



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, 14 MAY 2009

CANBERRA

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**HOUSE OF REPRESENTATIVES**  
**STANDING COMMITTEE ON EMPLOYMENT AND WORKPLACE RELATIONS**

**Thursday, 14 May 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 Jackson and Mr Ramsey

**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.

**WITNESSES**

**HAMMOND, Ms Suzanne, Industrial Relations Spokesperson, Women's Electoral Lobby..... 1**

**HAYES, Ms Fran, Spokesperson, National Pay Equity Coalition..... 1**



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**Committee met at 11.43 am****HAMMOND, Ms Suzanne, Industrial Relations Spokesperson, Women's Electoral Lobby****HAYES, Ms Fran, Spokesperson, National Pay Equity Coalition**

**CHAIR (Ms Jackson)**—Welcome to this meeting of the House of Representatives Standing Committee on Employment and Workplace Relations. We will be starting the proceedings more informally, but if we are joined by the deputy chair we will move into a formal public hearing. We have received your submission and we also received this morning a supplementary submission. Thank you very much for both of those. The committee have read those and I am sure we will have questions to ask of you, but I would be delighted if you would first like to make an opening statement.

**Ms Hammond**—Thank you. First of all, I would like to thank the committee for conducting this inquiry. It has been a long fight, as Fran and I know, for pay equity. Our organisations have had a long history of involvement. We were involved in the equal pay cases and the New South Wales principles test case. We have made submissions to Fair Work Australia, to all of the Australian Industrial Relations Commission test cases and also to the award modernisation process. I was reminded of how long this has been when I was recently on a plane coming back from overseas and there was a pictorial of the Whitlam government in 1972 saying that equal pay had been granted. I was still at school then and now I am hoping to look forward to retirement. So it has been a long fight, and I would like to say it is certainly time for pay equity.

One of the things we need to think about and the committee need to think about is the definitional problem of pay equity. We often seem to get it confused with the notion of just 'equal pay' and we look just at aggregates. With pay equity we are talking about equal remuneration for work of equal value. We need to some extent to unpack 'equal pay' and not just consider an aggregate figure. We need to think about why it is that we still have this problem so far along and about its social and economic impacts. The problem with low pay for women over long-term periods is that it affects their whole life and it affects their retirement. As far as economic benefits are concerned, it also affects participation rates. I refer in our submission to the OECD report that looks at a link between the lag in improvement in the gender pay gap and the participation rates, so it has long-term economic effects as well. There are not only those effects on the person, on the woman, themselves but also the effects on our labour markets. So we need to look at what is the problem, for a start, and how to resolve it.

One of the problems that we consider very important is women's pay. Some commentators have argued that it is because women either choose low pay or do not work enough hours. We would argue that women choose particular jobs and that that does not justify low pay. If we look at women who work in, say, the nursing home sector, which is a very involved job with a lot of responsibilities, the sorts of skills they have in those jobs have not been properly valued. Whether we work full-time or part-time, we need to be properly paid for the work we do, not for the hours we work, with those jobs therefore being considered to be low paid or, for some reason, lesser qualified. What we are talking about is a proper value—addressing a problem of undervaluation. Pay equity is about the undervaluation of women's work. So we need to unpack the problem, not just consider aggregates.

Our organisations have used the industrial system in the past to improve pay equity, and to some extent that has been quite successful in Australia. If we look at the Australian outcomes compared to systems which are less centralised, decentralised, or to some extent collective bargaining systems, the Australian system has proved to be quite effectual. In more centralised systems, outcomes have been better, and the level at which bargaining takes place has been an important determinant in pay equity outcomes. So in the past we have used the industrial system to provide a better outcome. I also refer to a recent study which is not on pay equity but on the flow-through of maternity leave into enterprise bargaining, by Baird and Williamson in Sydney, released last week. It shows the low pick-up rate in private sector collective bargaining agreements. Again, that is why we emphasise the use of the formal industrial system and the importance of the award system.

