

# **Submission to the Review**

## **of the Equal Opportunity for Women in the Workplace**

### **Act and Agency**



A. F. U. W.

**Presented on behalf of the Australian Federation of University Women Inc**

**By Dr Jennifer Strauss AM  
President, AFUW Inc**

**2/12 Tollington Ave  
East Malvern 3145  
[jstr0036@bigpond.net.au](mailto:jstr0036@bigpond.net.au)**

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## Introduction and Executive Summary

The Australian Federation of University Women (AFUW) is grateful to the Office for Women for allowing them an extension of time to make a submission in response to the issues paper provided for the Review of the Equal Opportunity for Women in the Workplace Act and Agency (EOWWA). AFUW was founded in 1922 to promote the advancement of women in both personal and public life through initiatives in education and to further peace and international co-operation through the promotion of understanding between women worldwide. It is a voluntary, non-partisan, self-funded Federation of State and Territory Associations. It is administered by a Federal Council and affiliated with the International Federation of University Women, which has consultative status with several United Nations agencies with an interest in matters such as equity in employment (ILO) and the welfare of women and children (UNESCO). Membership in AFUW is open to any woman holding a degree from a recognized university. Members are graduates from a wide range of disciplines and pursue a diverse range of careers. They therefore have a lively interest in equal opportunity as one of the most important factors influencing their career trajectory and their consequent ability to achieve immediate and long-term financial security and personal fulfillment.

### Executive Summary

In relation to the Terms of Reference, AFUW submits:

- The EOWW legislation and arrangements cannot be considered highly effective in the light of statistics about the Gender Pay Gap and the relative paucity of women at the most senior levels of political and economic decision-making. While there have been some improvements in delivering equal employment opportunities for women, these have often originated elsewhere (e.g. Sex Discrimination Act, Paid Parental Leave);
- More formal merging/sharing of the work and data bases of the EOWW Agency and the Fair Work Ombudsman with that of the Sex Discrimination Commissioner to provide a more coherent, system-wide framework could avoid duplication of effort and achieve a more comprehensive oversight of all aspects of equal employment opportunity. AFUW recommends placing the latter matter within the broader scope of the Australian Human Rights Commission;
- The reporting requirements of the Act, and the Guidelines, are often perceived as onerous by employers and ineffectual by employees. They need to be simplified, but also strengthened and extended to cover smaller businesses (but less frequently perhaps), as this is an area where the prevalence of casual and part-time employment increases women's vulnerability to discrimination;
- The Act and the Agency are perceived as lacking teeth. The Objects of the Act should have some authoritative powers of compliance and be more strongly expressed than the phrase 'promotion and fostering'. While AFUW agrees that positive measures recognizing best practice (such as the EOWA Awards) are preferable as a way of bringing about changes in employment culture and practice, it also submits that flagrant or repeated breaches of the requirements of the Act should entail negative consequences.
- The Agency's gathering of workplace data, an essential step in making progress with identifying areas of concern in women's employment, is generally underfunded and often impeded by inadequate disaggregation of data by gender in official labour force statistics and especially in main features and summaries of published reports;
- A first step to improve the equal opportunity framework might well be to re-visit the Recommendations of the 1998 Review of the *Affirmation Action (Equal Employment*

*Opportunity for Women) Act 1986*, which preceded the introduction of the current Equal Opportunity in the Workplace legislation. Such a re-visiting should not only review the effectiveness of recommendations accepted, but also identify recommendations not implemented or not fully implemented and consider whether they should now be introduced.

