



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, 26 FEBRUARY 2009

CANBERRA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON EMPLOYMENT AND WORKPLACE RELATIONS
Thursday, 26 February 2009

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

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

Terms of reference for the inquiry:

To 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.

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WITNESSES

**GARDNER, Ms Jenness, Manager, Pay Equity Unit, Department of Commerce, Western
Australian Government.....1**

Committee met at 11.39 am**GARDNER, Ms Jenness, Manager, Pay Equity Unit, Department of Commerce, Western Australian Government**

CHAIR (Ms Jackson)—This is the 13th public hearing for the committee's inquiry into pay equity and associated issues related to increasing female participation in the workforce. I welcome the representative of the Western Australian Department of Commerce 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, and I thank you for that. I invite you to make an opening statement or add any additional material and then we will go to questions from the committee.

Ms Gardner—Before I begin my statement, I appear on behalf of a team and I would like to put on the record my thanks to my team for the work they have put in preparing our submission and for today. I bring with me a wealth of material and I hope very much that I am able to answer the questions that you may have as a consequence of all this magnificent preparation work. I have read some of the submissions that have been made to you, and I have read some of the *Hansards* of the proceedings that you have undertaken. As a consequence I intend to talk mainly about our point of difference, and that, to put it in a nutshell, is that we are a pay equity unit that is about addressing the gender pay gap in WA. So we are very practically oriented. If you have questions of extreme technical detail I may be able to answer them, but there may be some that I cannot because that is not our area of expertise. I am also used to having a dialogue about this matter so if you have questions as I go please interrupt me. It is a big topic; I have been doing it for three years and I am sure I am going to miss something. So I would really rather answer what you are interested in rather than rave on about stuff that is not actually what you are about.

CHAIR—Have no fear; we will be interrupting!

Ms Gardner—Terrific! That will make me a lot happier. We are the only pay equity unit in the country and the reason we are the only pay equity unit in the country is that we have by far the largest gender pay gap in the country. The last measurement of the pay gap in Western Australia was 27.8 per cent and it has been higher than any other state in the country for some significant period of time. It has also been growing. Unfortunately, over the last three years while we have had a pay equity unit in operation that gap has grown. So by that measure we have failed. The gap has been growing for about 20 years.

One of the things that we are doing specifically in WA is focusing on employers. That is one of the key focuses of the work that the Pay Equity Unit does. The reason for that is that we are looking at voluntary strategies to address the gender pay gap in WA. We do not know why Western Australia has a much larger gap than the rest of the country. It has been looked at in the significant detail at least twice. Both the Court government and the former Gallop government commissioned pieces of research looking at why the Western Australian gender pay gap so much bigger. Unfortunately, neither of those two specific investigations was able to give us an answer. Unfortunately, the one that looked the most at the reasons ended up with two-thirds of the gap

being unexplained. We just do not know. I can speculate as much as I like but the short answer is that we do not know why WA is so special in this respect.

Mr MARLES—What is your speculation?

Ms Gardner—We have been through a boom and we are now going through a significant decline. Obviously it is hitting the resources industry in particular. I am interested to watch that from a theoretical perspective to see whether it is the volatility of Western Australia's economic circumstances which does make us a little more different from everywhere else. We are more volatile than the rest of the country. I think that has something to do with it but I do not know.

Mr MARLES—I have not looked that those two inquiries, but it raises the question: what is different about the Western Australian economy? It is obviously a very resources based economy relative to the rest of the country. Is there any connection there, do you think?

Ms Gardner—We have looked at that—thank you very much; it is almost a dorothy dixer. That is the usual question we get, and we get it particularly when I talk to people in WA—it must be all about mining. Yes, mining is the thing that is most different in Western Australia but interestingly the gender pay gap in the mining sector is actually less than the gender pay gap overall. It is 22.7 per cent whereas, for example, in the health industry we are looking at more than 40 per cent. There are another couple of areas that have very large pay gaps: property and business services, 39 per cent; finance and insurance, 31 per cent.

The other thing that is interesting to point out to you is that we look at this with the best information that we can. It is bureau of stats information; it is the information that is most comprehensive. Over the three years of our operation the volatility in terms of which industry has the biggest gap has been surprising. When I started it was transport, which had the largest gap of 44 per cent. In the three years that we have been in operation that has halved. So either the stats are wrong or something really strange happens in each of these industries. My speculation is that the stats are wrong because the sample sizes are so small when you start disaggregating by industry and by state.

Mr SYMON—You have answered the question I was thinking of, which is: what is the stat size overall? What do you take? And then, once you have taken that, how does it break down in numbers across those industries? They seem to be quite extreme swings.

Ms Gardner—Yes, they are. We are looking at average weekly ordinary time earnings as the standard way we measure it. But then we have to go to the disaggregated data and usually it is unpublished for Western Australia. I do not know off the top of my head the error rates in those figures but I would speculate that they are fairly high. Quite often when we move into the unpublished data we realise that the reason they do not publish it is because they are not happy with the error margin.

CHAIR—Do you think the Western Australian labour market might be more highly sex segregated than other states?

Ms Gardner—Yes, it is more highly gender segmented. We have done a comparison, for example, between Western Australia and Queensland, which has the most similar profile to

Western Australia—which is why we have gone to Queensland. For example, in WA 46 per cent of Western Australian women are employed in three industries, those being health and community services, retail and education. It is a bigger chunk. Queensland is the next most similar with 44 per cent. So we are more segmented but we are not that much more segmented.

