



Australian Government

**Australian Government response to the
House of Representatives Standing Committee on
Employment and Workplace Relations
report:**

***Making it fair – pay equity and associated issues related to
increasing female participation in the workforce***

May 2013

TABLE OF ACRONYMS

ABS	Australian Bureau of Statistics
ACARA	Australian Curriculum Assessment and Reporting Authority
ADE	Australian Disability Enterprise
AFTS	Australia's Future Tax System
AGD	Attorney-General's Department
AHRC	Australian Human Rights Commission
AIRC	Australian Industrial Relations Commission
ALRC	Australian Law Reform Commission
AMEP	Adult Migrant English Program
APS	Australian Public Service
APSC	Australian Public Service Commission
ASDOT	Assessment Subsidy for Overseas Trained Professionals program
ATO	Australian Taxation Office
AWE	Average weekly Earnings
CALD	Culturally and Linguistically Diverse
COAG	Council of Australian Governments
DEEWR	Department of Education, Employment and Workplace Relations
DIAC	Department of Immigration and Citizenship
DIICSRTE	Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education
EEH	Employee Earnings and Hours
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs
FIS	Family Impact Statement
HILDA	Household Income and Labour Dynamics Australia
ILO	International Labour Organisation
JSA	Job Services Australia
LISC	low-income superannuation contribution
LSL	long service leave
NES	National Employment Standards
OECECC	Office of Early Childhood Education and Child Care
QIRC	Queensland Industrial Relations Commission
s	section
ss	sections
sub-s	subsections
SACS	Social and Community Services Sector
SDA Report	<i>Effectiveness of the Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality</i> Report
SGP	Settlement Grants Program
TRA	Trades Recognition Australia

Foreword

The Australian Government continues its commitment to improving economic participation and outcomes for all Australian women. The Government strongly believes that all Australians should have the opportunity to engage in full and meaningful employment, and receive a fair wage for a fair day's work. Supporting women's social and economic participation is central to the Government's commitment to building a strong economy on the back of a fair and just society.

The female workforce participation rate is just over 59 per cent and there are around 2.4 million part-time female workers in Australia. In contrast, the participation rate for men is 72.1 per cent, with most of these men working in full-time jobs¹. Despite the fact that women's participation in the workforce has been increasing over the last 30 years, there has been minimal corresponding change to the gender pay gap².

Women's participation in paid work, and broader economic outcomes for them and their families, is complex and intrinsically linked. The Government is committed to ensuring there is a framework in place that results in real and substantive gains towards increasing women's participation and achieving pay equity between women and men to achieve these positive outcomes.

The House of Representatives report *Making it fair – pay equity and associated issues related to increasing female participation in the workforce* makes 63 recommendations on a wide range of issues, including workplace relations, superannuation and financial matters, reporting requirements, data collection and cultural change. The report also canvasses possible legislative and administrative reforms that seek to give greater recognition to the pay equity principle and proposes an implementation strategy for achieving this.

The Government recognises the important issues covered in the report and acknowledges the recommendations made by the Standing Committee on Employment and Workplace Relations (the Committee).

When the Committee's report was tabled, the Government had a number of significant areas of reform underway regarding women's workforce participation and pay equity that more broadly relate to the recommendations in the report. Given the implementation of these reforms, including the first successful equal remuneration case under the *Fair Work Act 2009* (Fair Work Act) for social and community services (SACS) workers and the recently enacted legislation establishing the new Workplace Gender Equality Agency, the Government is now in a position to provide a comprehensive response to the Committee's recommendations.

¹ ABS Labour Force, Australia - Spreadsheets (Cat. No. 6202)

² ABS Average Weekly Earnings Australia – May 2012

The Government has achieved significant outcomes in respect to pay equity and increasing female participation in the workforce.

The Fair Work Act establishes a strong framework to support women's workforce participation, improving economic outcomes for women, achieving fair pay, and promoting equity in the workplace through:

- a strong safety net of 10 National Employment Standards (NES) and modern awards which provide all employees in the federal system with clear, comprehensive and enforceable minimum protections. Included under the NES are entitlements to unpaid parental leave, paid and unpaid carer's leave, protections against unfair dismissal, maximum hours of work and public holiday protections and through modern awards penalty rates, overtime and other industry specific entitlements. On 14 March 2013 the Prime Minister announced that the Government will insert a new modern awards objective into the Fair Work Act to ensure that penalty rates, overtime, shift work loading and public holiday pay are definite, formal considerations for the Fair Work Commission when it sets award rates and conditions.
- providing a right to request flexible working arrangements for employees with children under school age or with children with a disability under 18 under the NES. The Government has introduced the Fair Work Amendment Bill 2013 to expand the scope of the right to request to include:
 - all employees with caring responsibilities
 - mature aged employees 55+
 - employees who are parents, or have responsibility for the care of children who are of school age
 - employees with a disability
 - employees experiencing family violence and employees providing personal care, support and assistance to a member of their immediate family or member of their household because they are experiencing family violence, and
 - in addition to expanding the right to request, the Bill also establishes new consultation requirements to ensure that employers genuinely consult with employees about a proposed change to regular rosters or ordinary working hours and take into account their views, particularly having regard to any impact in relation to the employees' family and caring responsibilities.
- providing for the first time in federal workplace relations law the right for the Fair Work Commission to order equal pay for work of equal or comparable value
- a requirement for individual flexibility clauses in all modern awards and enterprise agreements, to enable employees to negotiate individual working arrangements with their employers that suit their needs
- allowing variation of modern awards for work value reasons
- access to multi-employer bargaining for the low-paid, and

- strong protections against workplace discrimination on grounds including sex, marital status, family or carer's responsibilities or pregnancy.

The Government has responded to the needs of carers and parents through the introduction of provisions in the Fair Work Act which assist employees, particularly women, in balancing their work and family responsibilities. Importantly, these provisions increased the immediate and long term incentives for women to increase participation in the workforce, which in turn benefits employers as they retain the human capital investment made in employees.

The Fair Work Act has already delivered historic outcomes for working women. In the Fair Work Act, the Government removed barriers to equal remuneration claims under federal workplace relations law, which made possible the first successful equal remuneration claim in the federal workplace relations system.

The case marked a significant advancement for equal pay for around 150,000 workers in the female-dominated SACS sector. The Government actively participated in proceedings brought by the Australian Services Union and other unions and committed to fund its share of the wage increases granted by the then Fair Work Australia – of 23 per cent to 45 per cent phased in over eight years.

On 11 October 2012, the Government passed legislation establishing the Social and Community Services Special Account, confirming the Government's contribution of \$2.8 billion towards these historic pay increases.

On 22 November 2012, the Government passed the *Equal Opportunity for Women in the Workplace Amendment Bill 2012* to strengthen the *Equal Opportunity for Women in the Workplace Act 1999* and its administering agency's focus on gender equality.

These reforms recognise that both men and women experience barriers in the workplace. As part of the reforms, the Act is now called the *Workplace Gender Equality Act 2012* (Workplace Gender Equality Act) and the Agency is the *Workplace Gender Equality Agency* (WGEA). The objects of the Workplace Gender Equality Act have been expanded to cover men, particularly in relation to caring responsibilities, as well as highlighting the importance of equal remuneration to gender equality. The Workplace Gender Equality Agency will have an enhanced role in supporting industry and will provide assistance such as advice, resources and referrals to organisations to achieve gender equality in their workplaces.

A significant focus of WGEA will therefore be promoting pay equity. The data collected by WGEA will be used to develop aggregate information across sectors, providing a useful and meaningful way for employers to consider their workplace practices and outcomes in relation to their industry peers and compared to their own performance from year to year.

The Government understands that Australian women are often stretched between work and family responsibilities. With the aim of improving the capacity of women and men to combine paid work and caring responsibilities, the Workplace Gender Equality Act requires employers to examine and report on the availability and utility of employment terms, conditions and practices related to flexible working arrangements for employees, and to working arrangements supporting employees with family or caring responsibilities.

Under the Workplace Gender Equality Act, non-compliant employers may not be eligible to compete for contracts under the Commonwealth procurement framework, and may not be eligible for some Commonwealth grants or other financial assistance. This provision is given effect through the Equal Opportunity for Women in the Workplace Contract Compliance Policy (the Contract Compliance Policy), with work currently underway to make this policy more effective and efficient.

In 2009, the Government introduced the first national Paid Parental Leave scheme, followed by Dad and Partner Pay in 2012, both designed to make it easier for parents to balance work and caring responsibilities and stay connected to their workplaces.

The Government has also increased its investment in child care, committing \$23.2 billion over the next four years to 2015-16, including \$20.6 billion in Child Care Benefit and the Child Care Rebate to help around 900,000 families each year with the cost of child care and helping primary carers back into the workforce.

The 2011 amendments to strengthen the *Sex Discrimination Act 1984* provide greater protections against discrimination and sexual harassment in the workplace. For example, prohibiting direct discrimination on the basis of family responsibilities in all areas of employment rather than only through termination of employment, including breastfeeding as a separate ground of discrimination and protecting employees from sexual harassment by customers, clients and people employed by other organisations.

The Government has committed to consolidate anti-discrimination legislation into one single comprehensive law, to make the law more user-friendly for individuals, organisations and business. As part of this project, the Government is considering the outstanding recommendations of the 2008 Senate Committee review of the effectiveness of the Sex Discrimination Act. Exposure draft legislation for the consolidated anti-discrimination law was released on 20 November 2012 and referred to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry and report. The Committee released its inquiry report on 21 February 2013.

While work continues on this project, the Government is proceeding immediately with introducing long overdue protections against discrimination on the basis of sexual orientation,

gender identity and intersex status through the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013.

In 2010, the Government committed to a target of achieving a minimum of 40 per cent representation of women and 40 per cent men on Australian Government boards by 2015. At 30 June 2012, the percentage of women on Australian Government boards was 38.4 per cent – an all-time high. In the private sector at April 2013, women comprised 15.7 per cent of ASX 200 board positions. In November 2012, the Government launched BoardLinks, an initiative to support more Australian women into leadership positions, including promoting increasing female representation on public and private sector boards.³

Significant achievements have also been made in other policy areas identified by the Standing Committee.

The Committee's recommendations to improve the equity of the superannuation guarantee were supported in the review into Australia's Future Tax System. In May 2009, the review panel, chaired by Dr Ken Henry AC, released its report. Since the release of the Committee's report the Government has, among other things, raised the superannuation guarantee rate from nine per cent to 12 per cent and is introducing a government contribution for low income earners. The Government has provided further assistance by more than tripling the tax-free threshold from \$6,000 to \$18,200 from 1 July 2012. The increase in the threshold is particularly significant for the 70 per cent of part-time workers who are women. These tax cuts improve the rewards for work – a woman working part-time earning \$20,000 a year will receive a tax cut of \$600. In combination with the low-income tax offset, the new tax-free threshold means that women who earn up to \$20,542 per year now pay no tax.

The Government has also implemented the recommendation to review existing workplace surveys and data on pay inequity. In August 2011, the Australian Bureau of Statistics first released *Gender Indicators, Australia*, which is updated biannually. The Gender Indicators present a compilation of nationally consistent data to support improved analysis and monitoring of outcomes for women and men in Australia in the following areas – economic security, education, health, work and family balance, safety and justice, and democracy, governance and citizenship.

Further, the Government is working with the Australian Research Council on its Linkage Project on Work Flexibility in relation to work-related flexibility and work-life balance through workplace surveys, conducted by the Centre for Work + Life, University of South Australia. Commonwealth funding contributes to the cost of two Australia Work and Life Index (AWALI) surveys. The

³ The Board Links fact sheet is accessible through [this link](#)

results of the first survey, titled 'The Big Squeeze: Work, Home and Care in 2012'⁴, was released on 28 September 2012. The second survey will be conducted in 2014. These surveys help address empirical gaps in knowledge, link rigorous research to strategic policy capability, and build new theoretical understandings of how flexibilities of various forms enable positive participation, skill, and work-care outcomes.

The collection of relevant information on workforce participation of women with a disability to inform policy direction is also being covered under the National Disability Strategy, formally endorsed by the Council of Australian Governments (COAG) on 13 February 2011. The strategy outlines a 10-year national policy framework to improve the lives of people with a disability, promote participation and create a more inclusive society. Further, in December 2012 the Minister for Employment and Workplace Relations launched a discussion paper titled "*Improving the Employment Participation of People with Disability in Australia*" which invited views on improving employer practices in regards to people with disability. The Government has consulted with a range of key stakeholders on this issue and is currently giving consideration to the valuable feedback that has been provided.