### **Effectiveness of the Act and the Agency in Delivering Equal Opportunity for Women in the Workforce**

EOWWA cannot be said to have been highly effective. While there has undoubtedly been an increase in women's participation in the workforce and improvement in the conditions under which they work, this has been slow and the benefits have been unevenly distributed, with maximum benefit flowing to professional women and women employed in large-scale institutions, industries and businesses. Information provided at the time of the announcement of the Review by the Sex Discrimination Commissioner, Elizabeth Broderick, the Minister for the Status of Women and the Office for Women included the following evidence that progress needs to be speeded up:

- The Gender Pay Gap has not improved in 25 years, with the pay gap between male and female full-time earnings now standing at 17.2 per cent. This appears to open up at the very start of working life. While women have more than equal educational outcomes compared to men, the starting salaries of women university graduates are lower than those of male graduates and this applies even when both graduate in the same disciplinary area, although it is exacerbated by the clustering of women in the so-called 'service' areas that tend to attract lower salaries. The gap increases over time. A 2007 survey found that, although between 50 to 60% of those embarking on a professional career in science are women, only 7.8% of female scientists held positions at level five or above as compared with more than 25% of their male colleagues. One result of the Gender Pay Gap is that women enter retirement with substantially less superannuation than men.
- The Gender Pay Gap then is a major contributor to the wider phenomenon of the Gender Wealth Gap: the vast majority of Australians living on low incomes and social security are women.
- In comparison with women in other OECD countries, Australian women are poorly represented in executive management. Participation rates in senior roles (board positions and senior executives) have shown some improvement (Universities, public sector) but this trend is reversed in corporations. Representation of women in senior roles in ASX200 companies, for example, fell from 12% to 10.7% between 2006 and 2008: the most recent statistics show women holding only 8.3 percent of Board Directorships, only four Chief Executive Officer positions and only 5.9 percent of senior line manager roles.
- At all levels of the workforce women are struggling to balance their work and family responsibilities, especially those to their children

While the problem cited above also affects men, it is still the case that women carry the major burden of care for family members, and the bearing of children is a factor that is exclusive to women. The Government's recent decision to accept the recommendations of the Productivity Commission's Inquiry into Parental Leave is a major step towards bringing Australia into line with other OECD countries (except America) in recognizing that paid parental leave is a crucial element in women being able to participate in the workforce. It is not, however, a result of EOWWA activity, and indeed lies outside its

brief. A concerted push for paid maternity leave originated in HREOC with Commissioner Goward's 2002 discussion paper *Valuing Parenthood: Options for paid maternity leave*, but to bring it to term required not only a more powerful body, the Productivity Commission, but also a set of terms of reference that enabled it to consider the social and human rights aspects of paid parental leave as well as the economic ones.

Moreover, it cannot be assumed that paid parental leave alone is sufficient to ensure equal opportunity for women in the workforce. The full benefits of paid parental leave in attaching women to the workforce in an equal capacity will not be obtained until there is better provision of childcare, including out of school hours and vacation care. A number of women's NGOs are seeking a Reference on the provision of childcare to the Productivity Commission, because they are aware that this is a question not within the province of the EOWWA.

### **Improving the Effectiveness of EOWWA**

AFUW submits that one reason for the slow progress in effecting substantial improvement in equal opportunity for women in the workforce is the diffusion of responsibilities and concerns over a number of entities, each limited in the range of its remit and in its power to enforce recommendations.

1. In the light of the above, AFUW strongly supports the Dec 2008 recommendation of the Standing Committee on Legal and Constitutional Affairs to consider incorporating the obligations of the EOWW Act into the Sex Discrimination Act and combining the agency functions of the AHRC and EOWA. We believe that this would lead to better compliance, more effective use of human and other resources and elimination of duplication, while making it easier to identify gaps and weaknesses in legislation and processes. It could provide wider coverage of employers and employees, while consolidation of data bases using the same standard statistical concepts and definitions would ensure a more powerful supply of compatible research material and analytical expertise.
2. The need for at least a nexus between the EOWW Agency and the Sex Discrimination Commissioner was recognized in Recommendation 18 of the 1998 *Final Report of the Regulatory Review of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986*. This recommendation was that the Director of the Agency should 'be able to refer certain systemic, sectoral or occupational sex-based discrimination issues, which may properly be the subject of an inquiry or report to the Sex Discrimination Commissioner for consideration.' The Government at the time did not reject the recommendation outright, saying that it would consider it further, but that in any case, the Director would be required to consult with the Board and the Minister before making any referral. The recommendation was, in the event, not acted on.
3. Whether or not a new agency is created, there needs to be increased funding for the gathering and analysis of gender disaggregated data relevant to equal opportunity for women in the workplace, as adequate and accurate data are essential for good policy formation.
4. Consideration should be given to requiring less frequent reporting and of a more varied kind. Some degree of reporting by employees would be informative: something in the manner of the Shadow Report to CSW. Change occurs slowly and reporting may come to be seen as merely a routine chore if an organization is obliged to resubmit the same information repeatedly. However, if reporting is done less frequently

