



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON EMPLOYMENT AND
WORKPLACE RELATIONS

Reference: Pay equity and increasing female participation in the workforce

THURSDAY, 12 FEBRUARY 2009

CANBERRA

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON EMPLOYMENT AND WORKPLACE RELATIONS
Thursday, 12 February 2009

Members: Ms Jackson (*Chair*), Mr Haase (*Deputy Chair*), Ms Bird, Ms Hall, Mr Hayes, Mr Keenan, Mr Marles, Mr Ramsey, Dr Southcott, Mr Symon

Members in attendance: Mr Haase, Ms Hall, Ms Jackson, Mr Ramsey, Mr Symon

Terms of reference for the inquiry:

To inquire into and report on:

Pay equity and associated issues related to increasing female participation in the workforce

That the Committee inquire into and report on the causes of any potential disadvantages in relation to women's participation in the workforce including, but not limited to:

- The adequacy of current data to reliably monitor employment changes that may impact on pay equity issues;
- The need for education and information among employers, employees and trade unions in relation to pay equity issues;
- Current structural arrangements in the negotiation of wages that may impact disproportionately on women;
- The adequacy of recent and current equal remuneration provisions in state and federal workplace relations legislation;
- 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; and
- The need for further legislative reform to address pay equity in Australia.

WITNESSES

BUCHANAN, Ms Vicki, Board Member, National Foundation for Australian Women 1
**COLEMAN, Ms Marie, Chair, Social Policy Committee, National Foundation for Australian
Women 1**
COLWILL, Ms Jenni, Vice-President, National Foundation for Australian Women..... 1

Committee met at 11.25 am**BUCHANAN, Ms Vicki, Board Member, National Foundation for Australian Women****COLEMAN, Ms Marie, Chair, Social Policy Committee, National Foundation for Australian Women****COLWILL, Ms Jenni, Vice-President, National Foundation for Australian Women**

CHAIR (Ms Jackson)—This is the 12th public hearing for the committee's inquiry into pay equity and associated issues related to increasing female participation in the workforce. I welcome representatives of the National Foundation for Australian Women to today's hearing. Although we do not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. We have received your written submission to the inquiry but ask whether you want to present any additional information, make an additional submission or make an opening statement. We will then go to members for questions.

Ms Colwill—Thank you. Let me first say that we welcome the opportunity to make this submission. We know that these are difficult economic times and that is not always conducive to new concepts, but we think that women are being held back from participating in the workforce by a range of government policies which inadvertently support pay inequity. So our formal submission, which you have received, gives you details of our activities which support our credibility in making submissions of this kind.

To give you a brief background about our organisation, we were established nearly 20 years ago. Since then we have become a significant organisation seeking and representing the views of Australian women on a range of social policy and other issues of importance to them. We have been engaged and commissioned to conduct research on occasions and we work very actively to achieve our objectives of advancing the interests of Australian women, recording and making their histories accessible and ensuring that their achievements are handed on. Our current social policy objectives are paid maternity leave for all Australian women and equal pay, and we are also working on the issue of women and taxation which is very relevant to this hearing as well.

The NFAW believes that pay equity is a human right and essential to improving the participation of Australian women in the workforce. We think that men and women should be paid equally for work of equal and comparable value. We have given a definition of what we consider to be remuneration in our submission. Our views are collected through the consultations that we have conducted nationally on various topics, including the impact of Work Choices, paid maternity leave and the impact of tax. In relation to that, I would like to table a document we have pulled together on the impact of tax, retirement savings and superannuation on women because those issues are very pertinent to the discussion of the committee.

NFAW is particularly concerned that this government takes action to reverse the trend of the increase in the pay gap. We think that can be achieved if the government takes action firstly as an employer—and that includes in Commonwealth government agencies that subsidise services to the Australian public, such as aged care in the health sector and child care. Marie Coleman will probably speak a little more about that in our question time.

We also think that analysis of existing and new legislation to identify the impact they have on pay equity would be a very simple step. At the moment we are unaware that that sort of analysis is being conducted. We would also suggest that there is scope to put in place new legislation placing proactive obligations on employers to eradicate pay differences, and that there is scope to provide HREOC with powers to proactively address inequity. Probably the first step to achieving that is by changing the legal definition of what constitutes disadvantage to women. That concept needs to be broadened considerably and all those vague concepts of reasonableness should be eliminated.