Mr RAMSEY—I know we are taking you all over the place, but there are recommendations towards the end of your report. One of them is the need for further legislative reform to address pay equity in Australia. Do you have different legislation in Western Australia that may be the root cause of this? Is there anything different there?

Ms Gardner—No. We commenced operation in 2006 as a consequence of the last review that was commissioned, which was in 2004. That was undertaken by Dr Trish Todd and Dr Joan Eveline from UWA. They provided 34 recommendations about what should be done to address the gender pay gap in WA, so it was very much focused on what we should do. One of those recommendations was to create the unit, and here we are. Of the rest of those 34 recommendations I think just over half of them, about 18, were regulatory or legislative recommendations. They made their recommendations in 2004 and we commenced operation in 2006. In between, in 2005, there was the implementation of Work Choices and subsequently the High Court case. The outcome of that was that we determined that it would be meaningless, frankly, to implement regulatory change to try to address the gender pay gap in WA given that the jurisdiction was so markedly affected by the implementation of the Work Choices legislation.

CHAIR—In other words, hardly anyone was under the jurisdiction of the state industrial system.

Ms Gardner—Not enough to make it worth our while. The unit has existed for three years. We have got three FTEs and we have a limited amount of money. We had 34 recommendations to look at. When the 34 recommendations were made (a) the legislative circumstances were different and (b) they did not know how many people, how much money or whether we would have a time limit. We knew that when we came into operation and that is why we have focused very much on: what can we do, how much bang for our buck can we give, and what can we do that would be lasting? This is not a problem that is going to go away in the lifetime of the Pay Equity Unit. We wanted to leave a lasting legacy for ongoing change. That has been the focus of the work that we have done.

Mr RAMSEY—So the short answer is: you are on the same legislation as everyone else?

Ms Gardner—Some of the other states—for example, New South Wales and Queensland—have equal remuneration principles in operation in their state legislation. Some of those have been used more or less effectively than others. As part of the minimum wage case in 2007, from memory, we sought and achieved a change to our wage-setting principles in the state jurisdiction, which gives the effect of an equal remuneration principle. It is not exactly the same, but it does give that effect. It has not been used, which in my mind bears out our view that it is not going to be the mechanism to make the major change.

CHAIR—So nobody has made an application pursuant to that principle to address the wages issue?

Ms Gardner—No, not to my knowledge, and I have been paying a bit of attention because I was excited by that one.

Mr MARLES—I am just intrigued by the difference. I suppose the obvious answer that everyone imagines is that it is the resources sector, so what you just gave then is very counterintuitive—

Ms Gardner—Yes.

Mr MARLES—so now I am really confused, as I guess everyone else is. What is being undertaken to alleviate people's confusion? Is there another inquiry? It just seems to me that, unless you work out why this is occurring, we are always going to be proceeding in the dark.

Ms Gardner—To an extent. That was the reason the government commissioned two reviews. The answer was not made clear by either of those two reviews. I do not know how much money it cost the government to do that process, but they could not come up with the answer. That is why we have focused as we have. We know what some of the potential solutions may be, and we have focused on that end of it. I must admit that we have done a lot of presentations to interstate groups and to the Bureau of Statistics, the Commonwealth Office for Women and so on and so forth and numerous academic groups. I am very, very keen for someone with far greater skills, particularly econometric analysis skills, than mine to undertake that kind of research, because I think it is quite fascinating. It actually has been done. The original research that was done in 1999 was done by two eminent economists in Western Australia, and they were not able to give us the answer. I am sorry to not be very helpful on that front, but we do not know. That is the short part of it.

Mr MARLES—Could you talk a bit about the WA Pay Equity Audit Tool?

Ms Gardner—Yes, I can definitely take you through that. Going back to what we have been about and what we have been trying to do: we have focused very much on the voluntary strategies that have been in place. The other thing that we have also focused on as part of that is improving people's education and understanding about what pay equity is. I do not know what your experience as a committee has been, but mine has been that, if people know about pay equity at all, they think it is equal pay. That is the first problem. I must say that that is not limited to your average person on the street; you name it, it is all the way through to high-ranking people who deal with industrial relations matters in some detail. That is problem No. 1, so we have focused a lot on providing people with information.

The other thing is that, while there are screeds and screeds of stuff out there about pay equity, it is usually written by academics for academics. Our focus is about trying to make our information useful, interesting, memorable, catchy and user friendly, and it is aimed at your average employer, who is extremely busy. We want to get their attention long enough so that they can integrate it into their HR strategy. One of the major things that we have done is provide a lot of information. I am going to wave at Ray at this point and ask him to hand out some sample packs for you.

This is only part of our huge wads of material that we have been writing for three years. There are pens. There are stickers. I made sure we included the pens; I was worried about bringing

them through in my hand luggage, but they seem to have survived okay! The whole point of this is that, on your average person's desk, something that is hot pink stands out, so it will not get lost. It was actually designed by a man, I must say—the colour and the logo—so there you go. It was not my decision to make it hot pink. His brief was to make it interesting and bright, so there you are.