I would like to talk about several things, and it takes us back to the importance of the industrial system. One is the importance of the award system and the award modernisation process, which the commission are undertaking at the moment. We have several problems that have arisen and have pointed to them in the supplementary submission on the clerks award. We are concerned that there may be a levelling down. We are also concerned that, although the object of award modernisation is to look at the issue of equal remuneration, because of, one might say, the speed and efficiency with which the award modernisation process is happening, there has been little attention paid to the equal remuneration provisions set down in the modernisation process.

We would argue that this process does provide a unique opportunity to attend to these problems, to do work-value cases. We understand the importance of getting a proper award system, after having seen the evolution of AWAs, but there is an important opportunity in the award modernisation process to look at the problem of classification structures, pay rates and skills in the process. We would not like to see this process ignore equal remuneration. So, to some extent, we would like to see the government, in their submissions to the award modernisation process, draw the commission's attention to using the objects of the act to better advance pay equity.

We are also concerned that a levelling down could come from the award modernisation process, rather than a levelling up. Our organisations believe that, when setting the new modern awards, they should be compared to relative enterprise agreements that have been set rather than to the lowest awards. We think that this would cause a levelling up rather than a levelling down to a bare minimum and safety nets. The problem with pay equity is that women are forced to rely on the bare minimum and safety nets. We would rather see a levelling up and an acceptance of general community standards than going for the lowest common denominator. So we would like to see the government make submissions that support (1) the handling of equal remuneration through the award modernisation process and (2) obtaining a better level rather than a levelling down.

We also think that submissions to minimum wage setting are very important; women are reliant on minimum wages more than men. We would like to see that maintained at a general standard, not just at a bare minimum, and that it is set independently of tax and welfare. We have had an argument by the Fair Pay Commission saying that they would take tax and welfare deductions into the setting of minimum wages. We think that is not looking at pay for value of work done. We also see other things that the government could do to institute public reviews and

gender audits, take a leading role with their own workforce in the public sector and support taking equal pay cases.

Another issue that is of concern to us is consent in the Fair Work Bill. If we were to look at the cases that our organisations have been involved with over the years, employers never consented to any of them. We needed to rely on a right to arbitration and having a case made before the commission and arbitrated. This is an important method to achieve what we did in the past and what we would achieve in the future. We also think a consideration of a right to arbitration is really a very important issue.

Another issue that we raised in our submission was the problems that we see associated with the former operation of EOWA. One might say that the reporting requirements were very lax. Some of the reports that we examined did not have information on pay rates or classification structures, and waiver requirements were very easily obtained. We would like to see a much stronger role played by EOWA, and a much more positive and proactive role. One of the issues we have thought about is that workplaces have gender pay committees, similar to occupational health and safety committees in workplaces, and that those committees meet and audit workplaces and look for remedial action. Whilst it could be administered through EOWA it would be a less formal way that companies could become involved. We think there should be a review of the functions and roles of EOWA. We note the change in personnel, and look forward to a more progressive and proactive role for EOWA.

**CHAIR**—I note that we have been joined by the deputy chair, who had chamber commitments, so this can now be a formal hearing of the committee. I advise you that, although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective chambers. Of course, you are aware that these proceedings are being broadcast on the internet. We have had an opening statement from Ms Hammond and I now invite Ms Hayes to add any material before the committee starts to quiz you.

**Ms Hayes**—I would like to thank the committee for making it possible for us to appear today and to elaborate on some of the issues that we have raised in our submission. I am a foundation member of the National Pay Equity Coalition. We formed in 1988, the year my daughter was born. She turns 21 next month and we still do not have pay equity. The latest ABS figures show that when all employees are counted there is a gender pay gap of 35 per cent between men and women. When only full-time adult ordinary time earnings are considered there is a gender pay gap of 17 per cent. That is worse than it was last year. At the moment we are not seeing progress in these overall trends, so there is still a lot to be done.