The Government is continuing work to assist women from culturally and linguistically diverse backgrounds through the Adult Migrant English Program (AMEP). The program is a recognition of the critical role that English tuition plays in the successful settlement of new migrants and humanitarian entrants to Australia. Together with other similar Government funded services, programs such as AMEP play a vital role in providing adequate English language tuition to women and assists in educating them about their employment rights and entitlements and in addressing barriers to their employment.

More broadly, the Government is also working to ensure low paid and vulnerable workers more generally, many of whom are women, are supported and treated fairly. Recent Government achievements on this front have included:

- the announcement of a package of reforms for the aged care sector: *Living Longer. Living Better*. As part of this reform package the Government has announced the Addressing Workforce Pressures Initiative to improve the capacity of the aged care sector to attract and retain staff, the majority of whom are women. The Addressing Workforce Pressures Initiative will be delivered in two parts, through the Aged Care Workforce Development Plan; which will provide improved training, education, better work practices and career planning and the Aged Care Workforce Compact and Supplement, which will provide up to \$1.2 billion to deliver pay rises for aged care nurses, care workers and others in the aged care industry
- the announcement of the Early Years Quality Fund to be used to deliver a pay increase to employees in eligible long day care centres; a predominantly female workforce. This fund

⁴ <http://w3.unisa.edu.au/hawkeinstitute/cwl/documents/AWALI2012-National.pdf>

demonstrates that the Government understands that a better paid and highly skilled early childhood workforce is essential to delivering high quality early childhood services that improve the outcomes of children. An injection of funds to increase wages for these workers will support achieving pay equity policy objectives

- the *Fair Work Amendment (Textile, Clothing and Footwear Industry) Act 2012*, which commenced on 1 July 2012, introduced a nationally consistent protection for outworkers in the textile, clothing and footwear industry
- the introduction of the Fair Work Principles, which support the creation of quality jobs and decent work by ensuring that procurement decisions are consistent with the Fair Work Act and its aims. These include promoting fair, cooperative and productive workplaces in which employees are treated fairly and with respect, including respect for freedom of association and their right to be represented at work
- a commitment of up to \$12 million in funding to establish the Centre for Workplace Leadership which will work across all industries, sectors and regions of Australia. The Centre will also improve the leadership capacity in workplaces of all sizes, with a significant focus on small and medium enterprises. The Centre will help business to instil a culture of engagement, respect and fairness, and create good jobs that attract good people, including women
- a commitment to establish and operate a Pay Equity Unit (the Unit) administratively within the Fair Work Commission from 1 July 2013. The Unit will assist the Fair Work Commission with data and research collection, and specialist pay equity information associated with any equal remuneration applications made under s 302 of the Fair Work Act, the four yearly modern award review and annual minimum wage decisions.

Each of these historic achievements has been delivered by the Government with the purpose of ensuring that every working Australian has the opportunity to access fair and equitable pay and working conditions that don't discriminate; better living standards; opportunities to balance work and family responsibilities; and opportunities to participate fully at work and in the community.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

That for the removal of any doubt, the definition of equal remuneration for work of equal or comparable value in the *Fair Work Act 2009* be supplemented with a signpost note confirming that the concept of equal remuneration includes the valuation of dissimilar work of equal or comparable value.

Noted

The concept of 'comparable value' in the Fair Work Act is included to address equal pay concerns in occupations and industries that are dominated by one gender and, in part, to address the issue of undervaluation of the work traditionally performed by women.

The explanatory memorandum to the Fair Work Act confirms that:

The principle of equal treatment for men and women workers for work of equal or comparable value requires there to be (at minimum) equal remuneration for men and women workers for the same work carried out in the same conditions. However, the principle is intentionally broader than this, and also requires equal remuneration for work of comparable value. This allows comparisons to be carried out between different but comparable work for the purposes of this Part. Evaluating comparable worth (for instance between the work of an executive administrative assistant and a research officer) relies on job and skill evaluation techniques.⁵

The inclusion of equal remuneration for work of equal or comparable value in s 302(2) of the Fair Work Act enhances the scope and effectiveness of the equal remuneration provisions by removing historic obstacles to successful claims for equal remuneration in the federal jurisdiction. It intentionally broadens the provisions previously contained in the *Workplace Relations Act 1996* and allows comparisons to be carried out between different, but comparable, work for the purpose of assessing an equal remuneration claim.

The independent panel which conducted the post implementation review of the Fair Work Act in 2012 gave consideration to the operation of the Act's equal remuneration provisions. In noting the success of the social and community services sector equal remuneration case (SACS Equal Remuneration Case), the only application finalised under the provisions since their commencement in 2009, the Panel found the provisions were operating as intended.

⁵ http://www.austlii.edu.au/au/legis/cth/bill_em/fwb2009124/memo_0.html

Recommendation 2

That the *Fair Work Act 2009* be amended to broaden the definition of remuneration to include direct or indirect payments, whether in cash or in-kind.

Noted

The term 'remuneration' is not defined in the Fair Work Act. Where a term is used in legislation but not defined, the courts generally afford the term its ordinary meaning. As such, in the Government's view, in the context of the Fair Work Act the term 'remuneration' should be given its ordinary meaning, which would encompass any compensation for performing work, including agreed entitlements other than wages.

The Government notes that in the SACS Equal Remuneration Case, the first such case brought under the Fair Work Act, the Fair Work Commission (previously Fair Work Australia) acknowledged the use of non-monetary benefits such as salary packaging and salary sacrifice arrangements in the sector. In that case, the Fair Work Commission did not extend the equal remuneration order to include salary packaging arrangements but clearly considered that those arrangements could be within the scope of an order.

On 16 May 2011, a Full Bench of the Fair Work Commission concluded that workers in the SACS sector do not receive equal remuneration in comparison with workers in state and local government employment. The Bench concluded that gender has been important in creating the pay gap. On 1 February 2012, the Full Bench handed down its decision in the first successful pay equity case in the national workplace relations system. The decision awarded significant wage increases to workers in the sector.

Recommendation 3

That s.3 of the *Fair Work Act 2009* be amended to state that equal remuneration for men and women employees for work of equal or comparable value is an explicit object of the Act.

Supported in part

The Government notes that s 3 of the Fair Work Act contains several elements that relate to the principle of pay equity including:

- the promotion of social inclusion
- a requirement that employees be assisted in achieving a balance between their work and family responsibilities by providing for flexible working arrangements, and
- protection against discrimination.

Sections 134 and 284 of the Fair Work Act also explicitly state that equal remuneration for work of equal or comparable value is a guiding principle for the Fair Work Commission in conducting

its modern award and minimum wage fixing functions. Section 156 of the Fair Work Act also provides the Fair Work Commission with the capacity to vary minimum wages in modern awards on work value grounds.

Support for the principle of pay equity is also reflected in the Fair Work Act with the expressed intention to provide workplace relations laws that take into account Australia's international labour obligations including obligations under ILO Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Geneva, 29 June 1951) [1975] ATS 45.

It is also worth noting that the principal objects of the Workplace Gender Equality Act include explicit reference to equal remuneration between women and men, in recognition that closing the gender pay gap is essential to achieving gender equality.

Recommendation 4

That the President of Fair Work Australia, by promulgation, enunciate an equal remuneration principle and set out how this principle is to be applied (e.g. work evaluation, comparisons across industries including similar and dissimilar work) in all contexts.

Noted

The Australian Government is committed to closing the gender pay gap and improving the economic security of Australian women.

This is evident in the Government's support for the application for an equal remuneration order brought before the Fair Work Commission in March 2010 by the Australian Services Union and other unions for certain workers in the social and community services sector. The application was the first under the enhanced provisions of the Fair Work Act and the first successful equal remuneration application in the federal jurisdiction. In February 2012, a Full Bench of the Fair Work Commission decided in favour of the application granting wage increases of 23 per cent to 45 per cent to be phased in over eight years.

In its initial submission to this case, the Government encouraged the tribunal to develop appropriate equal remuneration principles within the scope of the Fair Work Act and draw on the experience of state jurisdictions to guide the formulation and hearing of any future applications for equal remuneration orders.

On 16 May 2011, the Full Bench handed down a preliminary decision stating that it would not develop an equal remuneration principle at this time as it would be premature to base principles on one case only, potentially restricting the discretion available under the provisions of Part 2-7 of the Fair Work Act. Consequently, in its final decision, the tribunal did not deal with the matter

of an equal remuneration principle. However, the Government considers that a number of matters outlined by the Full Bench in its interim and final decisions relating to the SACS equal remuneration application will guide the tribunal's consideration of future equal remuneration applications.

On 19 March 2013, the Government announced the establishment of the Pay Equity Unit in the Fair Work Commission from 1 July 2013.

The Pay Equity Unit will assist the Commission with data and research collection and specialist pay equity information associated with any equal remuneration applications made under s 302 of the Fair Work Act and the four yearly modern award review and annual minimum wage decisions. The Unit will also undertake research and prepare reports on equal remuneration matters. Reports will be published and may be accessed by parties to assist in respect to equal remuneration applications or award matters.

Recommendation 5

That the Australian Government establish a discretionary fund to be administered by the Attorney-General for the provision of funding an application for the pursuit of cases in relation to remuneration orders.

Noted

As noted above, from 1 July 2013 a new Pay Equity Unit will operate within the Fair Work Commission. The Pay Equity Unit will, among other things, assist the Fair Work Commission with data and research collection and specialist pay equity information associated with any equal remuneration applications made under s 302 of the Fair Work Act.

Further, the Australian Government notes WGEA will have an enhanced role in supporting industry and providing advice, resources and referrals, including in relation to pay equity. Given this additional support, the successful running of the first equal remuneration case and the matters set out in the decisions for that case the Government is not currently considering establishing a discretionary fund.

Recommendation 6

That Fair Work Australia investigates the feasibility of advisory classification and remuneration benchmarks to provide advice to employees and employers.

Noted

The Fair Work Act provides that modern awards may include terms about minimum wages and skill-based classifications and career structures and all modern awards include a classification

structure with minimum wages. Further, the modern awards objective set out in s 134 of the Fair Work Act provides a number of factors the Fair Work Commission must take into account when making, varying or revoking modern awards, including the principle of equal remuneration for work of equal or comparable value (s 134(1)(e)).

The Government understands that the Committee based this recommendation on a recommendation made by the Queensland Industrial Relations Commission (QIRC) in its 2007 Pay Equity report *Time to Act*, where it suggested at Recommendation 4:

*“That the Queensland Government investigate the feasibility of advisory classification and remuneration benchmarks to provide advice to employees and employers and for Queensland Government procurement and funding purposes.”*⁶

The Government understands that the QIRC developed this recommendation in the context of examining the broader impacts of the *Workplace Relations Amendment (Work Choices) Act 2005* on pay equity. Under Work Choices, classification and remuneration structures were removed from awards and information about the classifications which related to particular pay scales were preserved in an Australian Pay and Classification Scale. In particular, the QIRC was concerned that “the loss of classification and remuneration structures from awards was a very serious practical limitation in pursuing pay equity at an occupational level and then, in turn, flowing such advances on to other areas”.⁷

Standards Australia has developed the voluntary Gender-Inclusive Job Evaluation and Grading Standard, to assist with the correct classification of employees to avoid gender disparity and discrimination. The objective of the standard, and its accompanying guidelines, is to provide advice about how job evaluation and grading can be carried out free from any effects of gender. An important factor contributing to gender bias is that judgements are sometimes made on the basis of inadequate or gender-biased job evaluation or job analysis processes. The standard addresses how those risks can be identified and minimised in each part of the evaluation and grading process.

Under the new Workplace Gender Equality Act, WGEA will have an enhanced role in supporting industry. WGEA will provide advice, resources and referrals, and a significant focus of this support will be in relation to pay equity, including the development of industry-specific benchmarks. Benchmarks are intended as a way for WGEA to collect, analyse and express the data collected from reports in a useful and meaningful way. This will enable employers to consider their workplace outcomes and practices in relation to their industry peers and compared to their own performance from year to year.

⁶ Queensland Industrial Relations Commission, *Pay Equity Time to Act*, September 2007, p.10

⁷ Queensland Industrial Relations Commission, *Pay Equity Time to Act*, September 2007, p.57

Recommendation 7

That s.156(4) of the *Fair Work Act 2009* be amended to include:

(d) evidence that the work, skill and responsibility required or the conditions under which the work is done have been historically undervalued on a gender basis.

Noted

'Work value reasons' are defined in s 156(4) of the Fair Work Act as reasons justifying the amount that employees should be paid for doing a particular kind of work which relate to the nature, skill level or responsibility involved in doing the work, or the conditions under which the work is done.

Amending the definition to include an option of providing evidence of historic undervaluation of work on gender basis is already dealt with under the preceding criteria, in particular under s 156(4)(c) which relates to 'conditions under which the work is done'. The Government does not want to put in place disincentives to applications through the inclusion of additional onerous requirements.

