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WORK AND FAMILY POLICY ROUNDTABLE

<http://www.familypolicyroundtable.com.au/>

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Ms Sharryn Jackson, MP,
Chair, Standing Committee on Employment and Workplace Relations
House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

18 November , 2008

Dear Ms Sharryn Jackson, MP,

RE: Inquiry into pay equity and associated issues related to increasing female participation in the workforce

Thank you for this opportunity to make a submission (as attached) to the inquiry into pay equity and associated issues related to increasing female participation in the workforce. The Work + Family Policy Roundtable (W+FPR) is a group of active researchers at Australian universities and research organisations. We specialise in analysing work and family life issues, amongst other employment issues.

The Commonwealth Government and other governments and industry bodies have provided a number of us with funding to examine issues affecting work and family, including paid maternity leave, and changing patterns of work (broadly defined) in Australia, and their impacts on the well-being of Australian women, men and children, households, communities and workplaces. Our analysis, which extends to international comparisons, has proceeded through diverse projects at a number of universities. This submission draws on this body of work and allows us to locate the Australian situation in the context of international standards.


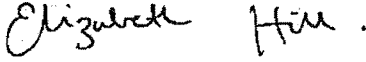
The persistence of the gender pay gap experienced by Australian women workers is unjust, inequitable and inefficient. In this submission we argue that the gender pay gap is a complex phenomenon that is continually being reproduced and reshaped and that there is an urgent need for Government to address the issue in a committed and

sustained manner. Securing women's economic and financial security is an important moral, social and economic goal.

Our submission summarises select findings from members of the Work + Family Policy Roundtable plus other important Australian work on the subject. The report is organised around the key questions posed by the committee and includes a set of recommendations as to how gender pay equity might be pursued. Key amongst them is a call for a more comprehensive inquiry which includes ample time for consultations, public hearings and commissioned research. We also seek a commitment to monitor progress towards the achievement of decent work. This exercise should include statistical indicators as well as monitoring of the legal framework for decent work.

In the lead up to the June 2009 International Labour Conference, the ILO has announced a global campaign on gender equality and the world of work: *Gender Equality at the Heart of Decent Work*. If gender equality is at the heart of decent work, then gender pay equity is at the heart of gender equality.

Yours faithfully

Professor Barbara Pocock and Dr Elizabeth Hill

Convenors, Work + Family Policy Roundtable

Submission from the Work + Family Policy
Roundtable to:

House of Representatives Standing Committee on
Employment and Workplace Relations

**Inquiry into pay equity and associated issues
related to increasing female participation in the
workforce**

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About the Australian Work + Family Policy Roundtable

The Australian Work + Family Policy Roundtable is made up of researchers with expertise on work and family policy. Its goal is to propose, comment upon, collect and disseminate relevant policy research to inform good, evidence-based public policy in Australia.

Members of the Australian Work + Family Policy Roundtable include:

- Marian Baird, The University of Sydney
- Wendy Boyd, Queensland University of Technology
- Deborah Brennan, The University of New South Wales
- John Buchanan, Workplace Research Centre, The University of Sydney
- Bettina Cass, University of New South Wales
- Sara Charlesworth, Centre for Applied Social Research, RMIT University
- Eva Cox, The University of Technology, Sydney
- Elizabeth Hill, The University of Sydney
- Therese Jefferson, Curtin University of Technology
- Sarah Maddison, The University of New South Wales
- Jill Murray, La Trobe University
- Barbara Pocock, The University of South Australia
- Alison Preston, Curtin University of Technology
- Belinda Smith, The University of Sydney
- Lyndall Strazdins, Australian National University
- Trish Todd, The University of Western Australia
- Brigid Van Wanrooy, Workplace Research Centre, The University of Sydney
- Gillian Whitehouse, The University of Queensland

The Roundtable Convenors are Elizabeth Hill and Barbara Pocock.

Over the past three years the Roundtable has actively participated in public debate about work and family policy providing research-based submissions to relevant public inquiries, disseminating current research through publications for public commentary and through the media.

Publication of the Roundtable's *Ten Policy Principles for a National System of Early Childhood Education and Care* and the *Work and Family Policy Benchmarks for the 2007 Election* in particular generated considerable public commentary during 2007.

The Roundtable's work on Early Childhood Education and Care led to the publication of *Kids Count : better early childhood education and care in Australia*, edited by Elizabeth Hill, Barbara Pocock and Alison Elliott, Sydney University Press, Sydney.