As Suzanne said, we in the National Pay Equity Coalition have focused too on the industrial relations system as the mechanism for achieving pay equity. While it is all very well to talk about women getting more education and women being encouraged to apply for management positions and so on and so forth, we are more focused on the low-paid jobs in which most women work and on trying to get them up to a fair level comparable to that of male-dominated jobs of similar skill levels. We welcome the equal remuneration provisions of the Fair Work Act. We particularly welcome the removal of the requirement to prove that discrimination is the cause of pay inequity. However, we believe that the equal remuneration provisions in the Fair Work Act do not provide enough guidance to Fair Work Australia, in processing claims for equal

remuneration, and to the industrial parties involved in equal remuneration proceedings. There is a wealth of material developed in relation to pay equity in state jurisdictions that could have informed the development of more robust equal remuneration provisions in the act.

We had a major pay equity inquiry in New South Wales that NPEC and WEL were very involved in in 1998, with the subsequent adoption of an equal remuneration principle. There was a pay equity inquiry in Queensland, with the subsequent adoption of an equal remuneration principle in 2002. What those proceedings and principles gave us for the first time was a mechanism to have women's work valued fairly without having to prove that there had been a change in work values since the last wages round, which was what the state and national wage principles required as we certainly know through our experience and through our history of working on this issue. We got a complete breakthrough. We got an acknowledgement that historical undervaluation on gender grounds was an allowable matter to be considered for a complete review of the evaluation of work.

As a result of the adoption of those principles, a number of unions took cases in New South Wales and Queensland. In New South Wales, librarians, library officers and archivists were one group, as well as childcare workers, who were processed as to the ER principle. There were significant pay increases awarded as a result of those proceedings. With the librarians, for example, there had been no acknowledgement of the demands and skills of new technology as to their work whereas for male-dominated classifications those things had been valued and used as a basis for pay increases. In Queensland, we had the cases of childcare workers, dental therapists and, as of last week, community workers in the social and community services sector. As a result of those cases, the community workers are now looking at an increase of 18 to 30 per cent, depending on classification, with a very full recognition that those occupations have been significantly undervalued historically because they have been populated by women. Their caring work is assumed to be from a natural feminine quality that is not actually identified as a skill. So we are looking at some big improvements in those areas as a result of the important developments in the New South Wales and Queensland industrial relations jurisdictions.

We would have liked to have seen some reference in the new Fair Work Act to the adoption of equal remuneration principles because such principles are useful to the tribunal and to the industrial parties in how they go about making their cases and how the cases are assessed. For example, the Queensland equal remuneration principle states clearly that prior work value assessments or applications of previous wage principles will not be assumed to be free of gender bias, so it states upfront what the starting point is.

As to the new act, there is another matter. Even though there is a reference to equal remuneration in the new act, it does not define the term 'remuneration'. It is very important that that be defined, preferably in terms of ILO convention 100, to cover all payments in cash or in kind for or associated with the employment relationship. So we would like to see that more clearly defined. We would like to see a specific reference to historical undervaluation as an explanation made for pay equity and a reference, as I said, to the need to develop equal remuneration principles in the act. However, even though those things are not in the act, there is no reason why Fair Work Australia could not initiate proceedings to determine an equal remuneration principle under the new legislation. We would like to see that happen and we would like to see government support an initiative in this regard in getting that new system. We are realistic and we understand what has been gone through to get the Fair Work Act and we do

not expect that there will be amendments in the foreseeable future but we would like to see the government taking leadership and encouraging and supporting Fair Work Australia to develop a mechanism for evaluating equal remuneration claims in the national system.

**CHAIR**—Thank you very much for that. I am sure you are familiar with our terms of reference, which have been recommended by the minister and do in fact require us to look at what legislative reform may be necessary, so I appreciate much of what you have said about the new act. Without in any way belittling neither the cases nor the work that has gone into the cases in New South Wales and Queensland following the development of the equal remuneration principle, I want to note that it has been evident to us, particularly to me from my own experience, that those cases have been incredibly lengthy and incredibly time consuming, have involved complex evidence and usually lawyers—often QCs—and have taken long and tortuous pathways. I am assuming from what you have said that you are not saying that is the best way to go about having inquiries into equal pay or pay equity.