Further, the Fair Work Commission must already consider the principle of equal remuneration for work of equal or comparable value in order to achieve the modern awards objective as part of its exercising functions in respect of modern awards and wage setting.

Recommendation 8

That s.157 of the *Fair Work Act 2009* be amended to ensure consistency with s.156 and include a definition of 'work value reasons' defined as:

... reasons justifying the amount that employees should be paid for doing a particular kind of work, being reasons related to any of the following:

- (a) the nature of the work;
- (b) the level of skill or responsibility involved in doing the work;
- (c) the conditions under which the work is done [s. 156(4)]; and
- (d) evidence that the work, skill and responsibility required or the conditions under which the work is done have been historically undervalued.

Noted

The term 'work value reasons' is defined in the dictionary in s 12 of the Fair Work Act by reference to the definition in s 156(4). This definition applies to all references to 'work value reasons' in the Act, including at s 157(2).

The Fair Work Commission must already consider the principle of equal remuneration for work of equal or comparable value in relation to applications made under s 157, in order to achieve the modern awards and minimum wages objectives.

Recommendation 9

That the Australian Government:

- elevate pay equity to be a clear objective of modern awards; and
- expand the scope of variation and amendment of awards on work value grounds to explicitly include pay equity, applying a gender neutral work valuation, requiring Fair Work Australia to satisfy the award pay equity criteria.

Supported in-principle

The Government supports and has implemented this recommendation. Section 134(1)(e) of the Fair Work Act clearly provides that the principle of equal remuneration for work of equal or comparable value is part of the modern awards objective which applies to the performance of the Fair Work Commission's functions in creating and maintaining modern awards. The principle also forms part of the minimum wages objective.

Recommendation 10

That s.134 of the *Fair Work Act 2009* be amended so as to require that an award must provide for equal remuneration for men and women employees for work of equal or comparable value.

Supported

The Government supports and has implemented this recommendation. Consistent with the response to Recommendation 9 above, s 134 of the Fair Work Act requires the Fair Work Commission to ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net of terms and conditions, by taking into account a range of factors including, explicitly, the principle of equal remuneration for work of equal or comparable value.

Recommendation 11

That the Australian Industrial Relations Commission report to the Committee prior to the finalisation of the awards modernisation process in relation to how pay equity principles have been achieved.

Noted

The Australian Industrial Relations Commission (AIRC) ceased operating on 31 December 2009, following the completion of the award modernisation process. The Fair Work Commission has subsumed the functions of the AIRC. Modern awards commenced on 1 January 2010, along with the NES.

In undertaking award modernisation, the AIRC was required to have regard to a range of objectives set out in s 576B of the *Workplace Relations Act 1996* and the award modernisation request issued by the then Minister for Employment and Workplace Relations. These objectives included a legislative requirement in s 576B (2)(e) that the AIRC have regard to the need to help prevent and eliminate discrimination and to promote the principle of equal remuneration for work of equal value in exercising all of its award modernisation functions.

The Fair Work Commission must ensure that modern awards, together with the NES, provide a fair and relevant safety net. The modern awards objective set out in s 134 of the Fair Work Act provides a number of factors the Fair Work Commission must take into account when making, varying or revoking modern awards. For example, the Fair Work Commission is required by s 134 (1)(e) to exercise its functions taking into account the principle of equal remuneration for work of equal or comparable value.

The Australian Government believes that there is considerable scope for parties and the Fair Work Commission to consider, on an ongoing basis, the linkage between principles of pay equity and the new safety net provided by modern awards.

Recommendation 12

That Fair Work Australia report to the Parliament within the annual reporting process on any changes to the awards after 1 January 2010 that may have the potential to impact on pay equity.

Noted

Since 1 January 2010, the Fair Work Commission has had a range of roles in relation to modern awards. These include the ability to vary an existing modern award (including as part of the current two year review and upcoming four yearly review of modern awards), make a new modern award or revoke an existing modern award. In exercising each of these functions, the

Fair Work Commission must be satisfied that each individual decision is consistent with the modern awards objective. The modern awards objective in s 134(1)(e) of the Fair Work Act requires the Fair Work Commission to take into account the principle of equal remuneration for work of equal or comparable value in exercising these roles.

In reaching a decision to vary an award the Fair Work Commission is required to publish the reasons taken into account in having arrived at a particular outcome. In accordance with s 601 of the Fair Work Act, the decision and the reasons for the decision must be expressed in plain English and include an easy to understand structure and content. Any decision by the Fair Work Commission that is required to be in writing must be published as soon as practicable after the decision has been made either on its website or by any other means that the Fair Work Commission considers appropriate.

The Commission has already completed its consideration of many of the 122 modern awards as well as a number of 'common issues' which cover multiple awards, such as penalty rates, public holidays and award flexibility. The Commission's decisions on these matters have been published on its website.

In the four yearly reviews of modern awards, commencing in 2014, the Fair Work Commission is required to review all 122 modern awards and must consider the principle of equal remuneration for work of equal or comparable value in order to achieve the modern awards objective. The requirement to publish reasons for decisions will also apply to this process.

The Fair Work Commission also has annual reporting requirements. The primary purpose of the annual report under s 652 of the Fair Work Act is for the President of the Fair Work Commission to report to the Minister for Employment and Workplace Relations at the end of each financial year on the operations of the Fair Work Commission during that year.

Recommendation 13

That s.65 of the *Fair Work Act 2009* be amended to require that individual flexibility arrangements are lodged with Fair Work Australia.

Noted

The Fair Work Act Review Panel considered the operation of individual flexibility arrangements as part of the review. The Review Panel recommended that the Fair Work Act be amended to require an employer, upon making an individual flexibility arrangement, to notify the Fair Work Ombudsman in writing (including by electronic means) of the commencement date of the arrangement, the name of the employee party and the modern award or enterprise agreement

under which the arrangement is made.⁸ The Government is still considering its response to the Panel's recommendation.

Recommendation 14

That the National Employment Standards, in relation to requests for flexible working arrangements, be amended to include all employees.

Supported in part

In 2011, the Government commenced consultations with states and territories, employer and union representatives and key stakeholders on expanding the right to request flexible working arrangements to eligible employees with elder care responsibilities and care responsibilities for those with a serious long-term illness or disability, following the release of the Government's National Carer Strategy. As part of this, consultation was also conducted on whether the right to request should be expanded to parents of children under 16.

As part of the Post-Implementation Review of the Fair Work Act, the Review Panel considered the operation of the right to request flexible working arrangements and made the following recommendation:

Recommendation 5: The Panel recommends that s 65 be amended to extend the right to request flexible working arrangements to a wider range of caring and other circumstances, and to require that the employee and the employer hold a meeting to discuss the request, unless the employer has agreed to the request.

In response, the Government has introduced a Bill to expand the scope of the right to request to include:

- employees who are parents, or have responsibility for the care of children who are of school age or younger
- employees who are carers
- employees who are 55 or older
- employees with a disability, and
- employees experiencing family violence or employees providing care or support to a member of their immediate family or member of their household because they are experiencing family violence.

The Bill also clarifies that an employee has a right to request part-time work on return from parental leave.

⁸ Australian Government, *Towards more productive and equitable workplaces: An evaluation of the Fair Work legislation, 2012*

Recommendation 15

That the *Fair Work Act 2009* be amended:

- to impose a legal obligation on the parties in a negotiation of a single or multi enterprise agreement that the negotiation and the agreement must include bargaining to achieve pay equity as defined by the Act; and
- to require that Fair Work Australia must not approve an enterprise agreement unless the agreement is necessary to achieve pay equity or implements pay equity.

Not supported

The Government does not support this recommendation. The Government considers the framework for making enterprise agreements under the Fair Work Act is conducive to positive pay equity outcomes.

Collective bargaining in good faith is at the centre of Australia's workplace relations arrangements under the Fair Work Act. International research shows that collective bargaining results in a narrowing of the gender-pay gap⁹ and Australian data indicates that the gender pay gap is substantially lower for permanent full-time employees on collective agreements (9 per cent) compared to individual agreements and unregistered individual agreements (13 per cent each).¹⁰

The Fair Work Act bargaining framework encourages employees, employers and their representatives to negotiate enterprise agreements in good faith that deliver improved wages and conditions for employees and productivity gains for businesses, having regard to the circumstances of each workplace. Enterprise agreements must leave employees better off overall than an applicable modern award and cannot undercut the NES.

Discriminatory terms cannot be included in enterprise agreements. A term in an enterprise agreement is discriminatory if it discriminates against an employee on grounds including the employee's sex, marital status, family or carer's responsibilities, or pregnancy. For example, a term providing for different wages outcomes for male and female employees would be discriminatory and could not be included in an enterprise agreement.

The General Manager of the Fair Work Commission is charged with reviewing the developments in Australian enterprise agreements. As in the past, these reports on

⁹ e.g. see F. Blau and L. Kahn, *Understanding International Differences in the Gender Pay Gap*, National Bureau of Economic Research Working Paper 8200, Ithaca N.Y., 2001; and, S. Polachek and J. Xiang, *The Gender Pay Gap: A Cross-Country Analysis*, Rochester, N.Y., 2006

¹⁰ ABS Employment Earnings and Hours, 2012

developments in enterprise bargaining in Australia encompass reporting on the safety net that underlies enterprise bargaining, including modern awards and the NES.

The General Manager's reports must consider the effect on the employment (including wages and conditions of employment) of women, part-time employees, persons from a non-English speaking background, mature age persons and young persons.

Recommendation 16

That Fair Work Australia ensure that where a significant proportion of an organisation's employees are from a non-English speaking background, that the explanation of the terms of an employment agreement have been explained in the employee's own language.

Supported

The Australian Government supports this recommendation and it has been implemented through provisions of the Fair Work Act.

The pre-approval requirements for new enterprise agreements under the Fair Work Act include that the terms of an enterprise agreement are explained in an appropriate manner taking into account the particular circumstances and needs of the relevant employees.

The Fair Work Act specifies that employees from culturally and linguistically diverse backgrounds are an example of the kind of employees whose circumstances and needs are to be taken into account in explaining the terms of an enterprise agreement.

The Government has also ensured that, from 1 January 2010, all employers covered by the national workplace relations system have an obligation to give each new employee a Fair Work Information Statement (the Statement) before, or as soon as possible after, the employee starts employment. The Statement is available in 27 languages in addition to English.

The right for new employees to receive the Statement is one of the requirements under the NES that apply to employment of employees. In addition, the Office of the Fair Work Ombudsman is able to give advice and help to ensure employees understand their workplace rights and responsibilities. For example, if an employee from a non-English speaking background was unsure about what minimum terms and conditions they were entitled to, they could either seek information in their language on the Fair Work website (www.fairwork.gov.au), or obtain assistance through the free Translating and Interpreting Service advertised through the Fair Work website.

Recommendation 17

That the Australian Government place on the Council of Australian Governments agenda the consideration of the introduction of complementary legislation in relation to all equal remuneration matters dealt with by Fair Work Australia in each jurisdiction.

Not Supported

The Government notes that the Fair Work Act governs the majority of employment relationships throughout Australia including all private sector employment (other than non-constitutional corporations in Western Australia) following the referral of state workplace relations powers from all jurisdictions except Western Australia to the Commonwealth in 2010.

The national coverage and the successful operation of the provisions negate the need for the introduction of complementary legislation in relation to all equal remuneration matters dealt with by the Fair Work Commission in each jurisdiction.

Recommendation 18

That s.582 of the *Fair Work Act 2009* be amended to require the President of Fair Work Australia to state explicitly the appropriate equal remuneration principle and to give detailed direction on how equal remuneration is to be handled.

Noted

The response to recommendation 4 also applies to this recommendation.

Recommendation 19

That the *Sex Discrimination Act 1984* be amended to give the Sex Discrimination Commissioner the power to investigate alleged breaches of the Sex Discrimination Act, without requiring an individual complaint, as well as the ability to enter negotiations, reach settlements, agree enforceable undertakings and issue compliance notices.

Noted

This recommendation was also made by the Senate Legal and Constitutional Affairs Committee in its 2009 report on the *Effectiveness of the Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality*¹¹ (the SDA Report), at Recommendation 37.

On 4 May 2010, the Australian Government delivered its response¹² to the SDA Report noting Recommendation 37 and indicating that if adopted the approach would need to be applied

¹¹ Senate Standing Committee on Legal and Constitutional Affairs, *Effectiveness of the Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality*, 2009

consistently across all grounds of discrimination. Accordingly, the Government considered this recommendation further as part of the project to consolidate Commonwealth anti-discrimination legislation into one single comprehensive law.

