are generally unimportant in explaining the gender wage gap. The gender wage gap among high-wage workers remains largely unexplained in both private and public sector employment and they suggest that the glass ceiling may be prevalent.³⁰

This issue of 'choice' is another key area in which further education and awareness-raising is essential.

Education for employers – The business imperative for pay equity

A key area of education activity for the Pay Equity Unit has been working with employers and business associations to increase understanding of how and why pay equity is a business issue. The Unit has been educating employers on addressing pay equity at the organisation level as a business strategy to assist in increasing potential labour supply and encouraging female participation in the workforce.

²⁹ Preston, A. & Crockett, G. (1999). Equal Pay: Is the Pendulum Swinging Back? *Journal of Industrial Relations*, 41(4).

³⁰ Baron, J. D. & Cobb-Clark, D. A. (2008). Occupational Segregation and the Gender Wage Gap in Private- and Public-Sector Employment: A Distributional Analysis. Discussion Paper No. 3562. Institute for the Study of Labor, Bonn, Germany.

Western Australian is currently experiencing a critical labour shortage. Unemployment in Western Australian was 3.0 percent in September 2008.³¹ The ageing population, both locally and internationally, and a strong economy mean that a shortage of skilled employees will be a long-term issue for Western Australian business.

The Pay Equity Unit is educating employers on the fact that the gender pay gap can make women less likely to participate in the workforce, and that this means business may be missing out on skilled and experienced workers. Addressing barriers to participation and career development and ensuring women's skills are appropriately rewarded will increase the overall level of female participation in the workforce and assist employers overcome labour supply issues.

The Pay Equity Unit is encouraging Western Australian employers to address a range of issues that may be factors discouraging women's participation in the workforce.

The provision of quality part time work is one key strategy that can encourage women to return to work after a period of maternity leave or time away from the workforce. Quality part time work is secure work with equitable pay and working arrangements. People who have quality part time jobs have a similar job content and status as full timers, and they are also encouraged to participate in training, career and professional development programs, and feel confident in applying for promotion.

Flexible work arrangements are another key attraction strategy for female employees. Arrangements such as flexible hours, working from home and additional unpaid leave during school holidays are also being used by many organisations to attract and retain skilled and experienced women. As mentioned earlier, a recent survey of employee perception conducted by the CCI found that the provision of more flexibility in the workplace is the single most important measure to attract and retain female workers.³²

The level of remuneration women receive from working also has a direct effect on their workforce participation. Studies in Australia and overseas have found that increases in women's wages are recognised to increase women's labour force participation significantly and the number of hours they work³³. Addressing pay equity within organisations works to ensure that women are being paid fairly for the work that they do.

Many occupations and industries that are female dominated have historically been less highly valued and therefore paid less than male dominated occupations and industries. Often the skills and work associated with female labour have been seen as natural and innate and, hence, have not been highly valued in the labour market.

Education on pay equity audits

Consistent with promoting pay equity as a business imperative, the Pay Equity Unit has devoted considerable resources to educating employers about the potential for pay equity audits to assist in identifying and addressing gender issues at the workplace level. As discussed earlier, the Unit has developed an extensive suite of resources for employers on how and why to undertake a pay equity audit.

³¹ ABS. (2008). *Labour Force September*.

³² Chamber of Commerce and Industry Western Australia. (2008). *Women in the Workforce: A Discussion Paper*, October, East Perth: CCI Economics, p. 42 (hereafter referred to as CCI. (2008). *Women in the Workforce*).

³³ Birch, E. (2005). Studies of the Labour Supply of Australian Women: What Have We Learned, *The Economic Record*, 81(252, March), p. 77.

Pay equity audits are a powerful awareness-raising tool in themselves as the process of undertaking a pay equity audit raises the profile of gender issues in the workplace. A pay equity audit report can highlight previously 'hidden' gender issues for senior management and the extent of pay inequities in their workplaces. A pay equity audit also provides powerful statistical evidence of the need to implement remedial strategies to overcome gender pay inequities and other problems such as access to promotion, training or flexible work arrangements.

Barriers to undertaking pay equity audits

The Pay Equity Unit has identified a range of barriers to organisations undertaking pay equity audits. These include the perceived level of time and resources needed to complete the audit, a lack of understanding of the ability of a pay equity audit to deliver tangible results, and an unwillingness to confront potential problems identified by the data analysis.

The WA Pay Equity Audit Tool, an automated pay equity audit tool that has been developed by the Pay Equity Unit has significantly reduced the time and resources required to undertake the data analysis part of the audit process, and it is hoped that this will enable more organisations to undertake pay equity audits.

In 2007 a research project on the barriers to pay equity audits was undertaken by a team of Masters students at the University of Western Australia. This group interviewed a range of organisations and stakeholder groups to gather data on the perceived barriers to pay equity audits.

The research report found a high level of awareness concerning the gender pay gap in Western Australia but a low level of awareness concerning the implications of this gap within individual organisations. It found that employers did not identify a correlation between the current challenges facing human resource management and the potential benefits of conducting a gender pay equity audit. Employers also had little knowledge about the materials and tools currently available to assist them in conducting gender pay equity audits. The report identified time resources and the potential negative impacts of audits as the primary barriers to conducting the audits.

RECOMMENDATIONS

Recommendation 3 – A federal Pay Equity Unit be established to promote pay equity issues and assist employers address pay equity at the workplace level.

The dedicated Pay Equity Unit for Western Australia has provided a focus and a 'voice' for pay equity issues and allowed employers and community groups to access information and assistance to address pay equity. This is increasingly critical due to current and projected labour supply shortages.

A similar approach at a national level with the establishment of a dedicated federal pay equity body would greatly assist in promoting pay equity and gender issues throughout Australia. This body could be responsible for education and awareness-raising,

assisting employers with pay equity audits, and the implementation of other strategies adopted by Government arising from the current inquiry.

This body would be best placed to work with national companies and federal government agencies to encourage the use of pay equity audits and assist in the audit process. A federal Pay Equity Unit could work with these organisations to implement strategies which support attraction of female employees and overcome barriers to female participation and career progression. A national pay equity body would also provide a clear contact point for employers seeking pay equity information and resources and facilitate the collection and benchmarking of pay equity data, as discussed in relation to the first term of reference.

The Pay Equity Unit in Western Australia would welcome an opportunity to share its pay equity audit resources with a counterpart federal body for promotion and use throughout Australia.

Recommendation 4 - The proposed federal Pay Equity Unit be funded to conduct an extensive advertising campaign on pay equity issues to raise the level of understanding of the gender pay gap within the wider community and the potential for pay equity strategies to assist employers in meeting their labour supply requirements.

A well-funded national pay equity body would be able to conduct an extensive advertising campaign on pay equity issues to raise the level of understanding of the gender pay gap within the wider community and encourage employers to address pay equity issues and undertake pay equity audits within their organisation.