**Ms Hammond**—I agree with you that they have been long and involved. But I think that they have provided a very good opportunity to evaluate women's work. Also, if you look at the outcome, the outcome, as we estimated, was that between 400,000 and 500,000 women workers had their pay influenced by outcomes from the decisions. I know that the cost involved in running those sorts of cases is expensive and that they do take some time. New South Wales started off with an inquiry so it was over several years. But I think the outcome was probably fairly cost effective when you look at how the outcome was spread over quite a lot of workers who did receive quite a good pay increase. So I think that sort of statement is right to make if you talk to women who are childcare workers who did get, in comparison with other workers who may be waiting for some sort of more informal mechanism to increase their pay, an outcome that has been much more effective.

**Ms Hayes**—We would be very happy if the government decided to legislate for pay equity to apply to every employer. If that could be done that would save us all a lot of work. But in the current system, and given the way that workers' wages are determined, we see for the foreseeable future that being able to process these applications for long-neglected occupations is the best way forward.

**CHAIR**—I understand what you are saying; I guess I am searching for a better and more effective alternative that is not so adversarial. Whilst I recognise what you are saying, I do not necessarily accept the size of the number of people who benefited from the childcare case in New South Wales, which is one I am familiar with. You think it applied to 400,000 or 500,000 people; in fact that is—

**Ms Hammond**—I mean that if you look at the results from, say, Queensland cases and other cases that have been taken in it would be a fairly sizeable workforce.

**CHAIR**—There are very few. What have we had in Queensland? Three. And what have we had in New South Wales?

**Ms Hammond**—Two.

**CHAIR**—And how long have they had principles for equal remuneration?

**Ms Hayes**—Since 2000 in New South Wales and 2002 in Queensland.

**CHAIR**—That illustrates what I am saying. In a period of seven years there have been five cases. Whilst they might have had a very good outcome, they have not had a material impact on the women's workforce generally or on the very ABS statistics that you drew our attention to. That might be for a range of different reasons, not the least of which is the previous IR system, but one of the things I would be curious about is whether there is a more effective way. I think, Fran, that it may have been you who said that Fair Work Australia might be able to initiate proceedings. Some might rudely say that some of the unions might have had something to do with the delay in these cases or it not being a priority amongst their membership. Have you got any further ideas about how that should be done? Is it through a less adversarial method? Do you see them having some inspection role? Have you got any further recommendations in that area?

**Ms Hayes**—Certainly, with the pay equity inquiry in New South Wales, there were inspections conducted of workplaces employing gender segregated employees, male and female, so certainly inspection powers would be important. But I do not think there is anything in the act to suggest that the commission, Fair Work Australia, even has those powers. As you say, for proceedings to develop a principle you have an adversarial situation of the main parties, which are employers and unions, and it is very contested. It is unclear whether a way could be found for the federal commission, Fair Work Australia, to simply apply the outcomes of all the blood, sweat and tears that we went through in both those states. We have a considerable body of work, research and evidence that has been submitted on these things in the not-too-distant past.

**Ms Hammond**—Within the organisations we have also discussed the role of having a specialist unit within Fair Work Australia. Whether that can then be given a proactive licence to use principles and guidelines and set standards and whether that fits in with a greater role for what was EOWA are the sorts of questions involved. We certainly see the value. We know there are problems with the former case method, but we also see that there could be a proactive role if the legislation were framed to give Fair Work Australia its own specific area in equal remuneration, whether they do it with a panel system or in some other way. I believe that one of the members of the Minimum Wages Panel will have a background in an equal remuneration role. The question is whether there can be some sort of structure in the Fair Work Australia body that is proactive and can issue guidelines to employers, unions and the commissioners themselves and whether they can then intervene. One of the problems is that there is a lack of guidelines to people to assist unions and employers in bargaining and the making of awards. So I think a specialist panel or unit within Fair Work Australia is something that is well worth consideration.