it should then be submitted to serious scrutiny.

5. Waiving of the requirement to submit reports should be made with extreme care, and AFUW believes that consideration should be given to implementing Recommendation 12 of the *Final Report of the Regulatory Review of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986*, which was that the Agency should have an audit power in the form of workplace visits ‘to confirm waived status or to operate as a further step between reporting and naming where reports appear to be unsatisfactory.’ Reports from employees, mentioned above, could be part of this audit process.
6. In trying to effect changes in cultural attitudes to women in employment, there needs to be greater publicity given to both achievements and failures. Minister Plibersek in her press release on the current review rightly praised the EOWA Employer of Choice for Women, the Business Achievement Awards and the Australian Census of Women in Leadership as highlighting successes in equal employment and giving valuable examples of good practice. Recognition, however, should also be given to bad practice in specific cases and to slow systemic progress. When this is done, however, there need to be indication of remedial possibilities, as in the report in the *Age* of 16 September that cited the steps being taken by the newly installed head of the Walter and Eliza Hall Institute Walter to counteract a situation where only 20% of laboratory heads were women although women constituted 75% of the institute’s technical staff and where there was only one woman among the 16 professorial staff. Professor Hilton obviously understood the multi-faceted approach need to achieve equal opportunity outcomes. Apart from Fellowships to support professional developments, he was providing childcare packages up to \$15,000 and extension of the period for renewal of contract for women with young children so that they could have more time to prove themselves.
7. The issue of women who are insufficiently skilled to enter the workforce at any but the least remunerative and most insecure level is a further example of the need for an approach that is more multi-faceted than can be provided by EOWWA alone. Insufficient attention has hitherto been given to the capacity of the VET sector to fulfil the crucial role of enabling women such as early school leavers, mature age women seeking to return to the workforce after child-rearing or other caring duties or Indigenous women to achieve something better than a life as ‘the working poor’. The policy background paper *Women and Vocational Education & Training: Strategies for Gender Inclusive VET Reform* (ISBN 978-0-9807095-0-6) was prepared by researchers Robin Miles and Maria Rickert for Women in Adult and Vocational Education (WAVE) and funded by Security4Women. It argues that the sector is better adapted to meet the needs of males than females and presents a cogent case for the inclusion of women as one of the equity groups whose needs are to systematically considered by the National VET Equity Advisory Council in order to establish a new national equity model for VET. Material such as this needs to be seen as inextricably related to the question of equal employment opportunities for women.

AFUW understands the need for Government to consider the cost of achieving further progress in equal opportunity, but it submits that this must be seen as a long-term investment, not something amenable to an easy or quick fix. AFUW believes that *Final Report of the Regulatory Review of the Affirmative Action (Equal Employment Opportunity for Women) Act 1986* was correct in its assumption that, at both a macro and a business level, the benefits of addressing equity issues for women in the workforce would outweigh the costs. We submit that we would be further along the

road if the Government in 1998 had accepted some of the recommendations that it rejected and recommend that the *Report* be taken into consideration again by those conducting this review.

Jennifer Strauss, President AFUW

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