Term of reference 3

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

The structural arrangements for negotiation of wages impact disproportionately on women and can be considered one of the factors causing the gender pay gap in Australia. Key issues are the type of industrial instruments, women's lower bargaining power, gender segregation, wage discrimination and the ongoing undervaluation of women's work. Recommendations are made that focus on improving the education of employers and utilisation of gender-inclusive job evaluation systems.

Types of industrial instrument

One factor that influences the gender pay gap is the structure of wage negotiations and the type of industrial instruments that regulate employees' wages.

In general, women are disproportionately reliant on awards and are less likely to belong to unions that aggressively bargain for their wages, affecting their overall level of earnings. As shown in Table One, women on awards earn less than women on other forms of industrial instruments. Award-reliant employees are the only group in which there is no significant gender pay gap, in fact women on average earn more than men in this category.

Table One – Average hourly cash earnings – by industrial instrument

AUSTRALIA			
	Average Hourly Cash Earnings (a)		GPG
	Males	Females	
	\$	\$	
Award only	18.00	18.60	-3.3%
Registered collective agreements	28.70	25.70	10.5%
Unregistered collective agreements	23.60	20.70	12.3%
Registered individual agreements	28.10	22.80	18.9%
Unregistered individual arrangements	27.20	23.10	15.1%

Source: ABS Employee, Earnings and Hours (6306.0) May 2006.

The reasons for this are complex. The location of women in certain industries and workplaces affects the gender pay gap. Women are more likely to work in undervalued industries. The hesitancy of women to draw attention to their skills and attributes and their unwillingness to promote themselves when bargaining for higher wages affects their wages.

When examining the wage determination system in WA, Short³⁴ found the following evidence of differential treatment between male- and female-dominated areas:

- male-dominated awards tended to have had structural efficiency or work value adjustment exercises carried out earlier;

³⁴ Short, 2001, 2002, cited in Todd & Eveline Review. (2004), p. 46.

- 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, were more likely to have been negotiated two to three years later;
- female-dominated agreements usually had considerably lower increases relative to the award rates of pay; and
- the application of percentage, rather than dollar, increases was widening the gap between upper and lower ends of the pay scale, with women likely to be disproportionately represented at the lower end.

Women's lower bargaining power and ability to negotiate

Women are disproportionately employed in occupations and/or industries with low levels of bargaining power, are often more reluctant to negotiate wage increases, and may experience poorer returns to negotiation.³⁵

The gender pay gap is larger when calculated using total earnings, rather than ordinary time earnings. This is partly due to gender disparity in non-salary forms of remuneration, such as bonuses and allowances. It also reflects, to some extent, the longer hours typically worked by men in overtime and their greater propensity to work shifts.

There are a number of stumbling blocks to reducing the gap that have already been mentioned, such as the undervaluation of women's jobs. Another barrier is that women do not fare as well in individual negotiations for their pay and conditions. A quote from one of the business roundtables conducted as part of the Sex Discrimination Commissioner's Listening Tour recent referred to women's lack of negotiating skills: "Men are [more] likely than women to come out and say I want more money. Women are more likely to hope they get praise or a pay rise. Unless they talk to each other and realise that it isn't fair and others are getting more it doesn't get fixed. Younger women are better at it."³⁶

Studies in the United States confirm that women lack the negotiating skills and are too quick to settle for less pay. Jennifer Alexander, chief executive of Australian Institute of Management NSW and ACT, identified that negotiating and influencing skills were critical for women across the board. She noted that the pay differential is not only in semi-skilled areas but also at the CEO level, where the pay differential is 18 per cent.³⁷

Gender segmentation by industry and occupation

Australia has one of the most sex-segregated labour markets among OECD countries. Between 58 and 81 per cent of the gender pay gap is associated with feminised work

³⁵ URCOT. (2005). *Pay Equity: How to Address the Gender Pay Gap – A Report for Industrial Relations Victoria*, February, p. 7; Todd & Eveline Review. (2004), p. 47; and QIRC (2007). *Pay Equity: Time to Act*, September, p. 18.

³⁶ Human Rights and Equal Opportunity Commission. (2008). Listening Tour Community Report: *Gender equality: What matters to Australian women and men*, July, p. 8 (referred hereafter as HREOC. Listening Tour. (2008)).

³⁷ Iyer, P. (2008). "Why women take home less than men when they don't have to", *Weekend Professional, The Weekend Australia*, p. 1.

(whether by occupation, industry, workplace, or job-cell).³⁸ This has an impact on women's ability to bargain for higher pay in certain industries. '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'.³⁹ These jobs are often casual and part time, limiting their ability to negotiate higher wages. In Western Australia, a higher proportion of women and a lower proportion of men work part time than is the case nationally.

The causes of the gender pay gap are complex. In their 1999 analysis of pay equity in Western Australia, Preston and Crockett⁴⁰ found that roughly one third of the state's gender pay could be explained due to different characteristics in males and females, including the "more favourable industry distribution of males" and the higher levels of human capital investment of males. The causes for the remaining two thirds of the gender pay gap are largely unexplained.

Undervaluation of female dominated work

One of the key pay equity issues is that the industrial relations framework in Australia continues to reflect ongoing historical undervaluation of female dominated occupations. The changes made to the industrial relations system over the last 30 years have not adequately addressed many of the work value issues embedded in the award system from the pre-equal pay area. This ongoing undervaluation is a key structural impediment to pay equity for Australian women.

Skills in female dominated occupations are often viewed as 'natural' rather than developed through training and experience. There is an assumption underlying certain types of work particularly in human services fields and caring and teaching professions, that these are more suited to women as the duties are incorrectly portrayed as related to the innate abilities of women. As a result of these false assumptions, the nature of this sort of work is often undervalued.

Job evaluation systems

Wage setting in large public and private sector organisations frequently occurs with reference to a fixed classification structure with defined duties and responsibilities associated with each level. Job evaluation systems or tools are used to assign individual positions to a place within this hierarchy by assessing the job against a number of criteria.

Job evaluation tools may still covertly contain the legacy of inequitable, discriminatory assumptions about work value. Skills commonly associated with female-dominated occupations have historically been rated as having lesser value and therefore deserving of less remuneration than skills typically associated with male-dominated occupations.

One key initiative that can be undertaken to help ensure appropriate recognition of women's skills and experience is to promote the use of gender neutral or gender inclusive job evaluation tools that more accurately reward the skills of female dominated occupations.

³⁸ Todd & Eveline Review. (2004). p.26.

³⁹ Todd & Eveline Review. (2004). p.38.

⁴⁰ Crockett & Preston. (1999). Report to WA Govt.

This could be done through the development of an Australian Standard on gender neutral job evaluation. It would set criteria by which public and private sector job evaluation systems can be evaluated to ensure that the classification factors used are gender neutral. It would assist Fair Work Australia in hearing equal remuneration cases under an equal remuneration principle in federal legislation (see Recommendation 7). For organisations, the Standard would provide guidance on how to ensure that a gender inclusive method of job evaluation is used in the workplace without mandating which job evaluation method must be used.