**CHAIR**—Thank you for that.

**Mr HAASE**—The submission is a very lengthy and comprehensive one and it raises a number of issues. To my mind the first issue that your submission raised was: are you arguing for gender pay equity or are you arguing for industry pay equity? Is there evidence that a male is paid differently to a female in the particular industries that you have been looking at—child care, for instance, and caring generally? You mentioned in your delivery now industries where natural feminine attributes are considered to be the reason for employing females; are males in those industries paid more, generally?

**Ms Hammond**—To talk about industries is maybe to talk too broadly. What we are talking about is the value of the work that is performed, so you are breaking it down to occupations and the sort of work that is performed by a person with a particular skill or occupation. What we would say is that of course it is illegal to pay two people doing the same job different amounts—a male and female. That is discrimination, that is illegal and you cannot do that.

**Mr HAASE**—You cannot do it now.

**CHAIR**—It is unlawful.

**Ms Hammond**—Yes, it is unlawful.

**CHAIR**—You cannot do it now at law.

**Mr HAASE**—There was a period for a very long time in the past where you could, of course. That is the basis from which we are moving forward.

**Ms Hammond**—That is talking about equal pay. We are talking about equal remuneration for the work that is performed, for the value of work. What we are saying is that historically a lot of the work that women do in their occupations, in their daily work, has been undervalued relative to the work that men do. One of the examples I recently spoke to someone about—looking at basic pay rates in a couple of occupations and the particular skills required, was that of a bricklayer. A bricklayer does a particular job during the day and gets \$20 to \$25 an hour. If we look at the sorts of work that a personal carer in, say, an aged-care facility does, in a lot of cases that work and their skills have not been acknowledged. They have not been acknowledged because they have been associated with notions of gender: they are women's jobs and that sort of thing.

**Mr HAASE**—And they are involved in caring. This is my very point. It would appear to me that your argument is more directed at the necessity to bring industries up to equal pay with other industries—that is, industries that are dominated by a female workforce, up to a level of industries dominated by a male workforce. There lies the demand dilemma for us. Is society going to drive this change or is government going to lead this change? It is a big economic problem and therefore a political problem for governments. Your perhaps tacit agreement with what I am suggesting leads me to the question: who sets the value of work in a particular industry? It is the ability of society to pay for that service, is it not? That is my contention.

**Ms Hayes**—Or preparedness in some cases.

**Mr HAASE**—Aged care is undervalued; I agree with you wholeheartedly. What would we do as a society if suddenly all of our carers in the aged-care sector went on strike, heaven forbid? What would happen then? Would we find that there would be an ample quantity of other people, perhaps not experienced, perhaps not qualified, that would quickly assume those jobs? That factor determines the value of that work in the minds of society, which is paying the end bill. In the case of aged care, a great part of it is paid by the government of the day. Could the government afford to increase its allocation of funds to aged care by 18 per cent to compensate for bringing the employees in that sector up to the level of bricklayers? My point is that a good brickie, male or female, will get the same amount of pay. A good brickies labourer, male or

female—and I have seen plenty of good female ones—get the same amount of pay. My impression of our brief from the minister is to look at the gender pay gap. I take that a step further to suggest not just equal pay for equal work but making sure that the opportunity for an annual income for a woman is the same as that for a man in a particular industry. My interpretation of your submission is that you are looking for parity between industries for pay levels.

**Ms Hammond**—Yes.

**Ms Hayes**—Yes, occupations

**Mr HAASE**—That is something we must concern ourselves with, but I see it as being peripheral to our brief rather than the subject of it. That is perhaps something for us to discuss internally in the committee. I am sympathetic to the cause of industries being valued and wages being paid within an industry that society realises ought to be paid just on the basis of fairness, but it does not presently. The question to me is: should governments increase budgets for that or should society demand it and confess that they are willing to pay the increased price? It is a huge dilemma—it is not a moderate thing.