We provide a lot of information and educational materials. One of the key focuses has been getting people to undertake pay equity audits. We have done a number of them in Western Australia. What we are doing with a pay equity audit is getting organisations to go through their own payroll to be able to do a detailed analysis of their payroll and their human resources policies and practices and to be able to identify where gender pay differences exist and, if gender pay differences exist, exactly what their nature is. Also, as part of the pack, we make recommendations about what sorts of strategies might be useful to address them.

We have a tool. I brought two copies of the tool. I was not sure whether any of you were going to want this, but here it is, beautifully packaged up and pink as well. I will just leave those there, if I can table the tool and the packs. This is distributed. The point of the tool is to make doing an audit easy. When we first started doing them, we used the pay equity audit tool from the Equal Opportunity for Women in the Workplace Agency, which is online and has been online, I think, since 2004. In our first pilot audit—we are a small organisation who are very grateful too—we went in and we tried to use their tool. We found that it did not give us enough detailed information and it was too hard to use, so the employers got quite cranky quite quickly about trying to put their payroll data into that kind of format. This tool enables you, once you have set your data up in the way that we recommend—and it is pretty simple; we have used it in a number of different organisations—to drag it, drop it and press a button and it will produce graphs, data and basically the outline of a report. We think it is very, very simple, but it is actually the major focus of what my team does. We spend a lot of time talking to people about how to use the tool, how to put your data into the right format to input it and then what those graphs mean, what sort of information that is providing you and also assisting organisations to think about what recommendations would be appropriate for them. That takes a substantial period of work to do.

The kit goes with it. That has background information, but it also has the postaudit handbook, so, when you have your tool and you have all your graphs and you know a lot more about your organisation, you can go through and work out: 'Is that a justifiable gender pay gap difference or isn't it, and, if it isn't, what can we do about it?' For example, one of the organisations that we did fairly early on had a gender pay gap overall, from memory, of about 15 per cent, but it varied from nine per cent in one part of the organisation to more than 40 per cent in another part of the organisation. The part of the organisation that had a gender pay gap of more than 40 per cent had a particular occupational type in which there are very, very few women. We would say that unless we changed the gender make-up of that particular occupational type, frankly, it was going to be fair and reasonable that you would end up with a part of the organisation where the people predominantly doing that occupation were predominantly male. The women in that part of the organisation were lower level clerical staff who were not part of the occupation. That is an example of where you would be looking at a justifiable gender pay gap difference in an organisation. Obviously, we are lobbying to try and improve that occupation, but that is an example.

CHAIR—That was within a unit within a larger organisation?

Ms Gardner—That is right, yes. That is why we are encouraging organisations to not see themselves as some sort of homogenous lump. They have different issues depending upon the nature of the organisation. The pay equity audit enables them to be a lot more specific and a lot finer, rather than just saying, ‘We just have to pay women more.’ That might be the answer, but it might be the answer only for a certain part of it and a certain occupation, or it might be about flexible work practices in a particular part of the organisation or what have you.

CHAIR—Does the tool make comparative judgments about level of qualification, level of skill?

Ms Gardner—It breaks it down into core staff and senior staff. It gives you information about part-time work, access to part-time work and access to part-time work by level. That tends to be a classic one, where you can access part-time work up to a certain point but you cannot access part-time work after a certain point unless you are a very, very senior person, and generally that is when we are starting to see men working into phased retirement. That is when you start seeing that part-time work kicks up at the end of a staffing profile. But often there is a lump in the middle. It is almost like an invisible barrier to women’s progression, and it is based on whether or not you can get part-time work. That is one of the things that this enables you to identify, and then people can ask themselves the question: ‘Is it true that we could not offer that type of work part-time at the more senior levels, or not?’ They can have a bit of a think about it themselves. In some organisations, they can; in some organisations, they cannot.

CHAIR—How do you get employers to do this? I understand that you are using proactive strategies and trying to promote these issues. There is no compulsion on anybody to participate. I wonder if there is a difference between the public and the private sector.

Ms Gardner—We have had more success in accessing and encouraging the public sector to undertake pay equity audits. The reason we have been able to do that is that we have been able to implement a strategy whereby we used the centralised information about the public sector to produce an annual report that goes out to the 26 largest agencies. We picked 26 because of their staffing number—400 plus. It is not because we liked the number 26. We go to the 26 largest agencies and we give them a report about what their gender pay gap is. We also give them some preliminary information. Usually it is enough to pique their interest and they write back and tell us we are completely wrong and they do not have gender pay gap like this and the data is all terrible, or they write back to us and say, ‘That is very interesting. Could you give us a hand and do a pay equity audit.’ That has been one of the major ways in which we have been able to get the public sector in particular in Western Australia to participate and undertake pay equity audits.

In the private sector it has been a bit more mixed. We have got private sector organisations that we are doing a pay equity audit with. That is more about a direct approach, sometimes just out of the blue, from them. Sometimes it has been a process where they have developed an interest through being at one of our seminars or coming across our material. We get out and about quite a lot to raise the profile. We had more interest from the private sector when we had a labour shortage. Our challenge at the moment is to link people’s understanding about the current circumstance but also to put underneath it the fact that we have long-term demographic change. Whilst we may be experiencing a relatively short-term contraction in the environment, that is not

going to alleviate the problem in the long run. Over the next 20 to 40 years the labour shortages are going to be massive. We believe this is one of the significant strategies to address that.

Mr HAASE—That is our brief also—that we need more women in the workforce in senior roles so that we have greater productivity in Australia. You mentioned earlier on that for the last 20 years the gap has been increasing. What was the situation before that?

