



Submission of Liquor Hospitality and Miscellaneous Union, Queensland Branch into House of Representatives Inquiry on Pay Equity and Associated Issues Related to Increasing Female Participation in the Workforce

The Liquor, Hospitality and Miscellaneous Union ('LHMU'), Queensland Branch, welcomes this inquiry into Gender Pay Equity in Australia. Over fifty per cent of the LHMU Queensland Branch's membership are women. The majority of these women are concentrated in low-paid industries, such as child care and aged care, and reliant on awards for improvements to their wages and conditions. The LHMU Queensland Branch's female members are also concentrated in industries with workforces characterised by long-standing female domination and disproportionate representation in atypical employment arrangements. The female workforce under the coverage of the LHMU Queensland Branch suffers from the intractable effects of systematic gendered pay inequity. It is for these reasons that the LHMU, Queensland Branch, considers this Inquiry to be of fundamental importance to equality and its corollary implication, productivity, in Australia.

This submission should be read in conjunction with the following submissions, which the LHMU, Queensland Branch, fully supports and endorses in their entirety:

- **Combined trades and labour councils and Australian Council of Trade Union's submission, and;**
- **The Liquor, Hospitality and Miscellaneous Union National Branch submission.**

The LHMU, Queensland Branch, commends to the commission the recommendations of the above submissions to the Inquiry, and seeks to supplement those submissions by a corresponding supporting submission from the LHMU, Queensland Branch.

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

The current data used to monitor employment changes that may impact on pay equity issues is inadequate.

The LHMU, Queensland Branch supports the setting up of a properly resourced and funded Federal Pay Equity Commissioner and Federal Pay Equity Division or Unit of Fair Work Australia.

The Pay Equity Division or Unit of Fair Work Australia must be responsible for the production and gathering of disaggregated pay equity data and information. The Pay Equity Division or Unit's research, data collation, and publication responsibilities must be properly funded.

The data collected and collated by skilled researchers should be publicly accessible, particularly to the advocates and representatives of low-paid, female-dominated workers, namely trade unions.

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

The LHMU Queensland Branch strongly supports the proposal to educate and inform employers, employees and trade unions in relation to pay equity issues. Education regarding pay equity issues is of paramount importance to achieving pay equity outcomes.

As an initial step in providing education and information, the LHMU Queensland Branch supports the establishment of a federal Pay Equity Commissioner and Pay Equity Division or Unit of Fair Work Australia invested with the responsibility of publically educating relevant stakeholders about pay equity issues. The Pay Equity Commissioner and Pay Equity Division or Unit should also be responsible for producing the information upon which pay equity education will be based.

The relevant stakeholders; employers, employees, trade unions and governments, must be made aware of the negative impacts on pay inequity on Australian society and the Australian economy.

Pay inequity is linked to:

- Perpetuation of the generational poverty cycle;
- Familial financial instability affecting women's and families' decisions to have children, and affecting the ability of families to raise children as the next generation of productive workers;
- Lower retirement entitlements for women therefore placing a greater burden on the public welfare system;

-
- Contributing to the skill shortage in the Australian economy by providing a disincentive for Australian women to remain engaged in the workforce;
 - Lowered productivity;
 - Corollary increased burden on public welfare institutions, such as health care, due to low incomes.

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

The current structural arrangements in the negotiation of wages that impact disproportionately on women are as follows:

- The deregulation of the labour market and the dismantling of public labour market institutions;
- The systematic undervaluation of women's work as compared to male industries characterised by the same or similar qualifications and experience;
- Occupational distribution and segregation;
- Disproportionate representation of women relying upon award minimum rates of pay;
- The exclusion of arbitration in the determination of the award rates of pay;
- The non-inclusion of pay equity as a factor in minimum rate determinations;
- Low unionisation in feminised industries resulting in lack of bargaining power and capacity to overcome systematic pay inequity;
- Disproportionate representation of women in atypical, non-standard employment, such as part-time and casual employment, characterised by low unionisation and lack of access to training and progression;
- Lack of access to flexible, family-friendly, working arrangements to accommodate caring responsibilities;
- Inadequate legislative arrangements to facilitate transition in and out of the labour market for women;
- Lack of access to training and promotion;
- The inadequacy of legislative instruments in mandating pay equity.

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

The current equal remuneration provisions in the federal workplace relations legislation, the *Workplace Relations Act 1996 (Cth.)* are inadequate and have been underutilised.

The federal approach is based upon individual complaints of sex-discrimination and is voluntary in nature. This approach does not address the intractable and persistent systematic undervaluation of women's work in Australia. The resolution of individual cases has little ability to aggregately affect pay inequity in a broad sense.

In contrast, the Queensland model of pay equity institutions and legislation should be utilised as a reference model to be adopted federally.

The Queensland Industrial Relations Commission has adopted an Equal Remuneration Principle. The Queensland government provides funding to parties to conduct pay equity cases in the QIRC and the Equal Remuneration Principles inserted into the *Industrial Relations Act 1999* (Qld), provides the QIRC with a framework to follow when conducting work value cases. The equal remuneration principle is also applicable when the QIRC is exercising its powers to make and amend award, and the QIRC has the capacity to make equal remuneration orders.

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

The 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 working arrangements are inadequate due to the voluntary nature of implementation, relying on the good will of individual employers. The legislative arrangements are weak and unenforceable, resulting in superficial compliance or ignoring legal and policy positions regarding equity in access to training and promotion.