We believe that the undervaluation of women's jobs should be a cause for sex discrimination under the Sex Discrimination Act. There is desperate need to put in place a women's action plan that states government's commitment to act on pay and employment equity and that identifies targets, strategies, evaluations and ministerial responsibilities. That plan needs to be appropriately resourced. We believe pay equity is good for business and good for the economy and we would like to see some of that being reflected in the current economic stimulus packages—we do not see a lot of that at the moment. We think that women's wages are essential to family incomes and lower wages mean a loss of adequate health care and tertiary education opportunities for children. The fact is that women influence purchasing decisions in families and as consumers they have increasing power in the economy. Pay inequity can influence the way women perceive business and make economic decisions, including purchasing decisions.

The evidence is there that diverse groups make better and more innovative business decisions than non-diverse groups. We think that promoting women into board positions and being very proactive about that will have a positive impact on pay equity and other economic decisions affecting women. I think there has been some recent evidence that supports that even further, even though it has been known for a long time. We also think that there is more equal incentive, when there is pay equity, for both men and women welfare recipients to seek transition to employment. When women are looking at low pay and losing benefits there is much less incentive for them to enter into employment in low-paid occupations than there is for men in most situations.

Lastly, the less women work the more hours men have to work. So better work-life balance is not going to be achieved until we redress the issue of women's participation in the workforce, and pay equity is absolutely essential to achieving that. To sum up, we do not see it as a simple problem; it is a complex problem. Legislation is only one part of the solution. There are social and cultural issues and a whole lot of other considerations that need to be addressed. I guess the Commonwealth as an employer can take a lead role in that. We would encourage this committee to make those sorts of recommendations. We think that with an appropriate action plan and appropriate resources, targets and milestones that pay equity in Australia may stop being the problem that it has been. That is our opening statement and thank you for your patience.

CHAIR—Thank you very much. Are there any additional statements to be made?

Ms Coleman—Perhaps I could just throw in that I am very much occupied at the moment with a commission to facilitate women's responses to the Henry review of Australia's future taxation system. As you know, the first part of that project is to make submissions in relation to retirement incomes. The second is on the generality of the tax system, and we are obviously very concerned about the gender equity considerations there.

I reinforce the point that, as we look at the outcomes for women's superannuation incomes—which are demonstrated quite dramatically in that document which my colleague tabled a few moments ago—from current policy settings, we need to have regard to how women's capacity to take part in the workforce and to achieve an equitable rate of income can be enhanced, in terms of retirement savings and the capacity of the economy overall to sustain the costs of financing ageing. There is a statement in a piece by Siobhan Austin in a journal of the ABS, *Australian Social Trends*, 2008, which I think gets to the point of this. She says:

Rising education levels and changing social norms are increasing expectations of financial independence for both partnered and single women. Women's life expectancy continues to grow and exceed that of men. Women's personal incomes while they are of working age will thus be an important determinant of their ability to secure adequate living standards in old age. Furthermore, for as long as separation and divorce rates remain relatively high, women's access to a source of income will be a crucial determinant of their ability to support themselves and their dependent children. For these reasons and more, it is important to continue to monitor trends in women's personal incomes, as well as those of families and households.

The submission which we are making to the Henry review, particularly in respect of retirement incomes, will focus on the urgency of a compassionate and generous response to those people who are already retired, through improvements to the aged pension, but we also seek a very careful look at strategies for women who are entering or already in the workforce to enhance their capacity to have better lifetime incomes and more continuous workforce attachment.

There is empirical evidence from studies internationally, so it is not just a question of a wish list, which demonstrates that the existence of such policies as a national system of paid maternity leave—or parental leave, if we want to call it that—and access to affordable and good-quality child care, including the out-of-school-hours-care sector, are very significant factors in women's continuous workforce participation and, hence, their capacity to save for retirement. It goes without saying that pay equity is another extremely significant factor during the period that women are in the workforce.

In my consultations I have been talking with, for example, women associated with the residential aged-care industry, which is almost entirely dependent on funding policies of the Commonwealth government. I am advised that that is an industry in which it is the norm for people to be forced to work on a casual and part-time basis and in which the wages are significantly low that it is extremely hard to attract staff. The consequences of those points for the capacity for those women to make savings for their retirement are very sad indeed. I pass lightly over whether we are enhancing the quality of care for our most vulnerable elderly people if we have a system which is entirely associated with part-time, casual, unskilled staff of predominantly non-English-speaking backgrounds.