For further details on the Roundtable's activities please refer to the web-site:
www.familypolicyroundtable.com.au/

1.0 Introduction

The Work + Family Policy Roundtable brings together feminist and pro-feminist researchers with an interest and expertise in gender, work and family policy. Its purpose is to propose and comment on research and public policy within its area of expertise. Accordingly, the Roundtable welcomes an opportunity to contribute to the House of Representatives inquiry into pay equity and associated issues related to increasing female participation in the workforce.

We note that under the Terms of Reference the Committee is required to inquire into and report on the causes of any potential disadvantages in relation to women's participation in the workforce including, but not limited to:

1. The adequacy of current data to reliably monitor employment changes that may impact on pay equity issues;
2. The need for education and information among employers, employees and trade unions in relation to pay equity issues;
3. Current structural arrangements in the negotiation of wages that may impact disproportionately on women;
4. The adequacy of recent and current equal remuneration provisions in state and federal workplace relations legislation;
5. The adequacy of current arrangements to ensure fair access to training and promotion for women who have taken maternity leave and/or returned to work part time and/or sought flexible work hours; and
6. The need for further legislative reform to address pay equity in Australia.

The question of pay equity and women's employment participation is a complex matter and the subject of considerable debate and analysis both within Australia and internationally. It is now more than 15 years since the Lavarch Inquiry, conducted by the Senate Standing Committee on Legal and Constitutional Affairs, undertook a major review of women's employment, including pay equity.

We believe that a more comprehensive inquiry should be held with sufficient time for wide-spread consultation, public hearings and commissioned research into this important issue. In particular, the links between gender pay inequity and household decisions about women's employment participation after child birth should be a specific focus of such an inquiry. We note the Lavarch Inquiry lasted for two and a half years from 1989 to 1992. We also note the three comprehensive inquiries held into the issue of pay equity in the United Kingdom (Equal Opportunities Commission 2001; Kingsmill 2001, Women and Work Commission 2006), which have led to the development of proactive strategies to address gender pay inequity in that country.

Within Australia, Roundtable members have contributed extensively to debate around pay equity and women's employment participation. In preparing this submission, we have summarised some of our previously published findings that relate to the Inquiry's terms of reference and identified sources that we recommend for the Committee's consideration in its deliberations.

Before addressing the terms of reference of the inquiry, the remainder of this section discusses data on the gender pay gap and women's employment participation as background context for the remaining discussion.

1.1 Trends in the gender pay gap

Currently (May 2008) the gender pay gap in the Australian full-time labour market is equal to 16 per cent when measured using seasonally adjusted ordinary time earnings, or around \$10,000 per annum (ABS Average Weekly Earnings (AWE), 6302). There are, however, differences in the magnitude of this gap across Australia. Western Australia has the largest gender pay gap, equal to 27 per cent, or around \$15,000 per annum. Table 1, from Preston and Jefferson (2007) summarises the variation in gender pay gaps across Australia and over time. Whilst there has been little movement in the national pay gap over the last decade or so, at the state level there have been divergent experiences with women in Victoria, South Australia and Western Australia losing ground relative to women elsewhere.

Table 1: Annual Average Weekly Ordinary Time Earnings Gender Wage Ratio (in Full-Time Employment) by States and Territories, 1992 and 2007 (%)

	Aust	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
Feb-92	83.7	82.4	84.7	83.2	90.6	81.2	84.4	81.3	82.6
Aug-07	83.7	84.5	83.9	84.8	86.1	72.9	90.8	88.3	85.4
Change 1992-07 (%- point)	0.05	2.09	-0.75	1.59	-4.57	-8.26	6.35	6.98	2.81

Source: ABS 6302.0. Seasonally adjusted Average Weekly Ordinary Time Earnings (AWOTE).

Reasons behind the divergent trends are detailed and complex (Preston 2003) and go beyond the scope of Preston and Jefferson's (2007) paper. However, it is worth noting that a part of the explanation lies in different payment methods of the public and private sectors, with collective bargaining more prevalent in the public sector. Over the last decade wages growth in the public sector has outstripped that in the private sector, with men in the public sector experiencing strongest wage growth while men in the private sector have had below average wages growth (see Table 2).

Table 2, Average Weekly Total Earnings Growth of Adults Employed Full-Time, February 1992 to August 2007. (Seasonally Adjusted)

	Public Sector		Private Sector	
	Females	Males	Females	Males
	\$	\$	\$	\$
Feb-92	593.40	684.70	495.40	654.20
Aug-07	1129.20	1335.70	942.50	1217.50
Rate of Growth (%)	90.3	95.1	90.3	86.1

Source: Preston and Jefferson (2007), Table 5. Figures are based on ABS 6302 data.