The exposure draft Human Rights and Anti-Discrimination Bill 2012 was released on 20 November 2012 and referred to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry and report. The Committee released its inquiry report on 21 February 2013. The Committee's report on the draft Bill recommended significant policy, definitional and technical amendments which are currently being considered.

Recommendation 20

That the *Sex Discrimination Act 1984* be amended to enable the Australian Human Rights Commission to commence legal action in the Federal Magistrates Court or Federal Court for a breach of the Sex Discrimination Act.

Noted

As with Recommendation 19 above, this recommendation was also made in the SDA Report, at Recommendation 38, which was noted by the Government for consideration as part of the anti-discrimination consolidation project.

Recommendation 21

That the *Sex Discrimination Act 1984* be amended to make it mandatory for employers who are repeat offenders discriminating on the basis of pregnancy or carer's responsibility to be required to attend counselling or an approved training course.

Not supported

The Government does not support this recommendation. The *Australian Human Rights Commission Act 1986* (AHRC Act) provides that a court can make such orders against a respondent as it thinks fit, where it finds there has been unlawful discrimination. The list of orders provided at s 46PO of the AHRC Act is not exhaustive. In an appropriate case, a court may consider that orders should be made requiring an employer to undertake counseling or training.

The Government does not consider it appropriate to fetter judicial discretion by imposing mandatory requirements on what should be ordered as a result of a successful anti-discrimination complaint. The Government has provided the courts with the power to make

¹²www.ag.gov.au/Publications/Pages/GovernmentResponseToSenateStandingCommitteeonLegalandConstitutionalAffairs2008reportintotheeffectivenessoftheSexDiscriminat.aspx

any orders it sees fit and considers that the courts are in the best position to determine the most appropriate remedy in the circumstances of individual cases.

The SDA Report also made a range of recommendations relevant to the handling of complaints under Commonwealth anti-discrimination legislation, including in relation to available remedies. The Government's approach to these recommendations is reflected in the exposure draft Human Rights and Anti-Discrimination Bill 2012.

Recommendation 22

That the Minister for Employment and Workplace Relations introduce an Act to establish a specialist pay equity unit within Fair Work Australia as a central point for pay equity monitoring, development and application of pay equity audits, development of pay equity plans, and the provision of specialist assistance to Fair Work Australia in award modernisation.

and

Recommendation 23

That a Deputy President be assigned responsibility for the administration, conduct and strategic output in relation to the activities of the Pay Equity Unit.

and

Recommendation 24

That the Deputy President appoint an Advisory Board comprising relevant government agencies, union, employer and employee representatives to provide input into strategic policy development.

Supported in part

On 19 March 2013, the Government announced the establishment of the Pay Equity Unit in the Fair Work Commission. From 1 July 2013, the Unit will operate administratively under the General Manager of the Fair Work Commission assisting with data and research collection, and specialist pay equity information associated with any equal remuneration applications made under s 302 of the Fair Work Act, the four yearly modern award review and annual minimum wage decisions. The Unit will also prepare reports on equal remuneration matters. Reports will be published and may be accessed by parties to assist in respect to equal remuneration applications or award matters.

The Unit will consist of specialist staff to undertake research and prepare reports on equal remuneration matters either on its own initiative, at the request of the President, or in consultation with other Government office holders and agencies (such as the Sex Discrimination Commissioner or the Workplace Gender Equality Agency).

The Government also notes WGEA's enhanced role in supporting industry. WGEA will provide advice, resources and referrals, and one significant focus of this support will be in relation to pay equity.

Under the Workplace Gender Equality Act, non-public sector organisations with 100 or more employees are required to report annually against specified gender equality indicators. One of these indicators is equal remuneration between women and men. This reporting will help drive cultural change, and pay equity, by enabling employers to consider their performance in relation to their industry and in relation to their own progress from year to year.

Given the role of WGEA, the Government notes that the Workplace Gender Equality Act enables the establishment of an advisory committee. This advisory committee can be established by the Minister for the Status of Women and may include members representing industry or business, employee organisations, higher education institutions, or people who have a special knowledge or interest in relation to gender equality in the workplace.

Recommendation 25

That all federal public sector organisations be required to report biennially to the Pay Equity Unit within Fair Work Australia on the implementation of a diversity plan to increase pay equity.

Not supported

Although gender equality is still to be achieved, the public sector currently outperforms the private sector on gender equality measures. For example, women's workforce participation is higher in the Australian Public Service (APS), and there are more women in senior management positions in the public sector than in the private sector.

The public sector is also subject to a range of diversity measures under federal legislation.

Section 18 of the *Public Service Act 1999* requires that public sector agencies within the APS have workplace diversity programs. Under the Public Service Commissioner's Directions, APS agencies are required to evaluate and report on the effectiveness and outcomes of their diversity program annually.

The APSC collects a range of information under the authority of the Public Service Act for the annual State of the Service Report. The 2011-12 report¹³ notes that 77 per cent of agencies have a workplace diversity program and 14 per cent were developing a program.

The *Australian Public Service Statistical Bulletin 2011-2012*¹⁴, using data extracted from APS agencies' human resources systems, shows how the composition of the APS is changing over

¹³ Australian Public Service Commission, *State of the Service Report: State of the Service Series 2010-2011*, 2011 www.apsc.gov.au/about-the-apsc/parliamentary/state-of-the-service

time. It reports for example on current numbers, as well as separations, engagements and promotions, of staff by classification and sex.

Non-APS agencies covered by the *Equal Opportunity (Commonwealth Authorities) Act 1987* are also required to report annually to the responsible Minister on their diversity programs.

Recommendation 26

That all federal public sector organisations be required to report biennially to the Pay Equity Unit within Fair Work Australia on the implementation of a gender equity duty in relation to employees and in service provision.

Noted

Equality in the provision of services is promoted to all federal public sector agencies through the Women's Inter-Departmental Committee, and through whole of government advice provided by the Office for Women.

Inter-government liaison on women's issues is pursued through the COAG Select Council on Women's Issues. The second term of reference¹⁵ for the Select Council is to develop and recommend to COAG a national framework for gender equality with a focus on reporting and analysis, and at a national level, of equality of outcomes between women and men. This includes reporting by the COAG Reform Council and across the system of select councils. The Council is due to provide a final report to COAG by 30 June 2013.

Recommendation 27

That all organisations with 100 or more employees be required to report biennially to the Pay Equity Unit within Fair Work Australia on the implementation of a diversity plan to increase pay equity.

Not supported

Non-public sector organisations with 100 or more employees are required to report on an annual basis to WGEA. An annual requirement is considered effective in maintaining a focus and momentum within these organisations on improving performance over time.

On 12 March 2013, the Government tabled the legislative instrument detailing the improved reporting framework under the Workplace Gender Equality Act. This makes reporting simpler and more meaningful than under the previous system, requiring relevant employers to report against a set of gender equality indicators. The gender equality indicators are:

¹⁴ http://www.apsc.gov.au/__data/assets/pdf_file/0020/5843/report2010-11.pdf

¹⁵ Select Council's terms of reference: www.fahcsia.gov.au/our-responsibilities/women/overview/office-for-women/inter-government-liaison-australian-state-territory-and-new-zealand-governments/coag-select-council-on-women-s-issues-terms-of-reference

- gender composition of the workforce
- gender composition of governing bodies
- equal remuneration between men and women
- availability and utility of flexible working arrangements
- consultation with employees on gender equality, and
- any other matters specified in an instrument.

Under the legislative instrument, which was developed following consultation with a broad range of stakeholders, employers will also be required to provide information on measures relating to sex-based discrimination and harassment.

As part of the new reporting framework relevant employers will be required to:

- provide data on the remuneration profile of their employees including annualised full-time base salaries and total remuneration. Over time, employers will be asked for further detail, such as the components of total remuneration.
- report on the existence, and objectives, of any remuneration policies or strategies. They are also required to report on whether, and when, any gender remuneration gap analysis has been undertaken and what actions, if any, have been taken as a result of any analysis.

This will shift the focus to outcomes for women and men in the workplace, including in relation to equal remuneration between women and men.

Recommendation 28

That the Pay Equity Act include a schedule for the amendment of the *Taxation Administration Act 1953*, specifying that the Commissioner be enabled to disclose aggregate wages and salary and other relevant information acquired under the taxation law to a Pay Equity Unit officer if the Commissioner is satisfied that the request is relevant and necessary to the work of the Unit.

Noted

Currently the Australian Taxation Office (ATO) already holds wage, salary, gender and some occupation information. Under current taxation secrecy and disclosure provisions there is no limitation on the ability of the ATO to disclose aggregate information for the Commissioner (i.e. information that cannot identify any specific entity). However, DEEWR will explore with the ATO the merits of drawing on tax aggregated data.

Recommendation 29

That the proposed Pay Equity Act include a provision making it mandatory for small and medium businesses to be required to submit an audit report in response to a specific request from the Pay Equity Unit.

Not supported

While the Government recognises that in formulating this recommendation, the Committee has been conscious of the need to avoid regulatory burdens on small and medium business, it considers that the implementation of this recommendation has the potential to increase compliance costs for small to medium businesses.

Productivity growth must play a central role in building Australia's future economic prosperity and the Government has a vital role in facilitating long-term productivity growth and is investing in the key drivers of productivity. This is why the Government is implementing microeconomic reforms to boost productivity, such as reducing the compliance burden for business.

With around 2,045,335 small businesses and 81,006 medium businesses in Australia¹⁶ regulation amendments can have a disproportionate impact on small and medium businesses. Often small firms have to divert a greater proportion of their resources to meeting regulatory requirements. In addition, small businesses are less likely to have specialist staff (such as lawyers, accountants or human resource professionals) with detailed knowledge of regulation.

Implementation of this recommendation could affect these businesses to the extent that they will be required to submit to a mandatory audit if and when requested. At the very least, affected businesses would incur additional costs from preparing an audit response.

The Government does, however, recognise that many small and medium businesses require support to optimise their people management performance. The Workplace Gender Equality Act provides access for all non-public sector organisations, regardless of size, to WGEA's advisory and support services.

Recommendation 30

That the Employer of Choice for Women Awards be extended to medium and small business categories.

Noted

¹⁶ ABS Counts of Australian Businesses, (Cat. No. 8165.0) June 2007 to June 2011

The Australian Government recognises the valuable contribution that small and medium businesses make to the strengthening of the economy, and the Government is committed to supporting small business.

WGEA supports all levels of business, including small and medium businesses, to achieve gender equality by providing advice and assistance to all employers. This includes WGEA's pay equity tools, which are readily accessible on the Agency's website. WGEA will, over time, give regard to the development of resources, supports and incentive activities tailored to the particular needs of organisations with fewer than 100 employees.

Recommendation 31

That the Deputy President of Fair Work Australia responsible for the Pay Equity Unit be required to seek advice through the appointment of an advisory board comprising unions, employers and employer groups and other stakeholders to provide strategic input in relation to industry specific strategies.

Noted

The Pay Equity Unit to be established in the Fair Work Commission will consist of specialist staff to undertake research and prepare reports on equal remuneration matters either on its own initiative, at the request of the President, or in consultation with other Government office holders and agencies (such as the Sex Discrimination Commissioner or the Workplace Gender Equality Agency).

In addition, the Government has almost doubled WGEA's funding to enhance its role in supporting and advising industry. As part of the reforms introduced by the Workplace Gender Equality Act industry-level benchmarks and industry-specific strategies will be developed in consultation with stakeholders.

WGEA works collaboratively with business, industry and professional associations, academics and researchers, equal opportunity networks, unions and women's groups.

Recommendation 32

That the *Equal Opportunity for Women in the Workplace Act 1999* be repealed and the functions of the office be incorporated in the proposed Pay Equity Act.

Not supported

The reforms to WGEA introduced with the Workplace Gender Equality Act will strengthen the Act and WGEA's focus on gender equality, highlighting equal remuneration and caring responsibilities as key dimensions to achieving gender equality in the workplace.

The remit of WGEA includes, but goes beyond, pay matters to include workforce composition, composition of governing bodies, employment conditions and practices that relate to flexible working arrangements, employee consultation on gender equality and sex-based harassment and discrimination.

The new Pay Equity Unit and WGEA will work closely together to ensure that their work is complementary and does not duplicate effort.

Recommendation 33

That the Australian Government require the Procurement Coordinator to monitor the application of the Commonwealth Procurement Rules by agencies to ensure that firms that are not compliant with relevant pay equity principles are not eligible for Commonwealth contracts.

Supported in-principle

The Australian Government operates under a devolved procurement environment. Agencies are responsible for ensuring procurements are carried out in accordance with the procurement policy framework, which is underpinned by the Commonwealth Procurement Rules (CPRs).