CHAIR—Thank you very much for those comments. Is it the wish of the committee that the document be accepted as a supplementary submission and authorised for publication? There being no objection, it is so ordered. Ms Colwill, you raise a number of good issues. I am grateful for the practical recommendations, because people have been very good at highlighting the problems and the issues but not necessarily as good at suggesting how to fix them. Despite other policies internationally about family-friendly workplaces and paid parental leave, Australia, with the exception of the last decade, has been one of the world leaders in reducing the pay gap, or in not having as bad a pay gap as other countries. We are very conscious of that, and we are

conscious of the impact that individual contracts have had in the past on women's pay. But there is a chicken-and-egg question involved in that, and I think you pose it in your submission: does lower pay occur because of the type of work that women choose to perform or because women perform the work? I really am curious as to what is the case in that regard—if we are going to have any major change—is it about us not properly valuing 'traditional' women's work?

Ms Colwill—I think in the past there has been a tendency for business to regard the work of the wife, the woman, as an additional income and an attitude devaluing work that is predominantly performed by women. My personal view is that that is where we have to make the changes. There has been significant devaluing of work by women, and I have seen it in my employment as a HR manager. I have seen the differences in the expectations of men and women in the workplace about what kind of remuneration they will get. Some of that is driven by the individual but a lot of it is also driven by the employers and their attitudes.

Ms Buchanan—My view, from talking to many women over the years about this, is that there has been a strong focus, perhaps predominantly in the last 20 years, on what makes money for companies and that the ability of people in senior positions to understand the power and the value of softer skills and how they add significantly to the value of organisations is lacking. That really makes a difference to pay levels in that environment. I actually think there is some hope, though, because people are starting to pay more attention to this and recognise it a lot more. Those strengths and skills significantly add to the wellbeing of companies and the environment that people work in, but getting those skills recognised as valuable has proved a really complex issue for us. Maybe the 'greed is good' era did not help much.

CHAIR—A lot of what you describe as 'traditional women's work' is the work that women perform in a family and domestic setting, and maybe that is the fundamental problem—that we are not valuing the unpaid work that is done by women. Is there any way a government can even begin to address that? I really do not know.

Ms Coleman—That is one part of it. I noticed that, in the discussions that were taking place around paid parental leave, the question of whether or not mothers who were not in the workforce should also receive a parenting leave type payment raised its head a number of times. But I think we need also to remember that a lot of the gender segregated occupations are in both the not-for-profit and the private for-profit sectors which are involved in caring for people other than in the domestic setting. One thinks of child care, which is a significant growth area. It is largely provided by a mix of private for-profit organisations and not-for-profit organisations and, to a limited extent, local government organisations highly dependent on direct cash transfers from the Commonwealth or on tax concessions in terms of means of financing. But the payment scales there are very bad indeed and they are going to pose a dramatic challenge to the government's current intentions of trying to enhance growth in the number of skilled people going into the sector because, with those wages, if you had a level of skill why would you?

The same thing is true about aged care, another sector that is about transferring caring from the domestic to the public sphere, which again is substantially dependent on government subsidies, again provided by a mix of suppliers but again an area which is characterised by very low rates of pay. Whether it is a low rate of pay because it is being provided by women and women's work is undervalued or whatever, we are faced with a situation where these are gender

segregated industries where we recognise that we need more people and more skilled people and yet we are not prepared, as a society, to pay the salaries which would be appropriate.

Ms Colwill—I think it is also important to note that, as well as in those low paid occupations and industries—that is a reality and it is true that women’s employment is clustered in many of those industries—there is inequity at all levels. A greater number of qualified women than qualified men are now coming out of universities, yet the graduate pay salaries are lower for women. There have to be other things; it is not just the industry. That to me is a real demonstration that it is about employers and what employers do. It is also about the individuals and what women are looking for in employment.

Mr RAMSEY—Do you mean within one industry? You are saying that the graduates are coming out in a specific industry and women are being paid lower than men as graduates.

Ms Colwill—Yes. Not in one industry; overall.

Mr RAMSEY—No. For instance, we had the Pharmacy Guild of Australia in here last week. I am not saying that this happens in pharmacy, but are you saying that in a specific industry, like pharmacy, women graduates are receiving less money than men graduates on exit from university?

Ms Colwill—Yes.

Ms Coleman—I do not think the EOWA data suggests immediate exit.