Gender neutral job evaluation in New Zealand

NZS 8007:2006 Gender-inclusive Job Evaluation Standard was introduced in New Zealand in 2006. The Standard was developed by New Zealand's Department of Labour in conjunction with industry stakeholders. There are a number of joint New Zealand and Australian Standards across all areas, and the New Zealand Standard may be able to be adopted in Australia without significant amendment.

The Pay and Employment Equity Unit in New Zealand has also developed the *Equitable Job Evaluation* tool to assist organisations with addressing gender bias in how jobs are valued. The New Zealand Government also assists employers and unions to participate in developing pay and employment equity plans through its 'Contestable Fund' and 'Remedial Pay Settlements'.

Salary discrimination and transparency of wage negotiations

Ongoing discrimination in the workplace is also a factor in pay equity.

Numerous women have informally discussed instances of unequal pay for equal work with the WA Pay Equity Unit. Although equal pay for equal work has been a statutory entitlement for decades, the secrecy that often surrounds remuneration negotiations is a barrier to its realisation. Secrecy clauses in employment contracts allow employers to offer different salaries to employees doing similar work and can often result in female employees being offered lower remuneration.

The decentralisation and individualisation of bargaining also detracts from wage transparency and therefore provides an environment in which women are less likely to be aware of instances of inequitable remuneration for equal work. This issue has recently been highlighted as a cause of pay inequity in the United Kingdom. The UK Minister for Women and Equality introduced an Equality Bill to Parliament in June 2008 that will outlaw pay secrecy clauses and make it unlawful to stop employees discussing their pay. This is intended to support a range of other pay equity strategies being undertaken.

In Australia, the provision of greater salary information to all employees would assist in overcoming transparency issues and support women in particular in negotiating salaries that appropriately reflect their skills and the market rates for their occupations. Fair Work Australia, as part of its education function, would be an appropriate body to monitor and publish pay scales for occupations and industries across Australia.

Sex discrimination

The current federal anti-discrimination legislation was developed in an era in which wage bargaining was predominantly centralised, collective, transparent and public. The legislation has not evolved to suit an industrial relations environment in which

bargaining is predominantly decentralised, increasingly individualised, opaque and private.

While current laws can assist individuals experiencing discrimination, there are a number of problems associated with the current individual complaints-based process. The predominant issue is that discrimination can only be investigated if the individuals who have suffered discrimination are willing to take legal action, and even if they do, systemic issues, such as pay equity cannot be addressed through this arena.

RECOMMENDATIONS

Recommendation 5 – That the proposed Pay Equity Unit work with the Equal Opportunity for Women in the Workplace Agency, and industry stakeholders to develop an Australian Standard on gender neutral job evaluation.

An Australian Standard on gender-neutral job evaluation would provide all employers and decision makers with an objective standard on the gender neutral assessment of work value and assist in overcoming the legacy of discrimination embedded in the wage and classification structures. The Standard relating to gender neutral job evaluation systems would set criteria by which public and private sector job evaluation systems can be evaluated to ensure that the classification factors used are gender neutral.

New Zealand's *NZS 8007:2006 Gender-inclusive Job Evaluation Standard* could be registered as an Australian Standard. There are a number of joint New Zealand and Australian Standards across all areas, and the New Zealand Standard may be able to be adopted in Australia without significant amendment.

Recommendation 6 - Fair Work Australia be required to monitor and publish market rate pay scales for occupations across a broad range of different industries.

In the commercial world, companies can buy wage data to set their wage rates and it would be beneficial for employees to have similar data available publicly for individual wage negotiations. For employers, market rate pay scales will help them benchmark their salaries. The provision of greater salary information to all employees would assist in overcoming issues of secrecy of wages in employment contracts and empower women in particular to negotiate salaries that appropriately reflect their skills and the market rates for their occupations. Fair Work Australia will have access to collective agreements and could use these to develop a list of wage rates, updated quarterly and made available to the public.

Term of reference 4

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

A strong legislative basis for equal remuneration can assist in addressing the underlying causes of pay equity in Australia. Legislation can support pay equity in two ways. The first is by providing specific equal remuneration provisions or 'an equal remuneration principle' to enable parties to bring equal remuneration cases before the relevant industrial tribunals and have awards amended to reflect equal pay for work of equal or comparable value. The second method in which legislation can support pay equity is by integrating or mainstreaming gender pay issues into the industrial framework.

At the state level, equal remuneration has been a priority in many states, including Western Australia during the last decade. Significant progress has been made in integrating gender issues into the industrial relations framework and establishing provisions to enable arbitration of equal remuneration cases in a number of State jurisdictions.

The introduction of the *Workplace Relations Amendment (Workchoices) Act 2006* resulted in the transfer of many employers and employees to the federal jurisdiction. This has lessened the ability of state systems to provide remedies for pay inequity.

This section outlines Western Australia's recent experiences in this area, discusses a range of issues with the equal remuneration provisions in the federal legislation and proposes an approach for establishing new legislative equal remuneration provisions.

Equal remuneration principles

An equal remuneration principle is a key tool to assist in addressing pay equity through the wage fixing process. The establishment of a powerful and effective equal remuneration principle is a key part of a suite of options to address pay inequity.

An equal remuneration principle, either within legislation or within a set of wage fixing principles established by an industrial body, provides a mechanism by which parties can seek to redress gender equity through seeking a reassessment of the work value of female dominated occupations to ensure equal pay for work of equal or comparable value.

At a state level, there has been success in using an equal remuneration principle to address pay inequity for some groups of employees over the last decade. Both Queensland and New South Wales have used equal remuneration principles to arbitrate equal remuneration cases.

At the national level, the equal remuneration principle in the *Workplace Relations Act* has not resulted in a successful application to redress gender equity. A robust federal equal remuneration principle would be a key enabler in providing options and strategies for reducing the gender pay gap.

Western Australia's experience

Western Australia has made significant progress in the integration of equal remuneration into the state industrial framework.

Equal remuneration for work of equal value was given formal recognition in 2002 when amendments were made to the *Industrial Relations Act 1979* which included a new object for the Act, "to promote equal remuneration for men and women for work of equal value."

In 2006 the *Labour Relations Legislation Amendment Act 2006* saw the introduction of Section 50A to the *Industrial Relations Act 1979*, which enabled the Western Australian Industrial Relations Commission (WAIRC) to determine minimum wages whilst having regard to a new set of specified criteria, including that wage orders "*provide equal remuneration for men and women for work of equal or comparable value.*"

In 2008 the State Wage Fixing Principles were amended as an outcome of the State Wage Case. The Commission in Court Session modified principle 10 *Making or Varying an Award or issuing an Order which has the effect of varying wages or conditions above or below the award minimum conditions* to include specific reference to the fact that this principle can be used to vary wages above or below the award minimum conditions, for matters including "equal remuneration for men and women for work of equal or comparable value". This amended principle has not yet been used to bring an equal remuneration application in the State jurisdiction.