In addition to differences between state and territory jurisdictions, and between public and private sectors, gender pay ratios vary markedly between industries, occupations and regions. For example, ratios have been consistently lower than the industry average in Finance and Insurance and higher in Government Administration (based on ABS 6302.0 data).

Observations about the extent of, and trends in, the 'gender pay gap' need to recognise these variations, and the fact that a narrow gap may be as much the product of relatively low pay increases for men as improved pay for women. It is also important to note that aggregate level pay ratios become less meaningful as wage dispersion increases (as has occurred in Australia with the decentralisation of wage-setting systems) and that trends or stasis in aggregate ratios may conceal conflicting underlying influences (see Whitehouse 2001).

1.2 Women's labour force participation

Women's labour force participation increased markedly in Australia (as elsewhere) in the second half of the twentieth century, with rapid increases (particularly for partnered women) occurring in the 1960s and 1970s (see Whitehouse 2004, Figure 5.2). As noted in Preston and Jefferson (2007), increases have continued over the last decade (including in non-traditional jobs and sectors). In July 1998 the female labour force participation rate was 54.2 per cent. By July 2008 it was 58.4 per cent (seasonally adjusted figures, ABS Labour Force survey spreadsheets, 6202.0.55.001, released July 2008). In spite of this ongoing increase, the participation rate of Australian women remains lower than that of many of their OECD counterparts, particularly among mothers of young children (see Whitehouse and Hosking 2005, Table 2, for a comparison of Australia, US and UK). Moreover, much of the observed increase in the female participation rate has been in the part-time sector of the labour market, with part-time employment particularly prevalent among mothers of young children (*The Parental Leave in Australia Survey* conducted in 2005 showed that over 80 per cent of mothers who returned to work within 15 months of the birth of a child worked part-time, with around 70 per cent of those who had worked full-time prior to the birth making the transition to part-time hours on return – see Whitehouse, Baird and Hosking 2007, Table 7). Recent years have also seen a sharp drop in the full-time employment participation of women after the age of 29 and a shift away from full-time employment by women aged 35-44 (Preston and Jefferson 2007).

The above development is significant, particularly with respect to pay equity. There is a sizeable body of research showing the risks to women of employment in the part-time labour market, especially in casualised conditions and poorer hourly wages (see Campbell & Charlesworth 2004; Chalmers et al 2005). The part-time/full-time hourly pay ratio for non-

managerial employees declined markedly over the 1990s in Australia (see Whitehouse 2001) and although ongoing estimations are complicated by changes in the measurement of earnings and the lack of robust time series data, unpublished hourly earnings data from the ABS Employee Earnings and Hours Survey (6306) suggests the trend since 2004 is downwards. A declining part-time/full-time earnings ratio is not unexpected in an industrial relations environment that places increasing emphasis on decentralised and individualised wage-setting – wage inequality overall tends to increase in these circumstances as local variations are facilitated and the wages of those without effective bargaining power tend to fall in relative terms. Part-time employment tends to be clustered into a narrow set of highly feminised occupations, often in the low wage economy (see Preston and Whitehouse, 2004) where access to promotion, employer provided training and decent pay is often limited even for part-time workers employed on a permanent basis (Campbell 2008; see Elton et al., 2007 for a discussion of limits of in working in the low paid sector). These issues have been addressed in the literature and will be referred to again under the relevant items to this inquiry.

Section 1 Recommendations

We recommend:

- The establishment of a comprehensive inquiry on the issue of pay equity with sufficient time set aside for wide-spread public consultation, public hearings and commissioned research. Further, that the links between gender pay inequity and household decisions about women's employment participation after child birth be a specific focus of such an inquiry.

2.0 Data and monitoring

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

In 2006, following the adoption of *WorkChoices*, the Australian Human Rights Commission together with women's groups (notably the National Foundation for Australian Women) commissioned the Women in Social & Economic Research (WiSER) group to report on the adequacy of current data collections to reliably monitor women's wages and other employment related conditions under the new regulatory framework.