Ms Gardner—We were relatively similar for quite some period of time and then we disappeared. I have a picture to show you which might help. This shows 1988 through to 2008. The pink line is WA.

Mr HAASE—And what is the gap there between male and female in 1988?

Ms Gardner—It is 80 per cent here to 84 per cent, so there is not a lot of difference between Western Australia and the national average—four per cent difference. It goes through to 72 per cent versus about 84 per cent. So in Australia, yes, there has been some deviation, but mostly it is around about the same. But in WA we have had this massive—

Mr RAMSEY—That national figure has not really changed at all.

Ms Gardner—Not really, no, despite our work. Can I table that? It might help.

CHAIR—Yes.

Mr HAASE—I want to see that date there. It is 1993, so from 1988 to 1993 there has been a huge increase in the gap.

Ms Gardner—Yes.

Mr HAASE—Have you done any work to try and identify the cause of that?

Ms Gardner—That covers the period of time when the two previous reviews took place. I would point out that one of the questions that we regularly get is about Western Australian workplace agreements. They came into place after the first decline happened. So, whilst there has been a continuing increase and a lot of research shows that the prevalence of individual contracts does contribute to a widening of the gap, in Western Australia we had our gap massively widened prior to the introduction of individual contracts in WA, which I think is an interesting point.

CHAIR—Interestingly enough, it coincides roughly with changes in the wage-fixing system, broadly speaking. There were quite different wage-fixing principles in 1988-89, with the structural efficiency principles. In 1993 there was the introduction of enterprise bargaining, and then here, in 2004-05, you are looking at individual contracts.

Mr HAASE—Chair, it would be interesting to have overlaid on that unemployment statistics. Is the gender gap increasing in a period where unemployment is high? The other question, and I spoke earlier about this, is: I have not looked at the basis of your statistics, but when you are

collecting stats, I take it that you are talking about the gender pay inequity over a period of time—that is, in a life's work?

Ms Gardner—No, it is a point in time. It is average weekly ordinary time earnings.

Mr HAASE—Average weekly ordinary time?

Ms Gardner—Yes.

Mr HAASE—It takes no account of bonuses?

Ms Gardner—No, it doesn't. It also takes no account of whether or not someone is part time or not. It is the hourly rate, in effect.

Mr HAASE—I move that the graph be accepted as an exhibit.

CHAIR—There being no objection, it is so ordered.

Mr HAASE—I have a real problem. You say that your office has been set up, you are unique in Australia—

Ms Gardner—Yes.

Mr HAASE—and you have a wealth of information over these three years. We all accept that women, generally, are getting paid less, but no-one can explain it. Does it boil down simply to opinions of male dominated boardrooms about whether a particular position filled by a male ought be more highly paid because there is a perception that the male employee has a greater justification for a higher income because they have responsibilities of family? Is it something as simple as that? Our task is to report in the interests of changing the situation, not simply to report. Maybe what we have got to do is simply convinced boardrooms, decision makers, senior management that there is justification for putting a woman into a job and having that job paid the same for a male as a female regardless of whether or not there is going to be the same continuity of employment, the same preparedness for overtime, the same preparedness to go the hard yards because we accept there is no difference in gender responsibility within the family unit. That is asking for a few giant steps in the decision-making process. Senior management determines the pay rate for a job on the basis of the commitment of the individual to the corporation or to the business. Maybe we have just got to convince them that they should be more concerned about gender pay equity than the long-term sustainability of profits within their particular business. That, I propose, would be a giant leap of faith on our part if we were to propose it.

Ms Gardner—I have a couple of comments. In our view, the causes for gender pay inequity are incredibly complex and intertwined. When we are talking about it at a firm level, it is one of the reasons we get people to do an actual pay equity audit. For a given firm, you can have a multiplicity of different reasons why you will end up with a gender pay gap. It really is not straightforward. In my experience, what you are suggesting does occur. Unfortunately, it is occurring for positions that are actually the same. We still do not have equal pay in operation, let alone pay equity. Every time I go and present to any kind of an audience, I will get a woman in the audience say, 'I was doing such and such a job and then I left and then they replaced me with

a bloke and the bloke got 10 per cent more than I did.' Every time. It happens so often that they cannot all be making it up.

Mr HAASE—No. Does it not confirm my suspicions that that total remuneration package decision made by management, responsible for continuity of that particular business, is made on the basis that a male in the position has to be paid more likely either to get him in the first place or to keep him, because he has greater financial responsibilities in a family unit than a female would in a given environment?

Ms Gardner—With respect, I am not even sure that that is actually as thoughtful as that. It is almost more reflexive than thought through. The other thing that I would say in response is that, whilst that proposition makes a lot of sense for particular types of firms with more flexible remuneration arrangements, we still have massive pay gaps in the public sector, which is far more regimented, even within the public sector. They cannot be making decisions on whether they can attract a man to the job as opposed to a woman and so forth; they have requirements in which they have to pay people, and we still have massive gender pay gaps there, too. I would suggest that it is the combination of all of the factors that we end up with, in our case, a very large gender pay gap, and that is the reason why we encourage people to look at it.