**Ms Hammond**—Yes, that is the reason why you cannot really make broad statements; you need to unpack particular occupations and value of work performed. That is the reason why I think you have to use different methods. The economic imperative is important. Will governments put up the wages of people who work in nationally run aged-care centres? There is changing recognition that women's skills have been undervalued. I speak to women's groups and other groups and say, 'What about someone who works and does this?' 'Oh, yes, that's terrible. They are all badly paid. Yes, that's awful. Yes, they have so much responsibility.' So the attitude that these were just girls' things that they have been trained for is changing. Again, that is a cultural thing. To some extent we are fighting on all fronts: we are fighting an economic battle and we are fighting a cultural battle. We are struggling with the question of how we do it. What is the best way to solve a particular unpacked problem? I do think it is a matter of stepping away to some extent from the talk of aggregates: we have got this big figure; how do we close it? We have to say, 'Hold on. In many cases women are earning similar rates to men. What we have to look at is those particular occupations where historically the work has been not properly valued and paid.'

**Ms Hayes**—It is like paid maternity leave. It is a social justice issue. We are in a major economic crisis at the moment. It has been recognised as a social justice issue but it is also an economic issue—there are benefits to the economy of putting money into the pockets of those women while they are at home with their babies. The sums have been done and found to be justifiable. What happens with pay equity—overseas and in Australia in the cases we have seen in New South Wales and Queensland—is that it is always a phased-in pay increase; it is never that you are getting an across-the-board 25 per cent increase. There are good economic reasons for doing it and there are good reasons for an individual employer to do it in terms of retention of staff and things of that nature. The benefits are not all one way. Just as with paid maternity leave, paying women better salaries that recognise the skills they have are equivalent to the level of skill in more male dominated jobs puts more money into their pockets for the economy. This was gone through very thoroughly in the New South Wales pay equity inquiry. The finding was

that there were no economic disadvantages from awarding pay equity, especially in a phased-in way.

**Ms Hammond**—The OECD report that we reference in our submission also points to the fact of economic efficiencies arising from proper payment and the removal of labour market discrimination. I refer you to that OECD report that came out last year.

**Mr RAMSEY**—Thank you very much for your presentation. You are calling upon the Australian Industrial Relations Commission to satisfy 576B in the award modernisation process and this across-industry parity of wages. Is there any claim at all in your mind for an industry's ability to pay? At the moment the restaurant association is telling us—whether fully realistically or not, I cannot say—that the award modernisation process threatens 6,000 jobs across Australia. Do we set up rules that just say, 'That's too bad; get used to it,' or should there be some consideration given to that process?

**Ms Hammond**—Certainly in the past, in the cases we have been involved with, there has been due consideration given to the economic circumstances of the industries. In all of the cases in the New South Wales inquiry the arguments around economic outcomes have certainly been taken very seriously. I am not speaking about the case that you cite with the restaurant industry at the moment, but certainly none of the equal pay cases have seen as an outcome a large amount of women put off because of it. In fact, since 1972 the participation rate has increased. We have not seen economic consequences for employers that would frighten them in the paying of equal pay. I am not aware of any adverse outcome from any of the cases.

**Mr RAMSEY**—In this process it is one of those industry things—it is the valuation of the industry and not necessarily of women's work. You have highlighted the Queensland and New South Wales decisions. In Queensland it has led to pay increases from 18 per cent to 37 per cent. It is a point that I have made at other times in this inquiry: for a large portion of the jobs that are seen as women's work in society, the lead funder, the person that sets the high or the low wire, are governments, because so much of that work is actually taken up in the caring industry. While there might be a private sector, it takes its lead from the government sector. So this then becomes a very political thing about what the population is prepared to stand about the way the government resources its whole budget.