The CPRs require all procuring officials to comply with the CPRs when performing all duties related to procurement. The *Financial Management and Accountability Regulations 1997* (FMA Regulations) also stipulate that all proposals to spend public money must be conducted in an efficient, effective, economical and ethical manner and must be not inconsistent with policies of the Commonwealth.

For all policies connected to the Commonwealth's procurement framework (including the Contract Compliance Policy), the relevant policy agency has responsibility. In this context, the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) has policy and legal responsibility for the Contract Compliance Policy, with WGEA responsible for its implementation. The Procurement Coordinator, through the Department of Finance and Deregulation, can assist FaHCSIA and WGEA to promote the Contract Compliance Policy to ensure it is complied with.

Recommendation 34

That the Procurement Coordinator investigate, as a matter of urgency, the adequacy of practical implementation of the Procurement Rules to ensure that the outcome meets relevant pay equity principles.

Supported in part

The Australian Government considers that an investigation of the adequacy of the CPRs is not warranted at this time.

As outlined in Recommendation 33, all policies connected to the Commonwealth's procurement framework are the responsibility of the policy agency (in the case of the Contract Compliance Policy, FaHCSIA) and they need to ensure sufficient resources are in place to administer, review and provide information on the policy as required. The Department of Finance and Deregulation is available to assist with any future reviews by the responsible agency(s) of the implementation of the policy.

The Procurement Coordinator, through various forums, is able to provide FaHCSIA and WGEA the opportunity to promote the requirements of the Contract Compliance Policy to help ensure the Australian Government deals only with organisations who comply with the Act's requirements.

Recommendation 35

That the Australian Government ensure that industry assistance is only provided to firms that are compliant with pay equity principles and that the outcome of the assisted program is compliant with the pay equity principles.

Supported in part

The broad policy objective of providing industry assistance is to increase industry innovation, investment and international competitiveness and to assist the structural adjustment of specific industry sectors. The Australian Government recognises that Australian workplaces need to be supported to achieve cultural change in order for the overall gender pay gap to be reduced and for women and men to have equal access to the workplace.

Currently, administrators of industry grant programs conduct checks against set eligibility requirements and program parameters to assess business suitability for industry assistance programs. These checks are often conducted using the applicants' declarations and other publicly available information. There currently is scope for funding agreements, for example, to require declarations and audited statements relating to compliance with Government policy and legislation, such as the Workplace Gender Equality Act.

Recommendation 36

That the Australian Government revise the current list of industry assistance programs to ensure that a compliance requirement with pay equity principles is applied to all appropriate funding allocations.

Supported in-principle

As outlined in the response to Recommendation 33, the Australian Government supports increasing the effectiveness of the funding allocations of industry assistance programs and, through the reforms to the Workplace Gender Equality Act and WGEA, the Government is working to maximise their effectiveness in relation to gender equality.

It is important that compliance requirements for industry assistance grant recipients complement strong industry assistance program outcomes. In many cases this would require renegotiation of existing funding agreements and create uncertainty for businesses currently receiving assistance. The Government does not therefore support revising the compliance arrangements for all current industry assistance funding allocations.

Recommendation 37

That the *Superannuation Guarantee (Administration) Act 1992* be amended to remove the exemption from the payment of the 9 per cent charge for employees who earn less than \$450 per month and that the required superannuation contributions be paid for all employees into a designated or approved superannuation fund of their choice.

Noted

The appropriateness of the current \$450 per month threshold was considered by the Australia's Future Tax System (AFTS) review. In May 2009, the AFTS review panel released a report on strategic issues in respect of the retirement income system. In its report¹⁷ the panel recommended that the \$450 per month threshold should continue to apply as the compliance costs to the employer of providing the contribution outweigh the benefits to the employee.

The Australian Government has introduced a number of changes to improve the equity and adequacy of the superannuation system since the release of the Committee's report. These include raising the superannuation guarantee rate to 12 per cent, to be phased in from 1 July 2013 to 1 July 2019, and providing a contribution to low income earners that effectively refunds the tax paid on concessional contributions (such as superannuation guarantee contributions) made from 1 July 2012, up to \$500.

¹⁷ www.taxreview.treasury.gov.au/Content/Content.aspx?doc=html/home.htm

From 1 July 2013, eligible workers aged 70 years and over will have compulsory superannuation contributions made on their behalf for the first time and older workers will be given the opportunity to make catch-up contributions in the future.

Recommendation 38

That the Australian Government broaden the scope of the Superannuation Co-contribution scheme to include all low income earners.

Noted

The AFTS review specifically considered the fairness of taxation concessions for superannuation. The final report recommended abolishing the current co-contribution and replacing it with a universal tax offset.

Since the release of the Committee's report, the Australian Government has introduced a number of changes to improve the equity and adequacy of the superannuation system as part of its response to the AFTS review: "Stronger, fairer, simpler – a tax plan for our future".¹⁸ This includes the introduction of the Low Income Superannuation Contribution (LISC) from 1 July 2012 which effectively refunds the tax paid on concessional contributions (such as superannuation guarantee contributions) up to \$500. This contribution is in addition to the existing superannuation co-contribution. This payment increases the equity of the superannuation system by providing a tax concession to low income individuals for their concessional contributions.

Before the LISC was introduced on 1 July 2012, low income individuals either did not receive a tax concession on their concessional contributions, or were paying a higher rate of tax, compared to their marginal (income) tax rates.

The LISC is estimated to cover more than five times as many individuals as the superannuation co-contribution, as low income individuals do not have to make personal superannuation contributions to receive this payment. In general, individuals who do not have to submit a tax return (for instance they earn below the tax free threshold) will be data matched for the LISC by the ATO.

It is estimated that the LISC will benefit around 3.6 million individuals when initial payments are made in the 2013-14 income year – with 2.1 million of these payments being made to women.

¹⁸ www.taxreview.treasury.gov.au/Content/Content.aspx?doc=html/home.htm

Recommendation 39

That the Australian Government establish a superannuation fund or modify Ausfund to be an available fund for the receipt of monies on behalf of these employees who earn less than \$450 with any employer to reduce the likelihood of multiple administration costs charged to workers with multiple employers.

Noted

Since the release of the Committee's report, the Australian Government has announced a series of measures, designed to reduce the superannuation fees paid by employees, especially where they have multiple accounts. These include:

- MySuper, a new, simple, cost-effective default superannuation product, and
- SuperStream, implementing new data and e-commerce standards for superannuation transactions, with the potential to save up to \$1 billion annually in administration costs.

The Government aims to increase retirement incomes by facilitating a steady reduction in the number of unnecessary and lost superannuation accounts. The Government's package of Stronger Super reforms¹⁹ will make it easier for superannuation funds and their members to locate and consolidate multiple superannuation accounts, including by allowing the wider use of tax file numbers.

These reforms will have considerable benefits:

- Members will have a streamlined process to consolidate accounts and avoid paying unnecessary fees, including insurance premiums, on multiple accounts. From 1 July 2013, superannuation funds will be required to consolidate accounts where a member has multiple accounts within a fund and consolidation is in the member's best interest.
- Superannuation funds will be able to search the ATO registers for any lost or unclaimed superannuation as well as information on member accounts (member consent required) and advise the member that they may wish to consolidate their superannuation accounts.

Recommendation 40

That the Australian Government provide a long service leave scheme providing portability of service for workers, together with an equitable application of long service leave contributions by employers in appropriate industries.

Noted

Long Service Leave (LSL) is an important entitlement that ensures employees have the opportunity to take an extended paid break from work after a significant period of service. The

¹⁹ <http://strongersuper.treasury.gov.au/content/Content.aspx?doc=home.htm>

Australian Government is committed to ensuring this entitlement is protected for all employees through the legislated safety net provided by the NES. LSL is one of the 10 NES that apply to employees and employers covered by the Fair Work Act.

Pending the development of a uniform LSL standard, pre-2010 LSL entitlements have generally been preserved by the Fair Work Act. This preservation includes portable LSL schemes.

There are a range of portable LSL schemes currently in operation, targeted at industries where an employee will often work for numerous employers in a short space of time. Sectors where these exist include building and construction, cleaning services and community services. In addition, the Australian Capital Territory has become the first Australian jurisdiction to implement a portable long service leave scheme to assist child care and community sector organisations improve workforce retention.

In June 2010, the then Minister for Employment and Workplace Relations wrote to relevant state and territory Ministers advising that in the development process for a new LSL National Employment Standard, the Commonwealth would ensure that states and territories would continue to be allowed to legislate for portable long service leave schemes.

The Government is still considering how best to develop LSL National Employment Standard for all employees in the federal system as part of its commitment to national workplace relations laws.

The Fair Work Act Review Panel recommended that the Commonwealth, state and territory governments expedite the development of a national LSL standard with a view to introducing it by 1 January 2015.

Recommendation 41

That the Office for Women be located within the Department of Prime Minister and Cabinet.

Not supported

The Government considers that the performance and effectiveness of the Office for Women is more important than its location.

Consistent with the Beijing Platform, this Government and the previous Government have supported gender mainstreaming as the best practice approach to ensuring gender is considered in the full range of decisions affecting women. This approach is outlined in the *Women's Statement 2012* released by the Prime Minister, the Hon Julia Gillard MP, and Minister for the Status of Women, the Hon Julie Collins MP, on 15 May 2012. The *Women's Statement 2012* provides advice on the Government's approach to gender mainstreaming and

the responsibility of portfolios to take women into account in their policy and program development and implementation.

All portfolios are aware that the Office for Women is available to assist portfolios to consider gender equality in reviewing their policies and programs as required.

Recommendation 42

That all relevant Cabinet submissions be accompanied by an analysis of the potential impact of the proposal on pay equity in Australia.

Supported in part

The Australian Government agrees that it is important to ensure that Cabinet submission proposals consider the broad range of relevant impacts of proposals including in relation to pay equity.

The Office for Women has a role in assessing whether Cabinet submissions have addressed issues relevant to women, and pay equity is a central consideration in this regard.

There are also already requirements for a range of impact statements, including Indigenous, regional, small business and families where issues affecting gender equality may be addressed.

In particular, the process for developing the compulsory Family Impact Statement (FIS) requires departments to critically assess the range of potential impacts on all family types of a new policy or proposal. This includes addressing the economic impacts on family wellbeing. Any effect – positive or negative, short-term or long-term – that a new policy or proposal would have on pay equity should be picked up under such an assessment, including through the process of identifying any changes (direct or flow-on) to the disposable income of families and the distribution or access to income.

Any impact on pay equity may also impinge on the other areas which must be addressed in developing the FIS, that is:

- children's health, development and general wellbeing
- work and family balance, and
- family functioning/family relationships.

For example, any direct or flow-on impacts on work and family balance that may affect (positively or adversely) a woman's ability to stay or progress in the workforce (such as the availability of family-friendly employment conditions; regulation of employment conditions; incentives for employers to create family-friendly work environments; and non-standard working hours).

Assessment of potential effects on work and family balance would also identify any effects of a new policy or program on a family's capacity to share responsibilities between mothers and fathers and among carers (for example, relative earnings of mothers and fathers; availability of family-friendly work conditions to fathers or carers; workforce incentives for second earners).

The Government has also developed the Social Inclusion Toolkit²⁰ which promotes the design and development of priorities and policies based on social inclusion principles, including, for example, reducing disadvantage, using an evidence-based approach and integrated data to inform policy. Through this, issues such as pay equity should be able to be identified.

Recommendation 43

That the Minister for the Status of Women provide an annual statement to Parliament on Australia's progress in improving women's economic and financial independence which includes an analysis of the pay equity situation in Australia.

Supported in-principle

This recommendation will be facilitated through publications that detail the Government's progress and achievements on gender equality and in relation to measures that address gender equality. For example, the Women's Statement provides information about how Australian Government measures and other initiatives address gender equality.

The Government will give consideration to the form and content of any gender focussed analysis of Government policy and practice including whether a specific pay equity component should be included.

Recommendation 44

That the Department of Prime Minister and Cabinet amend s.12(3)(b) 'Management of Human Resources' in the 'Requirements for Annual Reports for Departments, Executive Agencies and FMA ACT bodies' guidelines, the word 'gender' to read 'gender including pay equity issues' for the preparation of annual reports to Parliament.

Noted

The Government notes that each department is already required to include an assessment of the department's effectiveness in managing and developing its staff to achieve its objectives, which may include the main features of enterprise agreements and that, where appropriate, pay equity issues could be reported in this context.

²⁰ www.socialinclusion.gov.au/sites/www.socialinclusion.gov.au/files/publications/SIToolKit.pdf

It is also noted that the APSC's annual State of the Service Report includes consolidated reporting across the APS detailing the activities and human resource management practices of APS agencies, including on a range of diversity and staff profile issues.