Ms Colwill—Yes, I think it does. It is probably a point that we should check.

Mr HAASE—It is not one I would dispute. I accept that quite readily. We have had evidence to that effect.

Mr RAMSEY—I am late to this inquiry.

Mr HAASE—In specific industries. Not in all industries, but more likely in some. I think the evidence given to us was that in the architectural industry women were paid less. We got a degree of agreement as to why. It was to do with the employer’s expectation of the period in service of that individual, undesirable as that may be.

CHAIR—That is where I can see the positive impacts, potentially, of a national action plan that offers carrots for audits and improvements in attitudes and performance. But none of that is going to address the situation you have raised in an industry like aged care, and that might require a very different response.

Ms Coleman—Yes, I believe it will.

Ms Buchanan—And that is a part of the casualisation of the workforce issue.

Ms Colwill—And it is also about the entry requirements of that workforce.

CHAIR—The committee has been presented with so much evidence that says there is a multiplicity of reasons for the overall inequity and no one simple solution—or you would have hoped that somebody might have fixed it by now. It seems to me that the committee needs to be conscious of that multiplicity of reasons. Some reasons might and should require direct intervention or recommendations that go to them, where as others might require broader policy responses.

Ms Coleman—I assume that when Dr Austen gave evidence to you from WiSER at Curtin University, she would have pointed out some of the issues which have been identified about actually getting decent trend statistics. If we do not have good quality data that break down patterns by gender it is very hard to devise specific solutions that meet the identified problems. Because you are not going to apply the one solution across the board the gender data is crucial.

I attended a workshop run by the Australian Bureau of Statistics last year—partly at our prodding—at which Dr Austen was a speaker. It was evident from that that there are a whole range of approaches being taken at the moment to measurements, that probably data is being held by a number of government agencies that is not being broken down by gender and published, as well as the difficulties of getting data that is broken down by gender into the regular collections of the bureau. I can tell you that when the bureau was saying, ‘Well, we won’t be able to get anything into the 2012 census’, one began to think: then how long? I do not think we can overemphasise the importance of getting decent statistics on which to base plans and against which you can measure whether or not that particular plan has been useful.

Mr SYMON—I come from the construction industry where it is actually all laid out on paper—this is what you get, this is how much you get, this is when you get it. Frankly, that was not the issue where I came from. The number of women in the workforce was extremely low, but the ones who were there were actually being paid the same. But what I saw was the difference in opportunity to do the extras—the access to the overtime, the training and so on—that does not necessarily show up in statistics but does at the end of the year. When you look at the difference you can say: why did person A, who is female, get paid less than person B, who is male, when every industrial instrument says they get the same? So from my area I could see that it was opportunity; it was not something that you could put a definition on exactly.

Ms Colwill—Also your industry has done something with superannuation to deal with the casual nature and the part-time nature of its employees. And it is interesting because it is a predominantly male workforce, and so recognition of the need to address the super problem for that type of workforce has been clear and action has been taken.

CHAIR—You are talking about the portability in the long service leave and so on?

Ms Colwill—Yes, yet in other casual, part-time employment industries that does not exist, so where you have clusters of women in industries there is a lot to learn from the building industry.

Mr SYMON—There is, and casualisation has always been a big part of that industry. Now casualisation has crept well beyond those boundaries into what used to be permanent jobs. And there is even the old part of the super guarantee that if you earning less than \$450 a month you just do not get the super.

Ms Colwill—That is right.

Mr SYMON—A lot of people only do a few hours a week and they may come under that. Why are you worth less because you work fewer hours? You should still be worth the same rate per hour with all the add-ons. Those sorts of things are measurable. When you look at someone's super at the end of their working life is where you see some of those differences in the figures. My question to you is: is there something other than looking at minimums for payments? Is there something in the terms of opportunity or access that you can suggest that we have not thought of?

Ms Coleman—You have raised the question of the super guarantee—that is one thing. I am in no doubt that that needs considerable review. We are working at the moment with the YWCA, which has commissioned someone to do a specific study on the issue of young women and the super guarantee. Classically it is the young women who have three, four or five part-time jobs—a bit here and a bit there—and whose minds are not exactly fixed when they are 24 on retirement—they are not worrying about it a lot. But the fact is that they are losing out and they quite often have money being put aside by employers, if they are earning sufficient to reach the threshold, which is sitting in little pockets in different places and which is just being eaten up by fees. I hope we will get something out of the Henry review that will address some things of that kind that I think really are capable of being addressed.