This does not have a simple solution. What you are saying is part of it. One of the things that we spend a lot of time arguing about—I should not say 'arguing' but encouraging, debating and discussing—is the way in which cultures operate within organisations and workplaces. There is a view that part-time workers are not committed. There is a view that part-time workers do not need to be given any access to training and so forth because they are not committed and they will not hang around, and so forth. To be frank, much of it is intellectual laziness by managers. It is extremely difficult managing a part-time workforce. I have to; most of my staff are part timers. It is an extra layer of thinking about who is in when, how they operate and all the rest of it. As a consequence, it also means that you get people in that you would not otherwise get, and you get to keep them.

An extreme example is with engineering, which has improved the participation rates of women up to 14 per cent in tertiary education, but now it is falling. So we got to the magic, dizzy heights of 14 per cent, but it is now on its way back, and yet women are more prevalent in medicine, law, science generally and veterinary science. It is not a lack of capacity; it is something about the culture and way in which an organisation operates. I must say that, having talked to women engineers, it is not pretty out there, and that has got a lot to do with it. So it is more than just a set of decisions that are made at the boardroom level; it is much broader and deeper than that.

Men do not like it either because it limits their choices and their capacity to participate—not just in work but in their family lives in a way that suits them. As soon as I talk about that with a group of men, particularly younger men who are thinking about children or who already have children, they say things like, 'Well, of course, I would like to do that but I am forced into this particular mould, my wife is forced into that particular mould and off we go together.'

Mr HAASE—So it is public opinion. It boils down to the broad concept of women doing these sorts of jobs and men doing those sorts of jobs—

Ms HALL—I think you are missing the point, Barry.

CHAIR—Rather than it being a deliberate public opinion, it is something about the culture of the workplace. What is interesting about the evidence is how the pay equity tool actually helps a boardroom sit there and take a different perspective over their staff, whom they have obviously thought they were treating fairly and equitably. The data helps them look at what they are paying in a different way; not challenging them or arguing with them, but having quite a constructive discussion about how they can make some changes to the way they operate as an organisation that will attract and retain staff and make a better and more productive workplace irrespective of whether they are talking about women or men. I am really interested in this because I think it is easier to be proactive and encouraging than it is to try to regulate or socially engineer, which I think is what your concerns are as well.

Mr HAASE—I want to know what the cause of the problem is, because until such time as we know that, we have no chance of ever getting it right.

CHAIR—Am I allowed to just smile and say that it is the patriarchy, mate, and we are trying to address that.

Mr HAASE—You are dead right.

CHAIR—It has been a problem for hundreds of years.

Mr HAASE—It is supported by attitudes within the community.

Ms HALL—You need objective tools like this.

Mr HAASE—Yes, but if you wanted to be effective with objective tools I would suggest, humbly, that feminist pink is not the answer. I would suggest that, if you walked into a male dominated boardroom with that, you would get an immediate reaction which is negative. It gets your attention, but I would suggest that restful, tree-huggers green might be a better choice.

Ms HALL—Let's hope every male dominated boardroom does not feel the same way as you, Barry.

Mr HAASE—That is what we are here to find out.

CHAIR—We can make recommendations about the colours of kits. I will put the public sector to one side, because I think at the Commonwealth level EOWA has some capacity to work with Commonwealth public sector agencies, though not all of them are required to do anything. Have you dealt with small private sector agencies that have willingly come to you or are they mostly large private sector organisations?

Ms Gardner—They are mostly large. That has been a tactic of ours as well. This is not an easy thing to address. We tend to find that larger organisations have more sophisticated HR areas, so as a consequence we are targeting them.

Mr RAMSEY—There is a recommendation from you that we set up a federal equal pay commission. We already have an equal opportunity agency and we also have a sex discrimination commissioner, even though they do not particularly want to talk to us at the moment. But that is another issue. How do you rate your performance? Considering you have been there for three years, and you accept that the gap has worsened, how do you benchmark yourselves and say, ‘This is an effective answer and we should take it national’?

Ms Gardner—We take it on the basis of organisations actually wanting to come back and do it and we also take it on the basis of organisations going forward and implementing our recommendations and then coming back to us again. It is slow. As a consequence, each pay audit takes 18 months: you start the process, you go through and do the audit and then they look at the recommendations, apply them and then come back to us again. We are at the very beginning of the pay equity audit process, and making the tool and making it simpler has taken quite some time. Based on the feedback that we have had from organisations, where they are implementing the recommendations, finding them useful and then coming back to us and wanting some more, we would suggest it is early days. I am very conscious of that. But we think it is useful and it is something that would stand being tested in a broader area and a broader jurisdiction, which is why we are recommending that it be applied nationally.

Mr RAMSEY—You are on a three-year funding cycle. Is that what you said before?

Ms Gardner—We were granted three years funding. Our term expires on 30 June. There was the potential for a review depending upon our performance for an additional two years, but I am not sure of the outcome of that and I must admit that in the current contractionary environment I am not feeling massively hopeful.

CHAIR—Can I follow up on something that Rowan asked you. Is there a particular reason why you think the pay equity unit, if we establish one federally, should be separate from the Equal Opportunity for Women in the Workplace Agency? I would be interested in your views about where it is best to place a pay equity unit. Is it about the role or the powers of those units or the perceived importance that people place on them? Can you flesh that out a bit? I did not understand your submission to be saying that we should be replacing EOWA and its functions, but clearly it does pay equity audits.