Recommendation 45

That the Australian Public Service Commission (APSC) be required to report on gender pay gap in the Australian Public Service in the annual State of the Service reports.

Supported

In 2011, the APSC became responsible for producing the annual Australian Public Service Remuneration Report (APS Remuneration Report).²¹ The APSC in preparing this report uses a range of APS employee demographic data including gender and classification profile which allows reporting of gender pay equity issues. The APS Remuneration Report is the appropriate avenue for reporting gender pay equity as this data reports in more detail than the broader scope of the State of the Service Report.

Recommendation 46

That the Australian Government incorporate in the current review of the Australian Public Service (APS) the adequacy of the current collective agreement wage setting processes to meet pay equity principles required under Australia's international obligations.

and

Recommendation 47

That all government agencies and authorities be required to implement a gender equality scheme and to report on policies and practices in the delivery of services.

Noted

The Australian Government notes that the *Ahead of the Game: Blueprint for Reform of Australian Government Administration* acknowledges that, since bargaining of APS wages and conditions was devolved in 1997, wage dispersion has increased significantly both within and between departments and agencies, although there is little evidence of any wage differences between men and women.²² Increased wage dispersion has been accompanied by changes to the APS classification profile, reflecting the changing nature of work and the changing labour market. To address this issue, the Reform Blueprint provides that the Government may ask the APSC to recommend changes to the Australian Government Employment Bargaining

²¹ www.apsc.gov.au/publications-and-media/current-publications/remuneration-surveys/2011-remuneration-survey

²² www.apsc.gov.au/publications-and-media/current-publications/remuneration-surveys/2011-remuneration-survey

Framework to ensure it supports a united APS and does not operate as an impediment to mobility.

The APSC released a revised Australian Government Employment Bargaining Framework and Supporting Guidance on 31 January 2011. The new framework promotes greater consistency in terms and conditions of APS employment through recommended salary increases and recommended approaches to certain core terms of employment.

Over the longer term, the APSC has also been commissioned to develop an APS wages policy that addresses the current dispersion of APS salary rates. This policy is to be developed in conjunction with a broader review of APS classifications and work level standards. In undertaking this work the APSC would consult with APS agencies, employees and unions with processes established to give genuine consideration to proposals.

Consistent with the Beijing platform, this Government and the previous Government have supported gender mainstreaming as the best practice approach to ensuring gender is considered in the full range of decisions affecting women. This approach is outlined in the Women's Statement 2012, as outlined at Recommendation 41.

Recommendation 48

That the Pay Equity Unit consider and respond to the findings and recommendations of the Women in Social and Economic Research 2006 report, *Women's pay and conditions in an era of changing workplace regulations: Towards a "Women's Employment Status Key Indicators" (WESKI) database*.

Supported in part

A set of national gender indicators has been developed by the Australian Bureau of Statistics (ABS) in partnership with the Office for Women and the former Commonwealth, states, territories and New Zealand Ministers' Conference on the Status of Women (MINCO). The first issue of ABS catalogue no. 4125.0 *Gender Indicators, Australia, July 2011* was released on 26 August 2011 and will continue to be released at six-monthly intervals, the latest having been released in January 2013.²³

This initiative was progressed following MINCO's agreement to support the WESKI recommendation to adopt commonly applied working definitions in the pay equity debate.

The new Pay Equity Unit, commencing in the Fair Work Commission in July 2013, may draw upon this information to inform its role in assisting the Commission with data and research

²³ ABS Gender indicators, (4125.0, January 2013
www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4125.0Main+Features1Jul%202012?OpenDocument

collection and specialist pay equity information associated with any equal remuneration applications made under s 302 of the *Fair Work Act 2009*, and the four yearly modern award review and annual minimum wage decisions.

Recommendation 49

That the Australian Bureau of Statistics, where possible, review all existing surveys and data, relevant to pay equity, for evidence of any trends over time in pay inequity and issues affecting female participation in the workforce.

Noted

The Government has interpreted the recommendation to relate to existing ABS collections and their analysis, rather than for the ABS to undertake new analysis of all its collections that may be relevant, although the ABS does use other data sets in its analysis.

Many existing ABS releases (including publications, time series spreadsheets, analytical articles) already contain information and analysis of trends over time in relevant data series for analysis of gender differences in labour force participation and earnings. In particular, the ABS has published both its own authored articles, as well as articles contributed by relevant researchers on gender differences, in ABS publications such as *Australian Social Trends* (ABS cat. no. 4102.0). The ABS will continue to put a priority on the dissemination and analysis of gender related earnings issues from relevant data sources.

In addition, the ABS released the first *Gender Indicators, Australia, July 2011* (ABS cat. no. 4125.0), which presents key indicators across seven domains representing major areas of social concern for gender equality: Economic security; Education; Health; Work and family balance; Safety and justice; and Democracy, governance and citizenship. *Gender Indicators, Australia* is updated on a six-monthly basis, with the last released in January 2013.

It should be noted that while significant analysis can and has been undertaken on gender pay issues using data from ABS collections, both the sample sizes and methodology in several of the relevant ABS surveys limit the extent to which more detailed analysis of gender differences can be performed.

The 2016 Census of Population and Housing may provide a data source for more detailed analysis of gender pay issues. The income question is being reviewed, with consideration being given to collecting a continuous income variable rather than the current ranged income variable, and collecting sources of income (e.g. income from wages and salaries as distinct from other sources such as government payments). Any changes to the income question will be subject to trial and evaluation.

Recommendation 50

That the Australian Bureau of Statistics amend data surveys as follows:

- Survey of Average Weekly Earnings (cat no. 6302.0) seek further detail of different occupation or occupational categories; disaggregate data to managerial and non-managerial employee level.

Not supported

The methodology used in the Survey of Average Weekly Earnings (AWE) is not appropriate for the collection of employee characteristics, such as occupation or managerial status. The AWE survey collects aggregate level information from businesses and is designed as a frequent (for example, quarterly) headline indicator of earnings levels, rather than as a vehicle for detailed compositional analysis of earnings.

As businesses report at very broad levels from their payroll records, the regular reporting can be undertaken quickly, regularly and without unduly burdening businesses. To refine the data for more detailed analysis of equity differentials to take into account occupation and managerial status would require much more detailed reporting by businesses based on records held at the job level.

The increased load on businesses, and the necessary delays in reporting, should they be required to assemble these additional data for the AWE collection, would significantly delay the availability of results and compromise the usefulness of the AWE collection. It is also highly unlikely that changes in gender differentials move quickly enough for quarterly reporting by business to be warranted.

While the extra detail on occupation and managerial status is not attempted in AWE, it is collected in a purpose built collection. The two-yearly survey of Employee Earnings and Hours (EEH) (ABS cat. no. 6306.0) collects information on the composition and distribution of the earnings and hours of employees, and the methods used to set their pay.

Unlike the AWE survey, which collects the total wages paid by businesses, the EEH survey collects data about individual employee jobs and, therefore, provides information on a variety of job-holder characteristics, such as occupation and managerial status. The value of further analysis, however, may be constrained by the lack of other individual information pertinent to gender equity analysis (for example, age, experience, educational attainment).

Considerable additional resources would be required to increase the frequency of the EEH survey.

Recommendation 51

That the Australian Bureau of Statistics, where possible, introduce gender disaggregation into all surveys that relate to pay equity issues.

Supported in-principle

Gender disaggregated statistics are currently available from all ABS surveys that are relevant to pay equity issues, including:

- Survey of Average Weekly Earnings (Cat. No. 6302.0)
- Survey of Employee Earnings and Hours (Cat. No. 6306.0)
- Survey of Employee Earnings, Benefits and Trade Union Membership (Cat. No. 6310.0)
- Survey of Income and Housing (Cat. No. 6523.0)
- Household Income and Expenditure Survey (Cat. No. 6530.0), and
- Survey of Employment Arrangements, Retirement and Superannuation (Cat. No. 6361.0).

Gender disaggregation is also possible from the Census, however the income measures would require some refinement in order to facilitate more detailed gender analysis (see response to Recommendation 49).

Recommendation 52

That a National Pay Equity Workplace Survey be developed and conducted biennially by the Department of Education, Employment and Workplace Relations in partnership with the Pay Equity Unit.

The survey should cover, but not be limited to:

- average hourly and weekly wage rates for employees in non-managerial and non-professional occupations;
- provisions for the adjustment of wages rates during the life of the agreement;
- compensatory wage payments for the absorption of penalty rates and/or other employment conditions;
- the inclusion of non wage benefits such as bonus payments;
- the incidence of trading off provisions, such as annual leave for wage payments;
- the incidence of averaging ordinary working hours across several weeks or months and common averaging periods used for this purpose;
- ordinary working hours, including the incidence of ordinary working hours of more than forty per week;
- the availability of flexible start and finish times and breaks;
- developments or changes in the standards of family-friendly provisions such as access to paid family or parental leave;
- the availability of other forms of leave such as annual leave, unpaid leave and long service leave; and
- access to family friendly employment benefits such as employer provided or subsidised childcare.

Supported in-principle

The Government supports this recommendation in-principle but notes the large financial costs and methodological issues related to conducting large-scale workplace surveys on industrial relations matters.

It is important to note that a large proportion of the data recommended for collection through the proposed National Pay Equity Workplace Survey is already available through existing ABS surveys.

For instance, the ABS Employee Earnings and Hours survey (Cat. No. 6306.0) contains data on average hourly and weekly earnings for employees in non-managerial and non-professional occupations, as well as data on different methods of pay setting. Similarly, the ABS Employee Earnings, Benefits and Trade Union Membership survey (Cat. No. 6310.0) contains data on

earnings and leave entitlements (including annual leave, sick leave, maternity/paternity leave and long service leave).

The benefits of ABS surveys include: they are likely to be run more regularly than a new non-ABS survey; they may have a larger sample size; and they are often drawn from employer records rather than employee self reports.

In addition to existing ABS publications, information about wages and conditions contained in collective agreements made under the national workplace relations system is contained in the Department of Education, Employment and Workplace Relations (DEEWR) Workplace Agreements Database. The Database also collects some information about wage and conditions items referenced in the recommendation including the adjustment of wages, payments for the absorption of penalty rates or other conditions, non-wage benefits, trading off provisions, averaging ordinary hours over more than four weeks, ordinary working hours and incidence of ordinary working hours in excess of forty per week, flexible start and finish times and breaks, leave including unpaid and long service, and access to family friendly provisions or benefits such as parental leave or subsidised childcare. DEEWR regularly reviews the type and range of data collected for the database and will continue to do so in the future.

The new reporting framework in the Workplace Gender Equality Act delivers the capacity for better and standardised data to be analysed at aggregate and disaggregated levels. As outlined in the legislative instrument tabled in Parliament on 12 March 2013, relevant employers are required to provide key data on women and men in relation to gender equality in the workplace, including a focus on equal remuneration. The remit of WGEA also goes beyond pay matters to include workforce composition, composition of governing bodies, employment conditions and practices that relate to flexible working arrangements, employee consultation on gender equality and sex-based harassment and discrimination.

Under the new framework, reporting on remuneration and on employment terms, conditions and practices will include detailed data relevant to a range of areas outlined in the recommendation.

Relevant employers will be required to provide data on the remuneration profile of their employees including annualised full-time base salaries and total remuneration. Over time, employers will be asked for further detail, such as the components of total remuneration.

Relevant employers will be required to report on the existence, and objectives, of any remuneration policies or strategies. They will also be required to report on whether, and when, any gender remuneration gap analysis has been undertaken and what actions, if any, have been taken as a result of any analysis.

Reporting on working arrangements will require information on the availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities.

For example, relevant employers will be required to report on the availability of, access to and use of employer funded paid parental leave, in addition to any government funded paid parental leave.

Data will also be required on the availability of employment terms, conditions and practices which could include flexible hours of work, compressed working weeks, time-in-lieu, telecommuting, part-time work, job sharing, carer's leave, purchased leave, unpaid leave, or other relevant employment terms, conditions and practices.

Each relevant employer will provide information about whether it has strategies or measures in place regarding flexible working arrangements, supports for employees with family and caring responsibilities and supports for employees who have or are experiencing family or domestic violence. Information about the existence of any non-leave based measures (i.e. employee subsidised child care, breastfeeding facilities, referral services) will also be required.

As noted at Recommendation 15, the General Manager of the Fair Work Commission reports on the safety net that underlies enterprise bargaining, including modern awards and the NES, taking into consideration the effect on the employment (including wages and conditions of employment) of women, part-time employees, persons from a non-English speaking background, mature age persons and young persons.

Further, DEEWR is a partner organisation to an Australian Research Council Linkage Project on Work and Flexibility being conducted by the Centre for Work + Life at the University of South Australia.