In terms of attitudes as to whether or not women get offered the opportunities to do training and so forth, I think this comes back to what Jenni was saying about the attitudes of managers too. It has to be seen as more likely that women are given a chance to upgrade skills by attending in-service training programs and things. Making sure that sort of thing takes place does require positive action by line managers.

Ms Colwill—And it is not going to happen just like that; it really is not. I think we have seen a lot of belief placed in equal employment opportunities, legislation like the Sex Discrimination Act et cetera that just has not been sustained in the evidence. It has been misplaced. Employers are looking to make money. That is their primary goal, and so it should be; however, quite often they do not have the opportunity to think about the cultures that they are maintaining and reinforcing. I think it is a really hard ask to expect them to come up with ideas. Until government is clearer about its expectations and puts in place things that are really going to force employers to think about these issues, it is not going to happen.

Ms Coleman—Some of it is going to be about encouragement. You can do a lot to encourage people in certain directions besides putting in sanctions.

Ms Buchanan—Rewarding good outcomes is—

CHAIR—And EOWA's evidence reflects that.

Ms Coleman—It does.

CHAIR—The results from their voluntary pay equity audits have been very positive.

Ms Coleman—These are things that do work. I have been talking with the NAB about their pay equity audit in Victoria. That has clearly been a very good cooperative strategy, but of course that is in a large industry—National Australia Bank is big enough to do that sort of thing. There are a lot of small employers where you would need other kinds of strategies.

Mr HAASE—They are smaller today.

Ms Coleman—Yes, they are smaller; it is a pity about my shares, but this is the way of the world. In terms of the review that the Senate has just finished of the Sex Discrimination Act I think we should be looking a lot at what kinds of education strategies can be developed to help smaller businesses in particular see these options. It is a jolly sight easier to persuade a very big employer to see the benefits.

Ms Buchanan—We have mentioned using Fair Work Australia in thinking about how we could monitor, support, engage and check without it looking overly draconian and to give the outcome that you want. It is an existing structure; it is already there. Maybe it could just have another responsibility.

CHAIR—It is not quite there yet, but it will be.

Ms Buchanan—We have mentioned the superannuation issue several times. In the conversations that we have with young women and older women, I just cannot tell you how many times it comes up. It is a really big deal for people—surprisingly, more of a big deal than what they are getting in their pay packets. I believe that, of all the issues that people are concerned about, that would be in the top one or two that need a response.

Ms Colwill—Particularly in an environment where it appears there is a greater emphasis on superannuation to fund retirement incomes. It will just perpetuate the inequity if that is not addressed.

Mr RAMSEY—I have a question on super. I do not want to jump in front of Barry but, while you are on super—

Mr HAASE—Why change now?

Mr RAMSEY—I just read your recommendations on superannuation. Why don't you ask for superannuation in a relationship to be pooled and divided—in a marriage or de facto or whatever relationship? I am surprised; I would have thought you would be justified in asking for that. I think that is perfectly reasonable. Life is a partnership. We have ways of defining de facto relationships and marriages. Why do you not ask that any super that either partner earns should go into a pooled but divided account?

Ms Colwill—We have not actually looked at it.

Mr RAMSEY—Too hard?

Ms Colwill—I think there are some complexities.

Mr HAASE—My understanding presently is that, without the pooling, that effectively is the case.

Ms Colwill—Yes, for property settlements.

Mr RAMSEY—For property settlement, yes.

Ms Coleman—I think that property settlements do permit that to occur—and the property settlement issue is probably the one that is going to raise the most difficulties in terms of persuading people.

Ms Buchanan—It still does not include the baseline.

Ms Colwill—I think it is also that we are not as concerned about that. Obviously married women and women in other partnerships are vulnerable as well, but primarily it is the single-income families where the discrepancies are particularly evident.

Mr HAASE—And most hurtful.

Ms Colwill—Yes, that is right—and they are predominantly headed by women. So that is where our focus has been to a large extent.

Ms Coleman—We have had some very interesting postings around the super system in response to our proposals on our website. There have been a number of recent postings by women who are basically saying that, when the relationship came to an end, various property settlements were entered into and they came out on the wrong side of the ledger.

Mr RAMSEY—Yes, I think I hear that quite often: ‘I didn’t get my fair share, actually.’