Ms Gardner—It encourages organisations to do audits without actually being resourced or funded to go out and help them. In our experience, having the capacity to go and provide direct assistance to organisations is fundamental. Once you have gone through the pay equity audit tool, you think it is really straightforward but it is just not. It is a constant process of helping organisations to undertake it, even though it is relatively simple when they get into it. The hands-on assistance we think is really important.

We have done a lot of linking with national and other state entities to talk about pay equity and swap ideas and so on. In the Commonwealth, we have had to talk to EOWA, HREOC, the Office for Women, DEEWR, the work and family unit in PM&C, and FaHCSIA. All of those do not talk to each other and you have not got a single point dealing with pay equity. From our perspective, that has been a real weakness. We believe that something that has actually got a specific part of its focus being pay equity—up in lights a bit, if you like—is a fairly helpful

thing. It has certainly worked fairly well in Western Australia in that respect. Everybody knows where to go if they want to talk about pay equity.

CHAIR—Even though you are now called the Department of Commerce, it is actually—

Ms Gardner—We have got a specific unit within the Department of Commerce.

CHAIR—And that used to be the Department of Consumer and Employment Protection, so it is the agency that deals with all employment related matters—

Ms Gardner—Industrial relations.

CHAIR—Industrial relations.

Ms Gardner—That is right. One of our recommendations is that public sector agencies be encouraged to undertake pay equity audits in the Commonwealth. If you were to do something like that, I would suggest that you would need to have some people based here. Where you put it—which organisation it is linked to—is incredibly important. If it is sent off in Sydney and it is a small unit and it is linked to FaHCSIA, it does not have the standing that it would do if it were placed in one of the central agencies sitting in Canberra. That is purely and utterly about how things are perceived.

CHAIR—Many, many years ago there was an affirmative action agency and unit. My recollection is that at that stage there was an argument that it should be in Prime Minister and Cabinet because that was the department to make sure that people understood you were serious about—

Ms Gardner—Just as the Office of the Status of Women used to be in Prime Minister and Cabinet and is no longer.

CHAIR—I have been thinking about not wanting to burden businesses with extra red tape and regulation and the like. One suggestion—that I now have no idea who put to me—playing on this idea of the carrot and the stick was that it would be possible to encourage a system where it was actually within the workplace, the people who fulfil the kind of function you do. So the pay equity tool shows you the issues you might have, the kit helps you address it and you can have a localised committee that has representatives of employees and management or whatever to deal with the issues. If they are doing that and reporting is improving, then that is a tick-off. But you could also have the kind of system we have in aged care, with a spot check. Is that the sort of system that might work? I do not know if I am making sense. You might require a certain level of companies and agencies to participate in a pay equity audit, be it on the number of employees they have or whatever, but some people can sit down and write beautiful reports that change absolutely nothing on the ground.

Ms Gardner—From our point of view, we actually feel that we have got quite a way purely through encouragement. There is a lot to be said in terms of making cultural change and building acceptance rather than resentment about the issue by keeping it as a voluntary strategy. I know that it is a slow burn, but the issue has been with us for hundreds of years. Perhaps it takes a slow-burn solution in that respect. I know that is not very sexy or exciting, but we want long-

lasting change, which is part of the reason why we have put such an emphasis on the voluntary nature of it.

CHAIR—I must admit one of your recommendations that I thought was incredibly sensible was to make available some good information on market rates of pay for particular occupations. If I were a female architect looking for a job and could go to a public website that said, ‘This is the market rate for an architect,’ I would like to know that before I went into offers and acceptance of employment. It might just help with that information.

Ms Gardner—Absolutely. In our regular consultations with female employees, we find they have really poor understanding of what the going rate is. Men tend to have better networks and they have a better understanding of what the going rate is. That is one of the reasons why they let themselves get duded, because they do not have the information to make a good choice. It is also one of the reasons why girls make poor decisions about which type of university course or vocational education and training to undertake. Every time I have a conversation with a beautician, for example, she says, ‘I think it’s a fabulous career.’ I ask, ‘Why did you choose that?’ and she says, ‘I like working with people.’ Well, she could have been a policewoman; why did she have to be a beautician to work with people?

It is a simple thing, but more information does assist in good decision making. It would not be a regulatory thing; it would not be a burden on employers. It would be nothing more than publishing the information in a sensible place so that people could have real information about the going rate for their particular type of work and make better decisions. I am very passionate about that one. The other thing is that it would help clear up some of the—to be frank—sexism that is still occurring at a subterranean level. If people know what the going rate is then they know whether they may or may not be having a problem. It helps clear that up too.

CHAIR—One of your recommendations touched on the need for a federal pay equity act. I would like you to address that. People always panic about these sorts of additional regulations and laws, but I would be interested in your comments on that.

Ms Gardner—For us this is not a big deal. It is a means of achieving some of the recommendations that we have made. Rather than calling it an amendment to such and such, you would call it the pay equity act, but it would in effect be an amending rather than stand-alone act. That is the way we see it. Giving it a particular type of title would be a mechanism to draw attention to the issue. You could do it in a number of different ways—depending upon, of course, whether you took all of our recommendations, particularly the ones that may require some amendment to existing legislation. For example, the insertion of an effective equal remuneration principle would require a legislative change. Perhaps that would be an appropriate mechanism by which to do it. Or you might wish to do it through a raft of changes to industrial relations legislation more broadly.