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

The LHMU Queensland Branch advocates for federal legislative and institutional reform as vehicles to achieve pay equity. Federal legislative and institutional reform is paramount to achieving pay equity in Australia.

Such reform must be in the form of implementing pay equity legislation which imposes obligations to achieve pay equity goals, and the establishing of a properly resourced and functioning Federal Pay Equity Commissioner and Pay Equity Division or Unit of Fair Work Australia.

In determining the character of federal legislative and institutional reform, the Inquiry should look to the advancements and reforms undertaken in the state jurisdiction, particularly Queensland, and draw upon the experience and understanding developed in the state jurisdiction Inquiries, respectively.

The following state Inquiries should be consulted in the first instance:

- *The 2007 Qld Pay Equity Inquiry, Pay Equity Time to Act QIRC, Sept 2007* ; and,
- *The 2005 Victorian Department of Industrial Relations Report into Pay Equity, URCOT Pay Equity: How to address the Gender Gap (Vic Inquiry).*

Legislation

The following reforms to federal industrial relations legislation must be implemented in order to achieve pay equity in Australia:

- Insertion of stand alone ‘pay equity’ provisions in federal industrial relations legislation, as one of the objectives of the Act. The inclusion of pay equity as an objective in the Act indicates commitment to equal pay for work of equal or comparable value as of fundamental importance in federal industrial relations legislation;
- Pay Equity provisions to be clearly articulated on an ‘undervaluation’ as opposed to a ‘discrimination’ approach;
- Amend federal industrial relations legislation to require Fair Work Australia (FWA) to have regard to the principle of ‘equal remuneration for work of equal of comparable value’ when adjusting wages;
- Amend federal industrial relations legislation to allow annual award reviews by Pay Equity Commissioner and FWA to ensure advancement of pay equity;
- Modernized awards to contain mandatory provisions to redress gendered pay inequity in the form of compensation structured into new minimum pay rates;
- Pay Equity Division or Unit of FWA to conduct undervaluation hearings;
- Mandatory inclusion of pay equity terms in a above-award negotiated settlements;
- Union encouragement provisions in federal industrial relations legislation;
- Empower industrial bodies to deal with pay equity applications as a discrete industrial process and make any relevant orders.

As a final point, trade union membership and participation needs to be bolstered and encouraged. The role of trade unions in pay equity bargaining needs to be formalised. Trade unions are at the forefront of

providing the collective voice and ability to redress women's undervaluation in negotiated award and above-award wages and conditions.

The right to collective bargaining must be enshrined in legislation. A formal role for employee bargaining agents must be legally recognised. Industrial relations legislation needs to recognise rights associated with *pay equity bargaining* as well as collective bargaining. The legislation must allow for the protected right to bargain over pay equity considerations, along with 'good faith' bargaining provisions in relation to pay equity bargaining.

Institutions

Institutional arrangements, underpinned by legislative reform, to achieve pay equity must be implemented at the federal level. Formal industrial structures and institutions, including wage setting institutions, are the foundation to achieving pay equity.

The new institutional measures must reflect the concept of 'undervaluation' and not 'discrimination' as the key construct. 'Work value' must be used as the proper basis for valuation of work, not simply establishing a male comparator.

The 'Queensland model' as developed in the QIRC Inquiry into pay equity should be utilised as a basis in the formulation of the institutional arrangements to achieve pay equity at a federal level.

The following core institutional arrangements need to be established at a federal level:

- A Federal Pay Equity Commissioner and Federal Pay Equity Division or Unit of Fair Work Australia.

The federal Pay Equity Commissioner and Division or Unit of FWA must be charged with the following proactive responsibilities:

- The ability to conduct research and make submissions to the federal government regarding federal workplace relations legislation;
- To be charged with responsibility for collating and publishing disaggregated and accessible data on pay equity;
- Provide funding to organisations to conduct pay equity hearings, particularly to priority industries such as child care and aged care;

-
- Empowered to make orders to ensure employees covered by the order receive equal remuneration for work of equal or comparable value;
 - Power to make orders should extend beyond award-reliant employees to cover all industrial instruments including enterprise agreements and workplace agreements;
 - Powers to make, vary or renew awards.

Further, FWA must share discrimination jurisdiction with the federal Human Rights and Equal Opportunity Commission and the Federal/Federal Magistrates Court.

Trade unions must be supported and encouraged as an institution capable of advocating on behalf of groups affected by pay inequity.

The LHMU, Queensland Branch, again refers the Inquiry to the *2007 Qld Pay Equity Inquiry, Pay Equity Time to Act QIRC, Sept 2007* and the *2005 Victorian Department of Industrial Relations Report into Pay Equity, URCOT Pay Equity: How to address the Gender Gap (Vic Inquiry)* to the House of Representatives Standing Committee on Employment and Workplace Relations Inquiry into Pay Equity and Associated Issues Related to Increasing Female Participation in the Workforce.

The federal inquiry should consult the recommendations and conclusions of the Queensland and Victorian inquiries in the first instance as strong bases for the necessary reform and implementation of the federal pay equity system.

Conclusion

In conclusion, the Liquor, Hospitality and Miscellaneous Union, Queensland Branch, commends to the Inquiry the recommendations contained in the comprehensive combined State Trades and Labour Councils and the Australian Council of Trades Union's submission and the National LHMU submission. The Liquor, Hospitality and Miscellaneous Union, Queensland Branch submission must be read in conjunction with, and in reliance of, those submissions.