This is a four year project on work-related flexibility and work-life balance outcomes which is examining how improved flexibility can assist the reconciliation of work and caring responsibilities, higher levels of employment participation and increasing skill development and utilisation across the Australian workforce. It utilises both quantitative and qualitative means to explore these issues and, importantly, analyse the results in relation to a broad range of factors including gender, socio-economic status, age and many more.

The new Pay Equity Unit, commencing 1 July 2013 within the Fair Work Commission, will have access to this information and will publish reports that it develops.

Recommendation 53

That the Department of Families, Housing, Community Services and Indigenous Affairs consult with:

- the Melbourne Institute of Applied Economic and Social Research at the University of Melbourne;
- the Australian Council for Educational Research;
- the Australian Institute of Family Studies, and
- the Pay Equity Unit,

in relation to possible improvements to the Household Income and Labour Dynamics Australia survey to encompass pay equity considerations.

Supported in-principle

The inquiry report recommended that consultation should be undertaken regarding the inclusion of questions in the Household Income and Labour Dynamics Australia (HILDA) survey concerning respondents' employment contract or agreement.

Release 8 of the HILDA data, available from 2 February 2010, and subsequent releases includes data from new questions that provide information on wages and wage-setting arrangements. The Committee's report noted the significance of wage-setting arrangements to pay equity, in particular it was found that the gender pay gap was larger for employees under individual arrangements, including Australian Workplace Agreements.

The HILDA survey data can now link wage-setting arrangements and wage levels to other demographic information and provide for ongoing and new research into the effects of wage-setting arrangements on pay equity. This new HILDA data directly addresses the concern raised in the inquiry report that agreement making needs to be monitored in this context.

Recommendation 54

That a working group consisting of Commonwealth departments and agencies, as well as relevant stakeholders be established within the Pay Equity Unit to progress greater comparability of data collections.

Supported in part

As outlined in response to Recommendation 48, a set of Australian Gender Indicators has been developed by the ABS, in partnership with the Office for Women and the former MINCO. These Indicators respond to gaps in the availability of consistent and publicly accessible sex-disaggregated data relating to a number of key issues. They will aid evaluation of the impact of policies and programs on women and benchmark women's progress.

A Gender Statistics Advisory Group was established in 2010 and is made up of experts in gender policy, research and analysis. It provides expert advice to the ABS on issues relating to proposed new gender indicators, international developments and developments more generally in this field of statistics and it contributes to the review and development of national statistical standards.

The first issue of ABS catalogue no. 4125.0 *Gender Indicators, Australia, July 2011* was released on 26 August 2011 and continues to be released every six months.

The new Pay Equity Unit, commencing in the Fair Work Commission in July 2013, may draw upon this information to inform its role in assisting the Commission with data and research collection and specialist pay equity information associated with any equal remuneration applications made under s 302 of the *Fair Work Act 2009*, and the four yearly modern award review and annual minimum wage decisions.

Recommendation 55

That the Government as a matter of priority collect relevant information of workforce participation of Indigenous women to provide a basis for pay equity analysis and inform future policy direction.

Noted

The Government currently collects data on female Indigenous employment participation and income and reports the data in three separate ABS publications (listed below) and as part of the National Indigenous Reform Agreement. Analysis of the data collected through these reports is challenging due to the infrequency of data collection, differences in methodology between surveys and a lack of a comparative data source for non-Indigenous people.

Data source	Type/frequency of data relevant to female Indigenous workforce participation collected
ABS National Aboriginal and Torres Strait Islander Social Survey (Cat No. 4714.0) (NATSISS)	Every six years, data is collected on participation rates, educational qualifications and the broad income categories of Indigenous males and females. Last conducted in 2008 and next scheduled for 2014.
ABS National Aboriginal and Torres Strait Islander Health Survey (Cat No. 4715.0)	Every six years data is reported on the health of Indigenous males and females, including a comparison by employment status (alternating cycles with above mentioned NATSISS publication so that one or the other is produced every three years).

	Last conducted in 2004-05. The next report is scheduled for release in September 2013 ²⁴ .
ABS Census of Population and Housing	Every five years, data is collected on Indigenous labour force participation and personal and household income through the Census. Customised data provides a comparison between Indigenous and non-Indigenous Australian of labour force status by gender, age, parental status and highest educational attainment. Data also collected on employment by industry and occupation. Last conducted in August 2011.

Recommendation 56

That the Australian Government as a matter of priority collect relevant information of workforce participation of women with a disability and provide a basis for pay equity analysis and inform future policy direction.

Supported in part

The Australian Government is already working with its state and territory counterparts to improve data collection and analysis to inform policy, investment decisions and practices that will deliver enhanced workforce participation for women with a disability and remove discriminatory barriers that lead to wage inequality. The Government also released a discussion paper, *Improving Employment Participation of People with Disability in Australia*, on 3 December 2012 calling for reform proposals to boost employment opportunities and remove barriers to participation for people with a disability, and improve productivity. The Government has consulted with a range of key stakeholders on this issue and is currently giving consideration to the valuable feedback that has been provided.

The Government is also working to improve the workforce participation of people with a disability, including women, and the collection of information on this through a range of policies and initiatives.

United Nations Convention on the Rights of Persons with Disabilities

In ratifying the United Nations Convention on the Rights of Persons with Disabilities (July 2008), Australia has undertaken to promote, protect and ensure the full and equal rights of all people with a disability. Article 31 gives effect to Australia's obligation to collect appropriate information, including statistical and research data, to enable it to develop and implement policies needed to give full effect to the Convention.

²⁴ ABS media release
www.abs.gov.au/ausstats%5Cabs@.nsf/mediareleasesbyCatalogue/72300CDC656B46DECA257AAE001598DF?Opendocument

The National Disability Strategy 2010-2020

The Strategy, agreed by all levels of government, outlines a 10-year national policy framework to improve the lives of people with a disability, promote participation, and create a more inclusive society. It will guide public policy across governments and aims to bring about change in all mainstream services and programs, as well as community infrastructure.

One of the central outcomes of the Strategy is to ensure that people with disability, their families and carers have economic security, enabling them to plan for the future and exercise choice and control over their lives. The Strategy commits to a range of areas for future action designed to achieve this outcome. These action areas focus on reducing barriers and disincentives to the employment of people with disability and encouraging innovative approaches to the employment of people with disability both in the private and public sector. Agreed draft indicators include collection of information on the proportion of people with disability participating in the labour force and the proportion of people with disability in both private and public sector employment. Data needs to capture the diversity of people with disability and will be disaggregated by factors such as sex, age and Indigenous and cultural background where possible.

National Disability Agreement

The National Disability Agreement provides the framework for the provision of government support for people with disability. The National Disability Agreement's Performance Framework includes a performance indicator that measures the 'labour force participation rate for people with a disability aged 15-64 years'. This indicator is reported by gender. In addition, a project is underway by the Australian Institute of Health and Welfare to produce a standard disability identifier for use in administrative data collections to identify people with disability accessing mainstream services.

Australian Disability Enterprises

Under the National Disability Agreement, the Government is responsible for the provision of supported employment which is delivered through Australian Disability Enterprises (ADEs) for people with a disability who are unlikely to obtain or maintain competitive employment in the open labour market.

At the end of June 2012, there were 18,696 people accessing supported employment across Australia. Supported employees are predominantly male, with 64 per cent (12,024) male and 36 per cent (6,672) female. However, approximately 70 per cent of supported workers in ADEs have an intellectual disability. Males with intellectual disability are reported to represent more than 70 per cent of all those with intellectual disability in the general population.

Disability Support Pension

The Disability Support Pension (DSP) is the main income support payment for people with a disability of working age. Women with a disability comprised 46.3 per cent of the 827,460 DSP recipients in June 2012.

Over recent budgets, the Government has introduced a series of reforms that have fundamentally overhauled key aspects of the DSP. The focus of these reforms has been on encouraging greater workforce participation amongst DSP claimants and recipients. This is being achieved by:

- focussing on a person's abilities, rather than what they cannot do, when assessing workforce capacity
- providing people with disability with practical assistance in preparing for, finding and maintaining suitable employment. Programs and initiatives such as the Disability Employment Service, and Program of Support and Participation Interviews provide practical support to build workforce capacity, and
- more generous rules allow all DSP recipients to work more hours and keep their payment.

As part of its role to develop policy and monitor performance of the DSP and related Budget measures, the Government analyses, examines and reports on a number of demographic characteristics including gender. The Government will provide information on the workforce participation of DSP recipients from 2010-11 and this will build on the broader evidence base on the workforce participation of women with a disability to inform future policy directions.

Australian Bureau of Statistics Survey of Disability, Ageing and Carers and other information sources

The Survey of Disability, Ageing and Carers (SDAC), conducted by the ABS is the largest and most comprehensive disability data collection in Australia. The SDAC results are already widely used by the Australian and state and territory governments to inform disability and carers research, performance reporting and future policy directions. The Australian Government is using the SDAC results to comprehensively analyse the characteristics of people with disability and carers, including labour force profile disaggregated by gender, to better understand all matters relating to their employment and highlight any gender inequities.

Disability modules, with labour force participation and income measures, are also included in several ABS surveys. In particular, the 2009-10 Household Income and Expenditure Survey provides earnings data (separate from other sources of income). Results were released in *Household Income and Income Distribution, Australia* (ABS cat. no. 6523.0) on 30 August 2011. In addition, a current Australian Institute of Health and Welfare project will produce a standard disability identifier for use in administrative data collections to identify people with disability accessing mainstream services.

Recommendation 57

That the Minister for Immigration and Citizenship review the adequacy of English language tuition and the need to reinstate these programs.

Noted

In noting this recommendation, the Government would highlight that English tuition has been provided continuously since 1948 through the *Adult Migrant English Program (AMEP)*, which has grown in size, funding and scope over this period. The Government recognises the critical role that English language tuition plays in the successful settlement of new migrants and humanitarian entrants to Australia.

The AMEP has been subject to regular review in order to improve outcomes for clients. The flexible modes of delivery and provision of free childcare services supports the participation of women in the program who represented 66 per cent of eligible migrants undertaking the AMEP in 2010-11.

A new AMEP business model was implemented on 1 July 2011. This model includes the provision of an employment/training course designed to assist clients to learn English while gaining familiarity with Australian workplace language, culture and practices through a combination of workplace visits, simulated work environments and work experience placements.

The Government is a project partner in the "Improving Social Cohesion – Supporting Parents and Developing Children Project", which was officially launched on 16 February 2011. This project was developed by the Scanlon Foundation and is supported by the Commonwealth, state, territory and local governments. The project aims to develop strategies to assist women from culturally and linguistically diverse backgrounds with pre-school aged children to increase their social, cultural and economic participation in the local community. It is anticipated that the project will be completed by June 2014.

New migrants and humanitarian entrants can choose to move onto other courses funded by the Government including the employment focused Language, Literacy and Numeracy Program administered by the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (DIICCSRTE).

Other programs, such as the Department of Immigration and Citizenship's (DIAC) Settlement Grants Program (SGP) also complement the AMEP and encourage workplace participation. While direct English language tuition or conversation classes are not funded under the SGP as this duplicates the scope of the AMEP, other projects funded by the SGP play a dual role in improving English proficiency and employment outcomes. This includes the funding of services

targeting women which assist with community development or setting up small business enterprises. Such services have achieved some successful employment/business outcomes for women in recent years.

The Government considers that the combination of the enhanced AMEP, together with other Government funded services, plays a vital role in providing adequate English language tuition to women and assists in educating them as to their employment rights and entitlements and in addressing barriers to their employment.

Recommendation 58

That the Minister for Immigration and Citizenship investigate options for the improvement of current processes for the accreditation of overseas migrants.

Supported in part

Recognition of overseas qualifications and skills does not fall within the Immigration and Citizenship portfolio. However, as a general principle, the Government supports improvements to the recognition of overseas qualifications.

Currently a number of different agencies within the Australian and state and territory governments and independent expert bodies assess the qualifications of migrants.

Generally people who enter Australia on the basis of their skills must either have a skills assessment by a specified assessing authority or be sponsored into a skilled job by an Australian employer. People who enter on another basis, such as family members, are not subject to skills assessment. Accreditation of qualifications in Australia after arrival is handled by other agencies.

In accordance with the *Migration Regulations 1994*, the Minister for Immigration specifies an assessing authority for the purposes of the Government's Skilled Migration Program, following approval of the authority by the Education Minister or the Employment Minister. The DIICCSRTE supports this process through the approval of professional assessing authorities prior to their specification by the Minister for Immigration. Assessing authorities set their own requirements and standards for entry to their respective professions for migration purposes.