**Ms Hammond**—We come back to the situation that, if you allow this wage discrimination simply because you say, 'We can't afford it if we don't,' you are then allowing an imperfection in the labour market. If you allow that to continue, the labour market is not operating efficiently. People are going to leave that labour market. You are not going to get people to do those sorts of jobs if they are underpaid and do not think that their value is properly rewarded. Prior to the world economic crisis, we were looking at huge labour shortages. One would expect that, if people consider that they are paid fairly and appropriately for the work that they do, they would stay in these sorts of jobs. If we look at the changing demographic in the workforce, the future is for employers to provide proper and fair wages so that they maintain their labour force. There is the economic efficiency argument there: if you continue to give people low pay, they will leave the workforce and do something else.

**Mr RAMSEY**—The interesting correlation of that—to come back to what I was talking about—is that, for example, a private operator in the aged-care sector might say, 'I've got a

shortage; I have to pay more,' but in fact they cannot pay more because the government subsidy is such. In the end, the government has actually set that rate, even though they might not be directly involved.

**Ms Hayes**—It is very important, when looking at these industries that are government funded, to ascertain the government's position on funding. I have had a lot to do with the community sector in years past. When people were trying to get an award wage at all in that area, there was always a great outcry that the employers were government funded and they would not get enough government funding to pay for it. I am going back to the late seventies and into the early eighties. The Labor government that came in at that time, rather than obstructing the award case, made an agreement to fund to the level of the duly arbitrated award. That was just a complete transformation in that sector. With the community services sector in Queensland last week, with this major decision, the publicity about it indicates that they have had an undertaking from the Premier to fund services to the level required by any duly arbitrated award. So there is a difference with governments of different complexions, in our experience, in their willingness to meet improved award wages. But it does happen, it has happened and those industries have not gone away.

**Ms Hammond**—One of the experiences in the northern European countries is for governments to set aside, in their budgeting, particular requirements for funding of the industries of low pay where women work. To solve the problem, they particularly fence off extra moneys. If there are low-paid women in that industry and they have to have a pay rise, the governments say: 'All right. We'll fence off particular moneys in our budgetary requirements.' So it may be that governments have to look at—where they establish that there are particular industries where women are not getting equal remuneration—fencing off funding to rectify that situation.

**CHAIR**—I would like to just touch on EOWA. I note your comments and I appreciate that you respect that there is a review on at the moment, but I am also conscious that there seems to be the Office for Women, the Equal Opportunity for Women in the Workplace Agency, EOWA, and other agencies around the place. I am curious as to whether or not you think there should be a streamlining of those. We have talked about the potential for a special division within Fair Work Australia. Do you think that is the best place to have the focus on pay equity or should it be an office associated with, say, Prime Minister and Cabinet, which is what happened in the old days with the Office of the Status of Women? I would like to get your preliminary responses as to where you see that office being most effective.

**Ms Hammond**—I keep talking about 'unpacking', and I think to unpack you need various tools and methods. One is the industrial system, where I suggested there be a separate panel or division, and the other is a less formal method. I do think that there is a place for an equal opportunity office, similar to what we have, but I think there is a place for a more proactive, less formal process. If we look at the industrial system, it is very much a formal, institutional arrangement, whereas maybe EOWA can approach a situation in a less formal but still serious and proactive manner.

**CHAIR**—We have been looking at it more as within the traditional industrial system, which I have to say has undergone a massive change. It is no longer created under the Commonwealth heads of power for conciliation and arbitration; it is under the corporations power, and that has very specific and direct consequences for the requirements of the legislation. It is very difficult

to have compulsory arbitration in a system that says you cannot have it anymore. But let us say that is the stick and there can be another system in place which is more about the carrot. So taking the current pay equity audits that EOWA do, not talking about how successful they may or may not be, how rigorous they currently may or may not be—but they do have a system of awards which reward employers who have actually made an effort to address pay equity issues; there are a range of things—I am curious as to where you think that office is best placed. Should it be associated with the workplace, associated with the leader, Prime Minister and Cabinet, or independent of a minister as a statutory or Commonwealth authority, like Fair Work Australia?