Ms Coleman—These are certainly issues that need to be addressed in the question of the review of superannuation. Some of our thinking on superannuation has probably moved on since we wrote that paper, not least because at that stage we had not yet received the commission to do this particular superannuation project.

Ms Colwill—And we are now receiving a lot of information. Actually, the committee might be interested in looking at some of those comments, because it is all about women’s income. On our website, we are receiving quite a lot of comments from Australian women about how their retirement incomes have been affected. We will also shortly be looking at taxation matters generally.

Mr HAASE—Ladies, on the issue of superannuation—since you were most recently discussing that particular point—the final payout, or the final accumulated wealth, is dependent upon the hours worked, and the rate of pay—

Ms Colwill—That is correct.

Mr HAASE—except in the case of this issue of minimum monthly income. It strikes me that that really is the only singular problem here: if there is a propensity for women to be involved in

the casual or part-time workforce, that would be a problem. So a recommendation from this committee in our report for the removal of that clause or provision would be an asset—a small one, but it would be an asset?

Ms Coleman—Yes and no. Let me just caution you that I am a believer in empirical data crunching. I cannot add up myself, but you pay other people to do these things for you!

Mr HAASE—I have noted your interest.

Ms Coleman—We are in discussions at the moment—indeed, I say that literally: when Ms Scarlett from the secretariat came out to get us I was in the middle of a phone call—with some colleagues at the National Centre for Social and Economic Modelling at the University of Canberra about the possibility of using their splendid distributional analysis capacity to do some number crunching on modifications to the superannuation guarantee. That would mean looking at it according to women of different income groups and ages and so forth. I can only say we are in preliminary discussions. Before I can say it would be a good thing to change the super guarantee—whether it was to abolish it or to do anything else to it—I would really like to have a look at what comes out of the number crunching. I promise you faithfully that if it comes to something we will give it to you.

Mr HAASE—Okay. Everything else in your report is all very logical, but, if you look behind the statements of fact or the collection of those facts, the elephant in the room is gender difference and childbirth being the major gender difference. Chair, you will disagree with me—you do on principle! We have been discussing this issue of women's work, to coin a phrase. It is traditionally casualised. It is traditionally low paid. In manufacturing in particular it is the alternative to this work being done in Asian countries or in countries that have traditionally very low wage rates and consequently a low standard of living. To change that, we have to decide whether we are going to recommend that the increased cost to the nation and its standard of living comes via the consumer, on a user-pays basis, or the tax system via all taxpayers, because there will be an extra cost. If we are going to take, for instance, the architectural industry and have them pay the same to a female graduate as to a male graduate, we have to take the absence from position and from increase of productivity within the organisation as a result of childbirth out of the equation, and we have to replace into the company that lost additional income because of the stardom of an individual architect in the organisation.

Ms Coleman—Yes.

Ms Colwill—Mainly we have a model of a primary carer in families, so, in the family unit, the woman is seen as the primary carer. Other countries have endeavoured to ensure that policies are in place that allow the parents to equitably share the carer role without disadvantage. I think what has happened in Australia is that a lot of our policies have been built around this model of the primary carer and have actually propped it up, and as a result you have this sort of two-tier policy structure. It is very difficult to change. It is not an easy thing. But I do think that we have to challenge a lot of our social policies and look at them in terms of: how does this impact on equity in the family unit?

Mr HAASE—Just before you start, Ms Coleman: I am thinking along these lines. We have discussed already the difference between the stay-at-home carer, be it male or female, long term,

and the question of maternity leave, the question of that domestic caring being valued by society. I have always valued it, but it is not taxable and therefore there is no collection. Therefore, in our system, there is no consideration of—

Ms Coleman—The value of it.

Mr HAASE—rewarding it or even valuing it. It really is a chicken-and-egg situation. Is culture going to drive this, or is government going to drive it?

Ms Colwill—You do find in families where the woman is the higher earner that quite often it is the male who takes over that role. We are so geared to that not being the case; we are so geared to having the male as the higher earner in those partnerships—

Mr HAASE—You'll have women cooking barbecues next!

Ms Buchanan—Precisely!

Ms Coleman—Could something worse happen—not even on Australia Day! I was going to add, though, that if you go back to Budget Paper No. 2, I think it was, last year—it is still the current budget—there is a very interesting essay in there by Treasury which is basically talking about affordable ageing and how we enhance productivity. Basically, they are saying that it is about increasing workforce attachment; it is about increasing skills; it is about investing in education. I think the assumption there is that it is done in a gender-neutral fashion.