Equal remuneration is also a key element of the award updating process that has been undertaken in Western Australia since 2002. In 2002 the Industrial Relations Act was amended to enable the WAIRC to commence "of its own motion" proceedings to review state awards. The WAIRC was empowered to review and amend awards to ensure that among a range of other criteria they do not contain provisions that discriminate against an employee on any ground on which discrimination in work is unlawful under the *Equal Opportunity Act 1984*.

2004 Review of the Gender Pay Gap in Western Australia

The 2004 *Review of the Gender Pay Gap in Western Australia* (the Todd/Eveline Review) concluded that the Western Australian industrial relations framework would benefit from a strengthening of the legislative provisions on equal remuneration and made a range of recommendations regarding legislative change.

The key recommendations in this regard were:

- 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 provides 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. (Recommendation 5 p.60)

Australia's experience

At the national level, the ability to address pay inequity through equal remuneration provisions has been severely restricted in the last decade.

In 1998 the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union and HPM Industries Pty Limited⁴¹ case raised a number of concerns with the efficacy of the federal provisions, including that they were based on the Commonwealth's external affairs power in the Australian Constitution rather than on the conciliation and arbitration power traditionally used for arbitrating wage outcomes.

The introduction of the *Workplace Relations Amendment (WorkChoices) Act* in 2006 further reduced the ability of the AIRC to hear equal remuneration cases by adding a range of significant restrictions to accessing the provisions of Division 3.

The transfer of wage fixing powers from the AIRC to the Australia Fair Pay Commission (AFPC) in 2006 has also impacted on the ability to address the gender pay gap through the wage fixing process. The AFPC is required by s. 222 of the *Workplace Relations Act* to apply the principle that men and women should receive equal remuneration for work of equal value, and can consider submissions that raise a specific instance where the federal pay scales discriminate on the basis of gender. However, as recognised by the AFPC in its 2008 Minimum Wage Review, its wage-setting powers are only capable of affecting minimum wages that underpin actual earnings, and "It is beyond the remit of the Commission to consider equal remuneration beyond the level of minimum wages."⁴²

RECOMMENDATIONS

An equal remuneration principle is part of a comprehensive suite of strategies to address pay inequity in Australia. An equal remuneration principle could be introduced through a new Pay Equity Act, which makes amendment to the workplace relations legislative framework to promote gender mainstreaming and provide a specific avenue for resolving equal remuneration cases, and raise the profile of pay equity as an employment issue without imposing additional regulatory requirements on Australian employers. Complete detail on the proposed Pay Equity Act is provided in the section addressing Term of Reference 6.

⁴¹ AIRC. (1998). *Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union Vs HPM Industries Pty Limited*.

⁴² Australian Fair Pay Commission. (2008). *Reasons for Decision*. July.

Recommendation 7 – That a robust and effective equal remuneration principle or similar provisions be included in the federal workplace relations legislation, with training in equal remuneration and gender neutral job evaluation being provided for Fair Work Australia members who will be hearing equal remuneration cases.

An equal remuneration principle, either within legislation or within a set of wage fixing principles established by an industrial body, provides a mechanism by which parties can seek to redress gender equity by reassessing the work value of female dominated occupations to ensure equal pay for work of equal or comparable value. The establishment of an effective equal remuneration principle is a key part of a suite of options to address pay inequity.

A robust federal equal remuneration principle would be a key enabler in providing options and strategies for reducing the gender pay gap. In general terms, it is suggested that a new federal equal remuneration principle should contain the following elements:

- the term equal remuneration needs to be defined to mean equal remuneration for men and women doing work of equal or comparable value. Remuneration should be defined as the total remuneration package of an employee, including conditions of employment and all monetary and non-monetary benefits.
- the principle should allow groups of employees, and their representatives, to bring a case for equal remuneration on the basis of work of equal or comparable value.
- the principle should allow for applications to be made to vary an award or to implement equal remuneration. Comparator occupations do not have to be covered by the same award.
- the principle should specify the process by which equal remuneration applications are to be lodged, heard by Fair Work Australia, and by which orders are made.
- the principle should require that equal remuneration applications will require an assessment of the value of the work performed in the industry or occupation, or in like jobs in another industry, irrespective of the gender of the relevant employee/s. In assessing the value of the work, the nature of the work, the skill, responsibility and qualifications required by the work and the conditions under which the work is performed should be taken into account. Changes in work value should not have to be demonstrated.
- the equal remuneration principle should specify that prior work value assessments and/or the prior setting of rates for the work cannot be assumed to have been free of assumptions based on gender. A broad assessment of whether the pay valuation of the work has been affected by the gender of the employees should be undertaken.

Term of reference 5

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

A key trend in Australia amongst the female labour force has been the increase of part time employment. Flexible working hours have also been found to be an important measure to attract and retain female staff. Employers are aware of the change in workplace demographics and the importance of education and training to improve career progression and the workplace participation of women generally.

A lack of career progression and training is a key cause of the gender pay gap. Access to training and other career development opportunities such as quality part time work plays an important role in career progression and pay determination.⁴³ One of the fundamental strategies for improving pay equity is improving women's workplace experience and this is influenced by the level of acceptance of the way women's careers interact with their child rearing responsibilities.

Taking maternity leave and returning to work should not be a career limiting move, but part of normal working arrangements. Choosing to work part time or seeking flexible working hours should not be viewed as being any less committed to the organisation or to career progression.