**Ms Hayes**—I think, to have political clout, it would be good for it to be associated with a minister, at least with a minister—although I think that EOWA and an office for women’s policy or whatever do have a separate functions. EOWA is engaging directly with industry, whereas I would see the ministerial related office as responsible for policy direction and fairly highly placed in a government to influence that. Also, we have had a situation at times in New South Wales where every minister has had to give evidence of how their policies are meeting the needs of women, for example. So it would be good to have some sort of fairly thorough auditing process so that it is mainstream. It is always stuck out somewhere else. It is not really where the action is, and it definitely needs to be—just as we would like to see the equal remuneration provisions in this act not out on their own but really integrated into the way awards are made and updated, because they are just an afterthought at the moment, the way it sits. And we do not want pay equity to be regarded as a specialist, isolated thing. It is something that should be at the core of making awards, the modernising of awards, the making of agreements and so on.

**CHAIR**—I appreciate what you are saying. Are you familiar with the current pay equity audit tool that is used by EOWA?

**Ms Hammond**—I know that it is available as a tool and that the tool itself was fairly well constructed, but unfortunately it does not seem to have been used that often. In our submission we refer to the fact that there have been a lot of developments as far as audit tools and programs and gender evaluation assessments and those sorts of things. They are all available, but to some extent EOWA has failed in its purpose of getting these things used by employers throughout Australia. Certainly, if we look at the development of tools elsewhere, in New Zealand and Britain in particular, we find that there are adequate tools and gender audit mechanisms available, but they just seem to be left unattended.

**CHAIR**—We have had some employers, employer organisations and local governments raise with us the issue of government constantly requiring reports and additional red tape and the like. Do you think every employer should be obliged to be audited? Do you think there is an appropriate cut-off point depending on the size of the employer, for example? You talked about setting up workplace mechanisms not unlike that under the Occupational Health and Safety Act. There would be some employers who, in the same way they did when equal opportunity legislation was around, might resist that sort of approach. Do you have a view about that?

**Ms Hammond**—I think that if we are going to attack the problem seriously we have to recognise that this is discrimination and that is unlawful. Accidents are dreadful and injury to workers is dreadful. We do not want that to happen so we set up mechanisms to deal with that. But I also think that discrimination and the effect it has on women’s lives and their future

economic and social lives is a problem that we also need to take seriously. All employers, all workers, all unions and all governments need to handle the matter seriously.

One could argue that having workplace committees is overkill and an unwelcome intervention, but I think we need to try to solve what is quite a serious problem. We need to look at what the right size of an employer is. I think 100 is far too big a number. All sorts of regulations apply to workplaces over the size of 20: should we look at that number? That is an area we could look at, whether what is classified as a small business is suitable. We might want to take on some of those other employment standards and apply them in this area.

**CHAIR**—I noticed that in your submission you bemoaned the loss of the AWIRS—the Australian Workplace Industrial Relations Survey. Can I assume from that that the view of both your organisations is that that survey, or something very similar, should be reinstated?

**Ms Hayes**—Yes, because unlike a lot of the surveys—and even the things done by EOWA—it is not just the employer’s account of what is happening; it is the actual employee’s account, and that is very important for validity.

**CHAIR**—Are there any other major data gaps that you identify?

**Ms Hammond**—That is not my real speciality area. In the preparation of our report I was mindful of the report that came from the Western Australian WiSER group, which took a very comprehensive look at the survey data. I would be more reliant on their acknowledgement of where the data problems lie. But certainly, having been an industrial relations academic in the past—in 1990—the AWIRS data was always really useful and a very good informant to policy.

**CHAIR**—Thank you very much for that, and for your submission and your attendance here today. We may have questions for you that will come through our secretariat. You will be sent a copy of the transcript of your evidence before the formal hearing, and you are entitled to make corrections of grammar and fact.

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

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 12.45 pm**