So, yes—all of these things do require investments by both government and the private sector. They require investments in education. Implicit in these discussions of what gets done offshore in lower-skilled countries is that you are talking about shifting lower-value-added jobs offshore and you are talking about trying to make this country if not a lucky country then a more highly-skilled country. The assumption in the Treasury argument is that that, plus enhanced workforce attachment—and the clear group to whom enhanced workforce attachment most obviously applies is the female workforce—is what you need. So if you are upskilling and you are increasing workforce attachment then you do, in effect, increase productivity and the value-adding capacity of the economy to help to finance these things.

CHAIR—Then the finance will take care of itself.

Ms Coleman—I know that the global economic crisis has pushed all sorts of things all over the place, but I think that the underlying logic of the Treasury argument, when you go back to that set of budget papers from last May, still holds true. And that is what we have got to look at.

CHAIR—But you are saying that we need to enhance that with policies—they are not currently gender neutral—that recognise that and take a positive step to address the situation of women in both of those areas: attachment to the workforce and enhancement of their skills.

Ms Coleman—Yes, absolutely.

Ms Buchanan—And that helps address the chicken-and-egg thing.

Mr HAASE—Yes, I realise that.

Ms Coleman—And I am certainly not averse to data which begins to try to place a value on women's contribution domestically, because I think it always helps when people see that this is indeed women's work that has a value. I think that is extremely useful. And it is not all that long ago—I am thinking back about 10 or 20 years—that there were a few economists around Melbourne who were trying to develop models of how you would value domestic productivity. It is not a silly topic at all. It just needs to be brought back into consideration again.

Mr HAASE—It is interesting that you use the example of aged care. Aged care in Australia today is—I will not say it is in a crisis but it is in a very difficult situation.

Ms Coleman—It is in a very difficult situation.

Mr HAASE—On the one hand, we have a positive side of aged care in Australia today: whether we like it or not, aged care, and employment in aged care, is taken up by women who are very much in favour of those few part-time hours a week to supplement the family budget. To change that substantially to the situation that we would like to see, on an equality and pay-equity basis, would, I would suggest, almost double the cost to the user of aged care. And that would have to be afforded by either increasing pension payments or increasing government subsidy or increasing the payment by the family of the individual.

Ms Coleman—Probably a mixture of those.

Mr HAASE—Yes. It is a serious matter.

Ms Coleman—The information that I am getting is that a lot of those women in that industry would choose to work somewhat longer hours—or, preferably, say, on a permanent part-time basis rather than on the basis of the completely casualised nature of that workforce. There are a whole lot of problems there which I think government really has to address—not just in the sense of being told, 'Throw more money at it,' because that usually is a recipe for some fiddling away into some corner that does not necessarily result in enhancing the conditions of care in that situation. But it needs a rethink; there's no two ways about it.

Ms Colwill—I think the superannuation guarantee issue feeds into that situation as well. I am a small-business owner and it is always nice when I do not have to pay someone's super! But it is an issue.

Mr HAASE—I think the exclusion clause was predicated on the basis of the time-consuming nature of the form-filling for that additional individual when they were very rarely at work. But these days, with electronics—

Ms Colwill—As an employer I can tell you that you still have to fill in the forms to know that you do not have to pay it.

Mr HAASE—Yes, that is right.

Ms Colwill—So we are still collecting the same data.

Mr HAASE—So the time consumption argument is immaterial.

Ms Colwill—It is immaterial because you, the employer, are still doing the same things that you would do if you were paying it even if you are not, because you have to prove that you do not have to pay it.

Ms Coleman—This just needs to be tidied up. And while this committee can make recommendations, really it is a task for Dr Henry and his review team to get to the nitty-gritty of this and to get something realistic going.

Mr HAASE—I would look forward to some data that indicates whether you do support the changed proposition or not—without knowing whether or not my colleagues will even contemplate making a recommendation in that regard.

Ms Coleman—We will see what data we can get you. I will do my best, sir!

Mr RAMSEY—I have one question. It is a bit abstract, actually. It is about item 67e on page 9 where you call for the elimination of vague concepts such as reasonableness. It is interesting, because I was just speaking in the chamber about an hour ago on a disability discrimination bill where much of the bill is based around the concept of ‘reasonableness’. In fact, it is a widely held concept in law, as we well know.