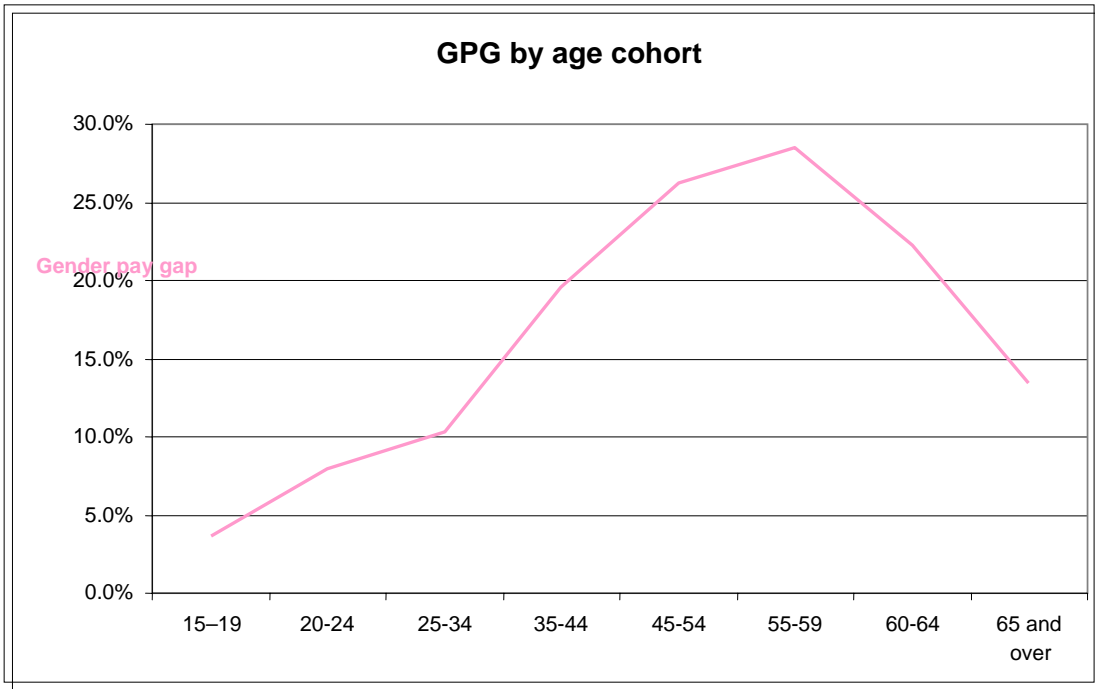
The current arrangements to ensure fair access to training and promotion for women appear to be inadequate to meet the needs of Australian women and gender equity. There are many issues at the workplace level that do not yet appropriately support women in maintaining career progression after maternity leave. Australian statistics and research both indicate there is a problem.

This section addresses current issues in access to training and promotion, highlights some experiences of WA women, and makes suggestions about possible strategies to improve integration of child rearing and career progression. A key factor appears to be cultural change rather than structural impediments. The recommendations in this section therefore focus on education and workplace change issues.

Statistical indicators

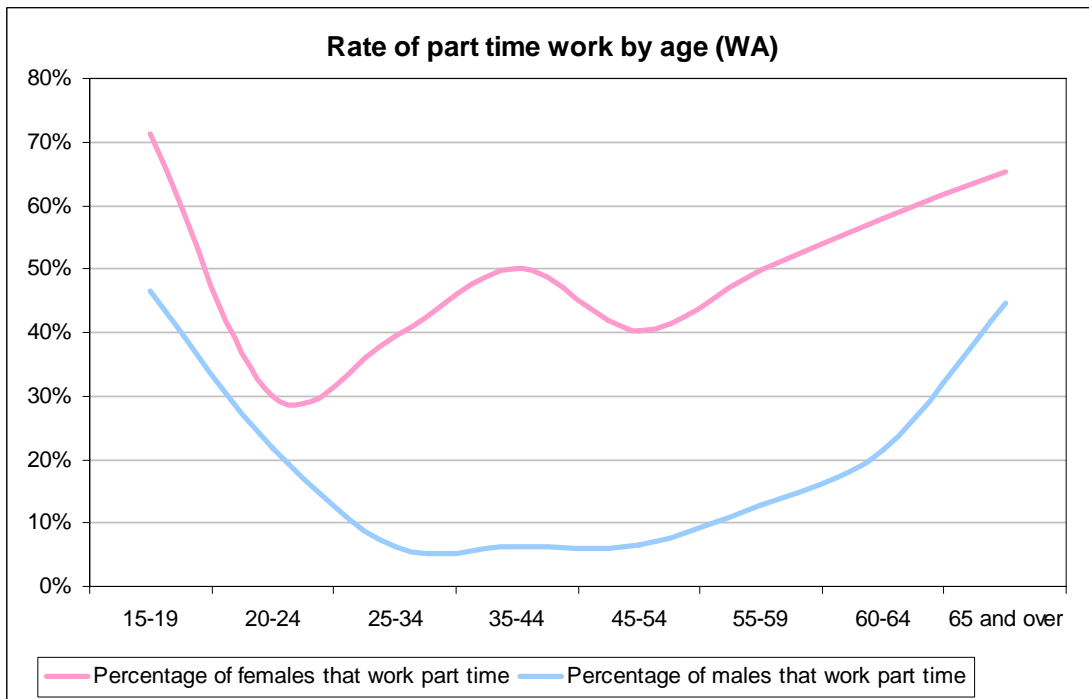
The gender pay gap widens during women's child rearing years. The graph below shows that during the years of 25 to 45 the gender pay gap widens significantly. One factor influencing the gender pay gap is that women have breaks away from the workforce due to childrearing. These breaks result in lower earnings both in the short and long term, and can also have a significant impact on retirement savings.

⁴³ Todd & Eveline Review. (2004).



Source: Employee Earnings, Benefits and Trade Union Membership (ABS 6310.0) Table 4.

Also of significance is that the number of women working part time has increased and particularly so in the child rearing/caring ages of 25 to 45 years. The prevalence of women working part time and its impact on the gender pay gap highlights the need to address quality part time work, training and promotional opportunities.



Source: Labour Force, Australia, (ABS 6291.0.55.001 LM1).

Key issues

Work life balance

Recent research has provided evidence of the impact that using flexible work options has on women's earnings and careers and found that there are many barriers to combining flexible work options and career progression. As mentioned previously, CCI (2008) identifies flexible working arrangements as the single most important measure to attract and retain female workers.⁴⁴

The Department of Consumer and Employment Protection is currently undertaking a long-term research project to identify and address barriers to the implementation of flexible work options.

The Public Sector Pilot Implementation Project is currently underway in three volunteer state public sector agencies. The pilot study, which consists of three phases, began in February this year and is expected to take 12 – 18 months to complete.

In phase one of the study, quantitative and qualitative research was conducted by the Consortium for Diversity at Work at the University of Western Australia. The research included identifying the extent to which existing flexible work provisions were being used; gathering suggestions for new work life balance initiatives and recommending strategies to overcome barriers.

Each participant agency received a detailed report of their findings and recommendations. The findings common to all three agencies included:

- employees believed that employers were not supportive of work life balance, despite having numerous flexible working arrangement policies;
- women faced the most difficulty in varying their working hours to meet family or personal commitments;
- barriers to part time employment was the most prevalent issue facing women and mature aged employees; and
- cultural norms, such as work demands and pressures, meant that most managers were unable to utilise work life balance policies.

Phase two of the project focuses on the implementation of the recommendations from phase one. A project officer from the Department of Consumer and Employment Protection is working with the three agencies to assist in implementing the recommendations and is designing a training program for managers on specific work life balance issues in each agency.

The third and final phase of the project will involve re-evaluation of the participant agencies by researchers at the University of Western Australia. The final outcome of the pilot project will be a series of recommendations for implementing work life balance strategies across the Western Australian public sector.

The WA Department of Health has been developing and implementing a range of work life balance initiatives at the workplace level which aim to attract and retain skilled employees. These initiatives are driven by the newly established Work Life Balance + Equity Unit. One such initiative was the post-exit interview trial of nurses and midwives conducted in a number of public hospitals over a 12 month period from March 2007.