CHAIR—The reason I find it interesting is that we have had equal pay principles, equal remuneration provisions in legislation and amendments to state legislation, and from what we have heard in evidence you could count the cases that have been taken on one hand—

Ms Gardner—That is right.

CHAIR—Maybe that is enough, but, if you set that next to the fact that we have had a whole lot of people give us evidence that the community does not know we have a pay equity problem, the advantage of an act might well be in saying, ‘This is an appropriate benchmark.’ I do not know.

Ms Gardner—That was part of our thinking on that front. Going back to that point about the multiplicity of causes and of different types of solutions, equal remuneration principles have been useful in other jurisdictions in a limited capacity, in a limited way, for certain types of occupations, particularly those that are award based. Awards coverage is—last time I looked—20 per cent or less. Yes, awards are important because they set a benchmark for numerous types of collective and individual agreement making and so forth. But, as an instrument for people that are reliant on them, their coverage is shrinking, and I think the intention, certainly in terms of the Fair Work Bill, is that their coverage continue to shrink. So an equal remuneration principle is a blunt instrument.

One of the things that we have also recommended and that we think would perhaps be more useful in addressing pay equity from the work value perspective—as opposed to access to promotions or whatever—is the gender inclusive job evaluation. That is stolen from New Zealand, where they actually have a gender inclusive job evaluation standard that was negotiated between employers, employees and the big organisations—Mercer and so forth—which do classification structures. They have all signed up to having a standard in New Zealand. We could relatively simply take their standard and apply it. In Standards Australia we have a number of joint New Zealand-Australian standards that have been picked up by both countries. That means that companies, private sector companies in particular, which use classification structures that are put together by Mercer, Hay or whatever have signed up to ensuring that their classification structures are gender neutral. We think that that is in some respects a more useful approach than an equal remuneration principle. It does not require legislative change because it is a standard; it does not have a legislative force.

Mr RAMSEY—Can I get you to point out what the effect of that is on the ground in workplaces? What have been the ramifications of that?

Mr HAASE—Is your question in relation to the experience in New Zealand to date?

Mr RAMSEY—Yes.

Mr HAASE—That is what I was going to ask about.

Mr RAMSEY—What has happened when they have gone through? I presume they reclassified certain sorts of work and said, ‘This is more valuable—

Ms Gardner—I am not sure of the full ramifications of it. It has only been in existence for two or three years. It is fairly recent, so I think you would have to see over a period of time.

Mr RAMSEY—But presumably it would lead to, for instance, a rise in the rate of pay in the retail industry. Is that the kind of thing we are talking about?

Ms Gardner—Not necessarily in retail, because retail generally speaking would not be covered by the types of classification structures that I am talking about.

Mr RAMSEY—Put me in the right box then.

Ms Gardner—Generally speaking larger firms, particularly those with a lot of professional staff, tend to rely on classification structures of that sort of nature.

CHAIR—A large local council might be a good example.

Ms Gardner—Yes. Organisations with a multiplicity of different types of occupations pick up a classification structure that has been written for them by one of the consulting firms. The Hay system will be the same in the local council sector as it is in another totally different industry, and they have the same sort of classification descriptors operating within them. It is about ensuring that the classification descriptors themselves are not gender biased. Within, say, the local council sector, you would get some readjustment between certain occupational pay scales over a period of time. Usually these things are not brought in at once but phased in over a period of time, moving towards having a gender neutral classification structure in place. I am sorry that I cannot give you a better answer than that.

CHAIR—The Australian Public Service Commission, when it appeared before us, reassured us that the public service job-grading scales are gender neutral. Whether or not you accept that, it is certainly the case that the gap was smaller in the public service than you might find elsewhere.

Mr HAASE—Where it is formalised.

CHAIR—Yes, where it is formalised.

Ms Gardner—That is right.

Mr HAASE—Chair, you suggest that local council would be an example of this. But we still on average—don't we?—find that the head of engineering is a bloke and the office manager is often a female.

Ms Gardner—That is a different problem, with respect.

Mr HAASE—I know it is, but the office manager gets paid less than the head of engineering, and when you analyse gender gap you find that that is the causation. How do we change that?

CHAIR—A council in Victoria said to us that they had an executive director of engineering services and an executive director of community services, and it just so happened that the executive director of community services was paid less. When they looked at that they found there was not a good reason for it, because they had similar expectations of their executive directors. We are talking about jobs at an equivalent level. We are not talking about taking the lowest paid clerical position and saying it is worth the same as a highly skilled tradesperson.

Ms Gardner—That is right. It is about looking at the way in which the valuation is applied. One of the other things that regularly occur is that a certain position will attract a market rate

addition. It will be at a market rate for a period of time but then continues to exist forevermore, and that entrenches the difference. You may have an occupation in particular demand for a period of time—take IT: it used to be in demand; now it is not. Some organisations have entrenched a market rate loading for some particular types of occupations. Looking at these sorts of things enables you say: ‘That is a temporary thing. It is a market rate thing and not a work value thing.’ Therefore, you can differentiate between the money that you might pay for a particular position because of demand factors as opposed to intrinsic work value factors. I am talking about quarantining those payments, in effect.

Mr HAASE—How do we change them?

Ms Gardner—It is going to depend on each organisation and their bargaining structures. I cannot give you a simple answer to that one.