CHAIR—It is picked up from British law about the common everyday man on the Clapham bus.

Mr RAMSEY—There we go! Are you suggesting that this is an outdated concept and everything must be codified and quantified?

Ms Coleman—I would like to see a bit more establishment of what we all think—given the collapse in public transport, let alone who is on the bus!

Ms Colwill—Let alone the gender of the person on the bus.

Ms Coleman—I suspect these things just need rethinking rather than just saying ‘reasonable’, because what is reasonable to this person may not necessarily in modern society be reasonable to—

Mr RAMSEY—We often form a trap, though, when we try and paint all the possibilities.

Ms Colwill—Absolutely. And I do not think you can tackle all the possibilities, but you can give better guidance.

Ms Buchanan—Because some people do use this, no doubt at all, as a way out of supporting the whole issue.

Ms Colwill—When I think about this, I always hark back to a situation when I was an HR manager and there was a huge fight about the limited number of window seats available and all that sort of stuff. We had people with disabilities involved in that who had vision impairment.

What becomes reasonable in one situation is unreasonable in another situation, so you do need that flexibility. But I do think that there is insufficient guidance for people, so those examples inform them. If you are a bloke who has been working in a particularly male dominated industry and you suddenly have a young female employee, your definition of what is reasonable may be very, very different to that young woman's definition. There needs to be some—

Mr RAMSEY—But those boundaries are normally written in a court of law where a judge will interpret what is reasonable and then you build up that background..

Ms Colwill—I think we also make the point that this has been very difficult to arbitrate on. There have in fact been no successful decisions in courts of law on these concepts because of the vagueness of the terms and the difficulty of applying it et cetera. If it can go to a court of law and the decision can be made in a court of law—fantastic. But that is not happening. And we have had this legislation for how long? How long have we had it?

Ms Buchanan—Since 1894.

Ms Colwill—1984. So we have had it for 24 years, and I do not think there has been one successful case, has there?

Ms Coleman—I am not aware of them.

Ms Colwill—No.

Ms Coleman—But the fact that I am not aware of them—

Ms Colwill—I do not think there has. I think the Harvester case was the closest that came to it, and there was no decision. So it is obviously failing. It is obviously not working.

Mr RAMSEY—The question for me then is: is it not working in every area that we have 'reasonableness' applied in, because it is through everything?

Ms Colwill—It depends on the case law.

CHAIR—'Reasonableness' in itself though is a concept that has to keep changing as our society changes and develops. I think the point is more that the test of reasonableness—a bit like you were saying before—is not gender neutral. Does that make sense?

Ms Colwill—That was said beautifully.

Mr HAASE—The concept of reasonableness has an incredibly large volume.

Ms Colwill—That is right.

Ms Coleman—That is why you do things through mediation if you can rather than through—

Mr HAASE—Exactly. It is a much better world if we mediate.

CHAIR—We have been interested, in the sense that a lot of your recommendations involve expenditure, as to whether there is a priority. I think you have addressed that for me, particularly given your comments about superannuation and retirement incomes. I do not know if any other members want more information on that.

Ms Colwill—I would think there are three pressing priorities: one is superannuation and retirement incomes, another is the collection of data, and the third is putting in place a national plan of some sort, because that will lead to other actions down the track—that is, a good national plan, a plan that assigns ministerial responsibilities and makes a clear statement of expectation and commitment.

CHAIR—When you talk about ministerial responsibilities, are you talking about an individual minister having responsibility or are you talking about ministers within their respective portfolios having responsibility?

Ms Colwill—In their portfolios.

Ms Coleman—The Scandinavians and, I think, the New Zealanders have these national strategies for which individual ministers are responsible within the collective of cabinet. That is basically what cabinet and government is about.

CHAIR—As there are no other questions from committee members, thank you very much for your attendance here today. It has been interesting and enjoyable. If we have asked you to provide additional information or if it becomes available we would be very grateful if you could forward it to the secretary. We may have additional questions following the hearing and, if that is the case, the secretariat will forward them to you for response. You will be sent a copy of the transcript of your evidence, to which you can make corrections of fact or grammar. Hansard are here and may wish to check some details concerning your evidence, so before you leave could you check with them to see if they have any questions. On behalf of the committee, thank you very much for coming here today. I now declare this public hearing closed.

Resolved (on motion by **Mr Ramsey**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 12.22 pm