⁴⁴CCI. (2008). *Women in the Workforce*, p. 42.

This was a targeted intervention to increase retention of nurses and midwives within WA Health, which has a predominantly female workforce (77% female) and a comparatively large proportion of part-time employees (41% part-time). The trial identified lack of job flexibility, family commitments and promotion/career advancement among the influential factors on employees' decisions to leave. The estimated cost of replacing an employee is between 50% and 150% of their salary and following contact, 35 individuals who had indicated their intention to resign resumed work in the public health system. Due to the success of the pilot program a comprehensive exit survey process is currently being developed for the whole of WA Health.

Other flexible work initiatives including Phased Retirement programs and the *Creating Flexible Workplaces* education program for managers are being rolled out across WA Health with a focus on retention.

Workplace culture

The *2008 Gender Equality: What matters to Australia women and men* released by the federal Sex Discrimination Commissioner in August 2008 noted that gender inequality is an everyday experience for women and men in Australia. The report found that systemic discrimination is still alive and well working against men and women who want a greater role at home. Barriers to career progression were found to include limited availability of quality part time work, male-oriented workplace cultures, lack of senior female role models, lack of family friendly or flexible work conditions and the disparity between employers' policies and practices.⁴⁵

Also noted in the report was the difficulty in returning to work after maternity leave in relation to the availability of work at the same skill level plus a lack of family friendly policies. The federal Sex Discrimination Commissioner has developed a national action plan that encourages family friendly work practices, promotes women in leadership and will review existing sex discrimination laws.⁴⁶

Perceived choice for women

There is a common misconception that women with caring responsibilities make a choice to work part time, not access training or put themselves forward for promotion. The federal Sex Discrimination Commissioner found there is a lack of value placed on the type of work that women commonly do, both in monetary and social status. The subsequent pay inequity experienced within families is affecting the decisions on the sharing of paid work and caring responsibilities.⁴⁷ The gendered role of women as the primary caregivers and men as the breadwinner is still prevalent. This is reinforced through the common reference to maternity leave as opposed to parental leave.

Parental leave

The Australian Public Sector Commission's (APSC) report to the Productivity Commission's inquiry into paid maternity leave also highlighted the impact that taking maternity leave can have on a woman's career progression.⁴⁸

⁴⁵ HREOC. Listening Tour. (2008).

⁴⁶ HREOC. Listening Tour. (2008).

⁴⁷ HREOC. Listening Tour. (2008).

⁴⁸ Australian Public Service Commission. (2008), Submission to the Inquiry into Maternity, Paternity and Parental Leave, 2 June.

APSC quoted a public service study that found nearly two thirds of women who had taken maternity leave in 2000/01 has not received a promotion compared to 42% of women without children over the same 6 year period. Many reasons were posited such as that it may be difficult to secure part time jobs at senior levels, women are not seeking promotions due to balancing caring responsibilities and less scope for promotion as women having children were at higher levels. These results come from the public service, a workplace that has some of the most family friendly provisions in the country and generally viewed as best practice in this area.

In contrast, paid parental leave encourages women to remain in the workforce and to return to work after childbirth. According to CCI's discussion paper (2008), paid parental leave is a key incentive to encourage women to stay in the workforce.⁴⁹ An EOWA (2003) survey found that organisations with paid maternity leave had a higher average retention rate (67%) than organisations without paid maternity leave (56%).⁵⁰

Lack of bargaining power of women, and prevalence of women in casual low paid industries

The federal Sex Discrimination Commissioner has raised the need for education to change attitudes and build skills. There is a perception that men are more likely to ask for more money. Education on salary negotiations was proposed in order to close the gender pay gap and increase women's economic independence.⁵¹ There is also a view that increasing the number of women in leadership roles would help challenge and change the gendered culture of workplaces and institutions.⁵²

Of particular interest to the issue of pay equity are the barriers to progressing in male dominated industries and the structural and cultural barriers in the workplace that prevent women from balancing their paid work and caring responsibilities and reduce their workforce participation and economic independence.⁵³

Male dominated industries

Australia has a highly sex segregated workforce.⁵⁴ The Office for Women's Policy in Western Australia examined the key issues impacting on women's participation in the science, engineering and technology sectors. This examination found that a disproportionately large number of qualified women leave careers in science, engineering and technology, industries where part time and flexible working arrangements are not easily accessible. Other barriers identified were a lack of strong female role models, gender stereotyping as well as a poor stereotyped image of the industry.⁵⁵

⁴⁹ CCI. (2008). *Women in the Workforce*, p. 55.

⁵⁰ EOWA. (2008). Factsheet: Paid maternity leave, 15 May.

⁵¹ HREOC. Listening Tour. (2008).

⁵² HREOC. Listening Tour. (2008).

⁵³ HREOC. Listening Tour. (2008).

⁵⁴ Todd & Eveline Review. (2004).

⁵⁵ Department of Education, Science and Training. (2008). *Audit of Science, Engineering and Technology Skills: Summary Report 2006* as quoted in Office for Women's Policy, *Women in Science and Technology*, unpublished report, March.

Strategies

The WA Pay Equity Unit is undertaking a range of programs that focus on working with private and public sector employers to develop work life and pay equity strategies that can remove barriers to workforce participation and career progression for female employees. The following discussion highlights a number of best practice initiatives some of which are being undertaken by the WA Pay Equity Unit.

Quality part time work

Part time jobs are an increasing component of employment in Australia and Australia has high rates of part time employment relative to other OECD nations. The majority of part time workers are women who use part time work to enable them to combine economic participation and family care, thus part time work has become gendered and is often simply entrenching the traditional male breadwinner/female carer model in our society.

For employers, part time employment enables them to utilise additional sources of labour and to have more flexibility in how they organise work. Consequently, part time work has become very important for many employers and certain groups of employees.

It is easy to assume that part time employment is family-friendly but research into the nature of part time work in Australia challenges this. Compared with full time work, part time jobs have been found to be lower paid; heavily casualised thereby excluding part time employees from standard employment benefits; have fewer protective rights; are less secure; and lack access to training and career development opportunities.⁵⁶ Studies have also shown that within organisations there are many institutional and cultural barriers preventing employees from requesting and/or taking up part time work.⁵⁷ Consequently analysts are now advocating the importance of 'quality' part time jobs to ensure that the employment is family-friendly and that employers will achieve the goal of tapping into these additional sources of labour.