Mr HAASE—I refer to currently male dominated roles that are highly paid. The availability of highly qualified females to employ in those roles would be a solution. But what comes first—the chicken or the egg?

Ms Gardner—We would argue that you have to do both.

Mr HAASE—But how do you convince somebody who is looking at doing a university course that the environment will change in five years time that will give them a career future where they will be paid without a gender gap? That is really the challenge. I believe that if we have the egg there, we eventually present to employers who are simply trying to fill a position with the most competent person who has the best future mesh with that company for the longest period. If employees were equally qualified—that is, an equal experience qualification—then a company would employ a woman in the job. Maybe we have to produce this resource, a satisfactory pool for employers to select from and maybe that will eventually contribute to an equalling of pay.

Ms Gardner—We would suggest that is part of the solution. The Todd-Eveline report made a number of recommendations, and we have not addressed those in the work that we have been doing specifically. One was to encourage the take-up of increasing numbers of women in male-dominated industries. You see a lot of examples of success of that strategy in certain occupations, but in others you still see a massive failure. You need to change the way in which the workplace itself operates and the culture within the workplace, because there are a number of workplaces that are still quite toxic in terms of their approaches to women in particular. There are many who are excellent but there are a number, particularly in some industries, that are not good.

Mr HAASE—We expect young people going into tertiary education to make a great leap of faith into the void?

Ms Gardner—Yes. They have limited information, and we think they need more.

Mr HAASE—That might be one of our great solutions: providing better information to tertiary entrants.

CHAIR—I think so.

Mr HAASE—We have had a campaign for years to get women into the sciences.

Ms Gardner—Do it early. Don't do it at high school; it is far too late. There is a large body of research which says that girls start excluding areas of further study, or work, as early as eight or nine. They start ruling things out, by saying, 'I'm not going to go into that, because that's what blokes do,' or, 'It's not for me,' or whatever. They start doing that at eight or nine. So if we are serious about intervening and changing the occupational segmentation in Australia, which is definitely one of the key problems, we need to start as early as that.

Mr HAASE—Did you see any outcome, given the very positive push, especially in Western Australian primary schools, to promote science to girls?

Ms Gardner—Yes, we have a large number of women entering science. The issue is keeping them.

Mr HAASE—Why?

Ms Gardner—The lack of availability of flexible work is the big thing. They get to a certain point. They are zooming along quite well and then, all of a sudden, that life event 'I want to have children' happens and work becomes fundamentally incompatible with having children at a certain point. I do not accept that it needs to be that way for the vast majority of workplaces. For some workplaces and some types of work, absolutely. That is fair enough but, for the vast majority, no. I come back to what is the intellectual laziness and the inability for us to train managers in the skill to manage, particularly part-time work. We have had part-time work for such a long time, and the level of capacity to be able to manage a part-time workforce, the nuts and bolts of it, is so poor. I feel very sorry for the many managers who grapple with it, because our capacity to give them skills and enable them to do it well without sending them mad is poor. On that front, we do not do it well.

Mr HAASE—It becomes yet another hurdle in human resources management, doesn't it?

Ms Gardner—Yes, particularly for the individual manager—not even the HR people, because the HR people can divorce themselves from it a little bit, and say, 'Off you go, here's a policy.' That is not enough. We actually need to give the individual manager the skills to be able to deal with that one.

Mr HAASE—But we need to come up with a program—

Ms Gardner—Yes.

Mr HAASE—that overcomes the inherent resistance to put one's trust as a manager into an individual in a part-time position, or shared position, to have the same commitment to the role as that of a single person in a full-time committed role.

Ms Gardner—It is partly that and partly, I would suggest, related to that notion of managers needing to feel that they have to eyeball someone to know that they are doing something. It is

the same barrier that you have to people working, for example, off-site, working from home or what have you: if you cannot eyeball them, maybe they are not working. So, for different types of work, it is about having better mechanisms for actually assessing whether or not someone is delivering.

Mr HAASE—Possibly—and not to rely on, what we call corporate knowledge these days—

Ms Gardner—Or presenteeism—

Mr HAASE—all the stuff that is never put down on paper but is up here in the head.

Ms Gardner—Yes, that is right. A lot of that is just bluff, really.

Mr HAASE—And often corporations believe they buy that corporate knowledge and that they have got to maintain it—they have got to keep the one individual in the one job for all time because the corporation will fall apart if they do not.

Ms Gardner—Yes, that is right.

Mr HAASE—That is something we need to overcome—back to public opinion again. I am done, Chair. And Mr Ramsey is done.

CHAIR—Jenness, I really want to thank you. I suspect some of your team of supporters are listening back in Western Australia—

Ms Gardner—I have a horrible feeling they are, yes!

Mr HAASE—You have acquitted yourself well.

CHAIR—So can I thank them for their hard work as well. We had the pleasure of meeting some of them in Perth when we were having public hearings. Thank you to all of you. It has been terrific, and I am very glad you were here today and available for the questions. I am sorry they have ranged so far and wide over your work. I do not know if we have asked you to provide any additional information; if we have, I would ask you to forward it to the secretary. We also may well have additional questions either following today's hearing or subsequently during our inquiry and, if so, the secretariat will be in contact with you. You will be sent a copy of the transcript of your evidence today to which you can make corrections of grammar and fact. On behalf of the committee, I thank you very much for your attendance here today. It was great.

Ms Gardner—Thank you.

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 12.42 pm