Trades Recognition Australia (TRA), located within DIICCSRTE, undertakes pre-migration skills assessments of some prospective migrants' qualifications as one of the assessing authorities specified under the *Migration Regulations 1994*.

Following migration, responsibility for the recognition of overseas qualifications depends upon the purpose for which recognition is sought. Educational institutions assess overseas

qualifications as part of their admissions process, with states and territories administering a range of functions to assist migrants to achieve recognition of their overseas qualifications through Overseas Qualifications Units. These Units offer programs that support entry into the workforce. Additionally, once migrants have arrived in Australia many peak industry bodies, including assessing authorities, offer a suite of employment-based programs to help migrants gain entry to their respective occupations.

All states and territories, except New South Wales, have robust programs for assessing overseas qualifications. The state and territory government organisations do this free of charge for people who live in their jurisdiction. For assessment of higher education qualifications they use DIICCSRTE's recognition product, Country Education Profiles.

DIICCSRTE (through Australian Education International, National Office of Overseas Skills Recognition) supports recognition processes by assessing the educational level of overseas qualifications against the Australian Qualifications Framework.

Through the Assessment Subsidy for Overseas Trained Professionals program (ASDOT), DIICCSRTE also supports the integration of unemployed overseas-trained professionals into the labour market. ASDOT is a financial grant program which provides financial assistance to cover the cost of eligible assessments and examinations for financially disadvantaged overseas-trained professionals who are Australian citizens or permanent residents to enable them to sit those assessments and/or examinations, which must be successfully completed as part of the requirements for an overseas-trained professional to work in Australia.

For trades, TRA is the relevant assessing authority for approximately 150 trades and associated professional occupations. TRA's pre-migration skills assessment processes are benchmarked against relevant qualifications from the Australian Qualification Framework. In some cases applicants are issued with an Australian qualification through TRA's outsourced arrangements with Australian Registered Training Organisations. The skills assessment forms part of an applicant's submission to DIAC for migration purposes. Applicants are informed that they may need to undergo further training upon arrival due to licensing requirements in states and territories.

TRA also provides an assessing service for Australian residents in 49 electrical and metal trades under the *Tradesperson's Rights Regulation Act 1946*. Applicants applying for recognition in this context will have their skills, training and employment experience compared with the requirements of the Act.

Recommendation 59

That the Minister for Employment and Workplace Relations seek cooperation from State and Territory Governments to develop opportunities for the provision of work experience in government departments or instrumentalities for migrant women.

Noted

The Australian Government believes that programs which facilitates work experience, such as Job Services Australia (JSA), whether in Government entities or in the private sector should be available to all job seekers including migrant women.

The Government is aware that many migrants, including migrant women and refugees may face barriers to employment. The Government is trialling state-specific forums as a means of building relationships between, and sharing better practice among, JSA providers and complementary services to achieve wrap around services for disadvantaged job seeker groups, including job seekers who are refugees and from culturally and linguistically diverse backgrounds.

The forums offer the opportunity for participants to discuss better practice examples of how collaboration has worked for their organisation and how challenges associated with achieving greater collaboration can be overcome in the local area.

The Government is conducting a series of roundtable discussions with key representatives from migrant communities, employment services providers and other service providers. The purpose of these discussions is to allow providers a better appreciation of the issues migrants face in looking for work, accessing employment and complementary services, finding jobs and retaining work. They also allow people to share success stories and explore what can be done to improve the delivery of employment services.

As part of the Building Australia's Future Workforce Package in the 2011-12 Budget, \$4.7 million was committed for 20 JSA Demonstration Pilots. The program commenced in July 2011 and will cease on 30 June 2013.

The primary objective of the JSA Demonstration Pilots Program is to demonstrate how enhancements to the current service delivery arrangements can be used to achieve improved employment and education outcomes for highly disadvantaged job seekers to inform the design and development of contract and service arrangement for JSA from 2015.

A number of pilots are targeting specific job seeker cohorts. The MAX Employment Pilot in Fairfield, New South Wales is providing training, work experience and community engagement specifically targeted at culturally and linguistically diverse participants.

In recognition of the challenges facing the most disadvantaged job seekers, including migrant women, in July 2009 the Government provided \$41 million over three years for the Innovation Fund which provided innovative solutions to overcome barriers to employment. The fund was a competitive grants program designed to address job seekers' needs through the provision of projects, many of which included a work experience component. All projects funded through the Innovation Fund were required to be completed by 30 June 2012, when the program ceased. The projects funded are listed on the DEEWR website.

Recommendation 60

That the Australian Government ensures that culturally and linguistically diverse women receive the appropriate information about all employment related initiatives such as paid maternity leave.

Supported

The Australian Government recognises the importance of employees and employers, including those from culturally and linguistically diverse (CALD) backgrounds, understanding their workplace rights and obligations, and knowing where they can seek advice and support. The Fair Work Commission and the Fair Work Ombudsman provide materials in languages other than English in accordance with Government policies and practices to ensure accessibility. For example:

- the Fair Work Ombudsman website contains information in 27 community languages
- the language assistance section of the Fair Work Ombudsman website contains information, including downloadable fact sheets in 27 languages on the role of the Fair Work Commission and the Fair Work Ombudsman and where to go to seek further assistance if required
- an interpreting service is available to the community through Translating and Interpreting Service (TIS) National on 13 14 50, 24 hours a day, 7 days a week for the cost of a local call. Information about accessing this service is available in 27 community languages on the Fair Work Ombudsman website
- the Fair Work Information Statement has been translated in full into 27 community languages and is available on the Fair Work Ombudsman's website
- YouTube videos in 14 languages that provide an overview of workplace rights for employees, with related brochures containing translated information available from the Fair Work Ombudsman website
- fact sheets on working in Australia for international students available in six languages on the Fair Work Ombudsman website

- the Fair Work Ombudsman monitors community responses in relation to language assistance and, where demand has been identified, may consider the expansion of its current language assistance.

The Fair Work Ombudsman has also established relationships with not-for-profit community agencies to provide tailored information and education materials specific to the needs of vulnerable groups of employees. This includes Asian Women at Work in New South Wales and Working Women's Centres in the Northern Territory, Queensland and South Australia.

The Government's communication material for the first national Paid Parental Leave scheme was developed with consideration to CALD audiences including parents and employers. In-language advertising, including television, press and radio across 17 different languages and tailored public relations activities, were also undertaken for CALD audiences.

Information products were translated into 15 languages for parents and eight languages for employers. A contracted CALD consultant was an integral part of the campaign development including providing advice on advertising, translations and the campaign materials.

In addition, the Government, through TIS National, provides free interpreting services to non-English speaking Australian citizens and permanent residents communicating with approved groups and individuals, including trade unions, to respond to members' enquiries or requests. Information on the service is available on the DIAC website.

Also relevant to this issue is DIAC's coordination of the Government's biennial Access and Equity report. The report reinforces that Government services should be responsive to the needs of Australians from CALD backgrounds and deliver equitable outcomes.

In November 2011, an independent panel undertook an inquiry into the responsiveness of Government services to clients disadvantaged by cultural and linguistic barriers. The inquiry noted it is vital that the Government reaffirms its commitment to a strengthened access and equity strategy as the primary vehicle for improving responsiveness of government services for all Australians. The panel delivered its final report and 20 recommendations to the Government in June 2012. On 21 March 2013, the Government announced its acceptance of the full recommendations through the *Multicultural Access and Equity Policy*.

The recommendations aim to reinvigorate Access and Equity through clarity of policy, strengthened implementation arrangements, clear performance indicators for agencies and strengthened governance and accountability, including through independent audits of performance.

As part of the recommendations, the revised *Multicultural Language Services Guidelines for Australian Government Agencies* aims to provide guidance to officers in the Australian Public Service on policies and procedures relating to language service initiatives, such as the use of domestic interpreting and translating services.

Recommendation 61

That the Australian Government review existing policies to encourage and assist employers in the provision of child care facilities.

Noted

The Australian Government recognises the importance of quality child care that is affordable and accessible for families. Over four years until 2015-16, the Government is investing over \$23.2 billion to improve the quality, affordability and accessibility of early childhood education and child care.

The significant majority of the Government's child care assistance is delivered direct to Australian families through Child Care Benefit and the Child Care Rebate. In certain circumstances families can salary sacrifice the cost of employer sponsored child care and an exemption from Fringe Benefits Tax can apply. Families are advised to seek independent financial advice before entering into any salary sacrificing arrangement as they cannot receive Child Care Benefit and the Child Care Rebate if they are no longer responsible for paying their child care costs.

Providing assistance direct to families through Child Care Benefit and the Child Care Rebate has a number of benefits:

- most families are financially better off accessing Child Care Benefit and the Child Care Rebate rather than salary sacrificing their child care costs
- families are able to choose the care that best suits their needs
- it allows the children of non-working families to benefit from attending quality child care while also supporting the workforce participation of working families.

Any future changes to the Fringe Benefits Tax exemption or other forms of employer sponsored child care would need to be considered in the broader context of Australia's tax system.

The Government continues to explore options to further improve child care for Australian families. State and local governments are responsible for the availability of child care, including regulating the provision of child care in commercial developments. The Australian Government proposed to work with state, territory and local governments to improve the availability of child

care, including in workplaces, at the Standing Council for School Education and Early Childhood in December 2012. State Ministers did not agree to this proposal.

Recommendation 62

That the Australian Government assign responsibility of Outside of School Hours Care to a specific portfolio to provide a focus for policy development and consideration and cooperation with the States and Territories.

Noted

The Australian Government recognises the importance of Outside School Hours Care for school-aged children and for working parents.

Out of School Hours Care does have a specific portfolio as a type of child care. Responsibility for Outside School Hours Care lies with the Office of Early Childhood Education and Child Care (OECECC), within DEEWR, which is well placed to draw on expertise from other relevant agencies, such as the Department of Health and Ageing, and FaHCSIA and relevant state and territory agencies. Therefore, the Government does not consider it necessary to alter arrangements for the administration of Outside School Hours Care.

OECECC also has responsibility for the broader early childhood education and care sector, including the introduction of the Government's National Quality Framework which has been agreed by all states and territories and commenced operation on 1 January 2012. The National Quality Framework for Early Childhood Education and Care includes Out of School Hours Care.

The National Quality Framework requires services providing education and care to school age children (including Outside School Hours Care, Family Day Care or Long Day Care) to implement the approved learning framework My Time, Our Place: The Framework for School Age Care in Australia. This Framework guides educators in the delivery of quality programs for school age children that promote their learning and wellbeing. The focus of the Framework is on the development of meaningful play and leisure programs for school age children.

The Australian Government proposed to work with state, territory and local governments to improve the availability of child care, including Out of School Hours Care, at the Standing Council for School Education and Early Childhood in December 2012. State Ministers did not agree to this proposal.

Recommendation 63

That the Minister for School Education, Early Childhood and Youth raise with the Standing Council on School Education and Early Childhood a matter relating to review of curriculum and careers advice/course selection processes in all educational institutions for gender stereotyping.

Noted

Development of the Australian Curriculum is being overseen by the Australian Curriculum Assessment and Reporting Authority (ACARA) beginning with the learning areas of English, mathematics, science and history. In 2010, all Education Ministers endorsed the Foundation to Year 10 Australian Curriculum in these initial four learning areas.

ACARA's development of the senior secondary Australian Curriculum for English, mathematics, science and history is well underway and development of an Australian Curriculum for languages, geography and the arts is in progress. ACARA has also commenced initial curriculum shaping work in the learning areas of health and physical education, technologies and civics and citizenship. An Australian Curriculum will also be developed for the learning area of business and economics.

ACARA's work overall in developing the Australian Curriculum is guided by the Melbourne Declaration on Educational Goals for Young Australians that was agreed to by Education Ministers in December 2008. One of the goals of the *Melbourne Declaration* is that all young Australians become successful learners, confident and creative individuals, and active and informed citizens.

The Australian Curriculum incorporates seven general capabilities, which play a significant role in realising the goals of the *Melbourne Declaration*. The capabilities are literacy, numeracy, information and communication technology capability, critical and creative thinking, personal and social capability, ethical behaviour, and intercultural understanding. For each of these capabilities, continua of learning have been developed that scope the essential skills at particular points in schooling.

In particular, the personal and social capability learning continuum is organised into four interrelated elements of self-awareness, self-management, social awareness and social management. The social awareness element involves students in perceiving and understanding other people's emotions and viewpoints, and showing understanding and empathy for others. It includes appreciating and understanding what others are feeling, being able to consider their perspective and interacting positively with diverse groups of people. As part of this element, students also gain an understanding of the diversity and rich cultural dimensions of contemporary Australia and the capacity to critique societal constructs and forms of discrimination, such as racism and sexism.