So what constitutes 'quality' part time work? Chalmers, Campbell & Charlesworth listed ten criteria by which the quality of a part time job might be assessed:

- the number of hours and whether they match the individual's preferences;
- the scheduling of the hours of work;
- the flexibility in the number of hours and schedule;
- the ability to move between full-time and part time in the same job;
- remuneration;
- access to employment benefits such as leave and superannuation;
- employment security;
- opportunity for employee voice through workplace consultative arrangements;
- access to training and career progression opportunities; and

⁵⁶ Pocock, B., Buchanan, J. & Campbell, I. (2004). Meeting the Challenges of Casual Work in Australia: Evidence, Past Treatment and Future Policy, *Australian Bulletin of Labour*, 30(1), pp. 16-32; Burgess, J. (2005). Exploring Job Quality and Part-time Work in Australia, *Labour and Industry*, 15(3), pp. 29-40.

⁵⁷ Charlesworth, S. & Whittenbury, K. (2007). Part-time and Part-committed?: The Challenges of Part-time Work in Policing, *The Journal of Industrial Relations*, 49(1), pp. 31-47; Todd, P., Binns, J. & Eveline, J. (2007). Work/Life Balance: It's now management's problem? Paper presented to 5th Gender, Work and Organization Conference, Keele University, U.K. June 22-24.

- content of jobs.⁵⁸

Based on the approach used by the Victorian Government, a national quality part time work promotion campaign should be undertaken. This could focus on research and education, as well as producing publications about the need and importance and benefit of part time work, dispelling myths about part time work and particularly part time work at senior levels.

The Pay Equity Unit has been promoting quality part time work as a key strategy to assist gender equity. The fact sheets and publications produced by the Unit are based on the tripartite work done in Victoria.

In sum, quality part time employment enables individuals to combine economic participation and family care and is comparable to full time employment in terms of conditions, opportunities and benefits, apart from reduced hours. Genuine quality part time employment creates the potential for men and women to share paid work and care.

Childcare

Disparity in pay equity between men and women is complex and can be attributed to a confluence of factors. A well known factor is the traditional role of women in moving out of the workforce or to put on pause their career progression (and thus, capacity to earn) to care for children. The quality, affordability and accessibility of childcare are, therefore, critical support elements to the full and ongoing participation of female parents in the workforce throughout their lives. CCI's recent discussion paper identifies affordable and accessible childcare as critical to ensure that working parents can balance their work and family commitments.⁵⁹

Quality and availability of childcare are, together and separately, important issues impacting on a woman's decision to utilise care and re-engage in the workforce after having children. Factors influencing this decision include the logistics of location and operating times, place availability, and the level of confidence in the quality of care provided. In addition, the national meeting of Women's Information Services discussed their recent survey of clients which found that out-of-school care was also a major issue impacting on the capacity of women to participate fully in the workforce.⁶⁰

Paid parental leave

The introduction of paid parental leave is also an important tool in encouraging greater gender pay equity in the Australian workforce. One factor influencing the gender pay gap is that women have breaks away from the workforce due to childrearing. These breaks result in lower earnings both in the short term and the longer term, and can also have a significant impact on retirement savings.

Paid parental leave can work to reduce the gender pay gap by encouraging ongoing workforce attachment for women and provide increased opportunity for maintenance of career and salary. It is also an important attraction and retention tool as part of a range of work life balance and pay equity initiatives.

⁵⁸ Chalmers, J. Campbell, I. & Charlesworth, S. (2005). Part-time Work and Caring Responsibilities in Australia: Towards an Assessment of Job Quality, *Labour and Industry*, 15(3), pp. 41-66.

⁵⁹ CCI. (2008). *Women in the Workforce*, p. 50.

⁶⁰ Gurgone, M., Director, Office of Women's Policy. (2008). Personal communication, September.

Pay equity audits

A pay equity audit may assist an organisation to determine if there is a lack of representation of women in senior positions. Any substantial lack of female representation at senior levels could be indicative of systemic barriers to women's progression. It is important to analyse the existing data to determine whether a lack of women at senior levels is explainable and justifiable, or whether it is a result of systemic barriers to advancement. Similarly, if the audit shows that very few employees are using part time work, or other flexible arrangements, or that all part time employees are clustered in a specific section or type of job, this may indicate that there are barriers to employees accessing flexible work arrangements.

CCI's discussion paper (2008) suggests that a range of measures can be utilised to address the gender pay gap. One of the measures that they suggest organisations can undertake is to conduct payroll audits to determine where significant gender pay differentials exist.⁶¹ This accords with the approach and work being done by the Pay Equity Unit in WA.

Organisations with gender pay gaps should ensure that the job evaluation systems and classification structures used appropriately recognise female skills, and appropriately assess work of equal value. This will increase the ability of women in the organisation to progress to higher levels. Women are more likely than men to have extended absences from the workforce, mostly due to child rearing responsibilities.

In organisations where career progression is based or partly based on years of service, this can significantly disadvantage the promotional opportunities for women. Organisations should ensure that career progression through existing levels and promotion to higher levels is based on an employee's performance not solely on length of service. Gender-neutral performance management systems allow the work done by women to be recognised and rewarded without penalty for career breaks.

Education and training

Career progression for women may be restricted by a lack of training and development opportunities. Organisations may need to place emphasis on all employees, including part time employees, undertaking training and development opportunities that are not just relevant to their current position, but also to future career development and promotional roles. The availability of training and development opportunities should be widely publicised to ensure that all employees are able to express an interest in participating. This helps to overcome possible inequity due to managerial assumptions about employee suitability, interest and availability for training.

While younger Australian women are achieving higher educational levels on average than males, older female workers may need relevant skills and training to remain in or re-enter the workforce. CCI's discussion paper recommends updating skills, particularly in relation to information technology for older workers. This has been highlighted as a key impediment to women's ability to return to the workforce.⁶²

⁶¹ CCI. (2008). *Women in the Workforce*, p. 47.

⁶² CCI. (2008). *Women in the Workforce*, p. 58.

Formal networking and mentoring schemes

Mentoring can be important for career progression, and programs that encourage women to participate in mentoring will increase their opportunities for advancement. A mentoring scheme could target women at particular levels and provide them with the opportunity to develop skills in which they have previously had little experience. A formal mentoring scheme also sends a message to female employees that their ability to contribute to the organisation at all levels is valued. Successful mentoring schemes aimed at university law students are being trialled pairing up senior women in the profession that can also lead to some valuable work experience.⁶³

Employee awareness raising

There is a need for awareness-raising in workplaces on the positive aspects of working part time for both male and female employees. At the same time employers must be proactive in not only offering (and accommodating) part time work but advocating a workplace culture that embraces non standard working hours. This will work to dismiss any perception that if you work part time you are not committed to a career in the organisation. This stigma attached to part time work is seen by some researchers as being even more of an issue for men.⁶⁴ This may be because of the gendered roles still prevalent in Australian workplaces.

Access to training for women returning to the workforce after a period of absence plays a vital role in improving female participation by increasing the propensity to and chance of promotion. This can be achieved through a workplace culture that encourages employees to ask for training and facilitates equitable salary negotiation systems.

RECOMMENDATIONS

Recommendation 8 - That the Department of Education, Employment and Workplace Relations and Fair Work Australia undertake a program to assist employers implement quality part time work.

Ensure that Fair Work Australia and the Department of Education, Employment and Workplace Relations have an extensive education role and adequate funding to undertake an awareness-raising campaign on quality part time work.

The provision of quality part time work is a key tool to overcoming barriers to female participation and career development retention tool for organisations. Providing education and assistance to employers on how to integrate quality part time work into the workplace will support business in improving opportunities for career progression and female participation at all levels.

⁶³ Fox, C. (2008). Lucy helps with an early introduction to reality, *Australian Financial Review*, September 9, p. 58.

⁶⁴ Nader, C. (2008). Lives in the Balance, *The Age*, July 26, p. 4 quoting Melbourne Institute Deputy Director Professor Mark Wooden.

Recommendation 9 – That Fair Work Australia be funded to educate employers and employees about the right to request in the federal National Employment Standards.

Fair Work Australia should be funded to provide information for employers on successfully implementing and managing flexible work arrangements that accord with the proposed National Employment Standards. Support should also be provided to employees in terms of education on the “right to request” provisions and how to seek flexible work arrangements.

Recommendation 10 – That the Pay Equity Unit be funded to assist federal public sector agencies undertake pay equity audits, and have as a key role the promotion of pay equity audits to both the public and private sector employers.

The proposed federal Pay Equity Unit should be funded to assist with pay equity audits in the federal public sector as a means to address gender pay gaps and barriers to promotion and training opportunities within the sector.

The federal Pay Equity Unit should also assist private sector employers with undertaking pay equity audits and promote the role of audits as a key tool in reducing disincentives to female participation in the workplace.

Recommendation 11 - That the federal Pay Equity Unit work with the Sex Discrimination Commissioner and other relevant agencies to develop a program to address cultural change at the workplace level.

The promotion of pay equity audits could be supported by the development of workplace programs to assist employers addressing cultural change issues at the workplace level. This could include issues such as training for managers of part time staff, gender neutral performance assessment and understanding the business benefits of a flexible workplace culture.

To address fair access to training and promotion for women (as well as access to part time work and flexible working hours) workplaces must embrace cultural change. Senior management must lead by example. When managers model best practice behaviours, they help to develop a more equitable workplace culture that benefits all employees. Positive reinforcement can also be achieved by encouraging appropriate women to apply for senior positions, actively supporting the use of family friendly policies, or accommodating requests for part time or job share arrangements.⁶⁵

Duxbury and Higgins found that when there is a focus on hours rather than output and presence rather than performance it is very difficult to implement flexible work arrangements successfully. It then follows that organisations should reward employees

⁶⁵ Duxbury, L. & Higgins, C. (2008). *Work-Life Balance in the New Millennium*, South Yarra, Vic: Beaton Consulting, p. 66 (referred hereafter as Duxbury & Higgins. (2008). *Work-Life Balance*).

who have successfully combined work and non-work domains and not promote those who work long hours and expect others to do the same.⁶⁶

⁶⁶ Duxbury & Higgins. (2008). *Work-Life Balance*.

Term of Reference 6

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

A strong legislative basis for pay equity is important to assist in reducing Australia's gender pay gap, appropriately reward women's skills and experience in the workplace and support female workforce participation. Legislation can also support pay equity by mainstreaming gender pay issues into all aspects of the industrial framework.

There is a need for further legislative reform to address pay equity in Australia. It is acknowledged that substantial changes to the workplace relations legislative framework will be implemented in early 2010. It will, however, remain appropriate for pay equity legislation to be enacted to amend this new legislative framework and establish a new framework and agenda for addressing pay equity in Australia. The introduction to Parliament of a Pay Equity Act would in itself provide a powerful tool for awareness-raising in the Australian community of the persistent issue of the need to improve gender wage equality.

This section provides details on legislative provisions in other countries, outlines why a Pay Equity Act is important for Australia and describes what such an act could contain.

International experiences

Many governments of OECD countries have introduced legislation addressing pay equity over a decade ago. Chicha compared legislation enacted in a number of countries and concluded that Quebec and Sweden had the most proactive approaches.⁶⁷ She also argued that redressing the undervaluation of jobs typically performed by women would be a main way of reducing the gender pay gap. She recognised that because there are many causes of gender inequalities in pay that a set of interventions was needed, including legislative reform and educational campaigns.

The Quebec and Swedish approaches provide legislation and institutions with precise frameworks and timetables for action to tackle pay inequity. Under these proactive approaches, employers have an obligation to carry out a review to detect the existence of pay discrimination in their companies and then to correct any pay discrimination which is uncovered. Both have time limits in which the pay anomalies have to be corrected and then the new wages have to be incorporated into collective agreements to maintain the results over time.

Why a Pay Equity Act?

A Pay Equity Act would establish pay equity as a priority for the Australian Government. An independent pay equity statute will be an important tool to drive change. A federal Pay Equity Act could provide a specific avenue for resolving equal remuneration cases and raise the profile of pay equity as an employment issue without imposing additional regulatory requirements on Australian employers. The introduction

⁶⁷ Chicha, M. T. (2006). *A comparative analysis of promoting pay equity: models and impacts*. Geneva: International Labour Office.

of a Pay Equity Act should be accompanied by an education and awareness-raising program on pay equity issues in Australia.

RECOMMENDATIONS

Recommendation 12 – A federal Pay Equity Act be introduced to integrate gender pay issues more effectively into the workplace relations framework.

It is recommended that a Pay Equity Act could, in broad terms, contain the following provisions:

- An overarching commitment to addressing pay equity and the establishment of equal pay for work of equal or comparable value.
- The insertion of a robust and effective equal remuneration principle or similar provisions to allow the equal remuneration cases to be brought before Fair Work Australia by employees or their representatives and awards to be varied.
- A requirement that training in equal remuneration and gender neutral job evaluation be mandatory for all Fair Work Australia members who will be hearing equal remuneration cases.
- A requirement for Fair Work Australia to introduce, monitor and update pay scales for occupations in different industries.

Conclusion

Improving women's workforce participation and pay equity is essential for ensuring that Australian employers can meet their labour supply needs now and in the future. Expanding opportunities to enter the workforce and decreasing the pay gap between men and women requires a broad range of strategies. While the focus must be on increased flexibility at the workplace level, Government has a role to play in providing resources and assistance to business and education for the wider community.

This submission has documented recent Western Australian strategies, particularly the success of the WA Pay Equity Unit in working with public and private sector organisations to raise awareness of the business imperative for better pay equity and introduce pay equity audits as a key tool for identifying and removing barriers to workforce participation.

Western Australia, as the only Australian jurisdiction with a specialist pay equity unit, is at the forefront of addressing participation and pay equity issues. The range of innovative best practice strategies being undertaken here in Western Australia may serve as part of the blueprint for a stronger focus on pay equity at the national level.