The resultant report (Jefferson, Preston and Seymour, 2006), commonly referred to as the WESKI (Women's Employment Status Key Indicator) report, found significant and acute data deficiencies for monitoring purposes. Few existing surveys systematically provide comparative information on earnings and conditions of employment according to the type of employment contract used. This includes official data collections maintained by the Australian Bureau of Statistics. The lack of adequate data on earnings and conditions of employment contributes to poor understanding among the wider community about the nature and extent of gender pay inequity in Australia. This data inadequacy also makes it difficult

for Australia to fully comply with its obligations under both the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the ILO Equal Remuneration Convention.

As noted in Jefferson et al.:

The widely used quarterly earnings estimates published by the ABS, *Average Weekly Earnings* (Catalogue 6302.0), for example, does not provide details about earnings within different wage setting jurisdictions or by different employment contract types and, in the absence of estimates for occupational categories cannot provide information on trends for workers in some specific types of work. While suited to other uses, such as estimating aggregate changes in average earnings at a national or industry level, it provides limited potential for monitoring the effects of new workplace regulations. (Jefferson et al., 2006: ix).

On the ABS *Employee Earnings and Hours* (6306.0) publication Jefferson et al. (2006 ix) note that while this publication provides significant information disaggregated by the methods used to set wages (e.g. award only, collective agreement or individual agreement) there are limitations which "...include the absence of specific information about the spread of hours worked (for example, the prevalence of 'split shifts') or when the hours are worked (for example, weekends, evenings)."

Another limitation is that the EEH is a biennial survey. The latest publication is for May 2006. Whilst the most recent survey was run in May 2008 the data will not be released until May 2009 rendering it less useful for monitoring purposes. It should also be noted that this survey has not been constructed to be used on a time series basis, making it difficult to compare trends over time (particularly at disaggregated occupational and industry levels). Further, whilst the survey focuses on earnings and hours of work it contains limited information on other employment related conditions.

In addition to providing a detailed analysis of the pros and cons of various ABS surveys and publications the authors of the WESKI report also assess the adequacy of other possible data sources such as the Household Income Labour Dynamics in Australia (HILDA) survey.

The final WESKI report is 174 pages in length and uses a common set of low paid occupations to test and assess the adequacy of current data collections for monitoring purposes. The report contains 14 recommendations which, for the sake of space, are not repeated here but should be considered by the House of Representatives Committee. The report is available from the WiSER (Women in Social & Economic Research) web-site: www.cbs.curtin.edu.au/wiser.

Preston and Jefferson (2007), in their study on trends in the gender pay gap, also comment on data limitations. Amongst other things they note lack of information on *when* hours are worked in the week as well as limits to information on salary packaging and annualising arrangements. They also note that most analysis is based on average wage comparisons. However, pay gaps tend to be narrower at the bottom of the pay distribution and significantly wider at the top of the pay distribution. Analysis based on averages masks these dynamics.

The limitations of ratios based on averaged measures are underlined in much of the recent work on gender pay equity, particularly in the context of widening wage dispersion (see Whitehouse 2003: 118-122 for discussion of this and other difficulties associated with the

measurement of the gender pay gap). In particular, our various studies emphasise the need for accurate information on pay rates in part-time employment, given the extremely high proportion of Australian women working part-time, particularly those with young children. We note the limitations of the ABS *Average Weekly Earnings* survey (6302.0) in this regard, and emphasise that figures available through the *Employee Earnings and Hours Survey* (ABS 6306.0) (which does allow calculation of hourly rates of pay for part-time and full-time employees) are limited to 'non-managerial' staff and 'hours paid for' – complexities that may enhance the reliability of the data in some ways but which reduce its utility for comparison. In addition, as we noted earlier, this survey data does not enable reliable comparisons over time, particularly once the statistics are broken down into categories such as part-time and casual and by occupational groupings.

Other types of data that are needed for the effective analysis of gender pay inequity include survey data collected simultaneously from workplace managers and employees (as in the Australian Workplace Industrial Relations Survey (AWIRS), last conducted in 1995). This type of survey continues to be conducted in other countries (for example, the British Workplace Employment Relations Survey (WERS) was most recently conducted in 2004). The data produced is important because it allows the influence of the workplace variables and management to be assessed alongside other factors such as individual, attitudinal and occupational/industry level characteristics. As noted in the WESKI report, in the absence of a national AWIRS data collection, some state governments in Australia and the Workplace Relations Centre at the University of Sydney have recently begun collecting workplace level data to provide information on changing workplace practices in the changing industrial relations environment. While these are welcome developments, it is essential for gender pay equity analysis that these surveys occur on a national basis and a large scale, collect data from employees as well as from workplace managers, and that they be conducted in all States and Territories, or in a coordinated way at the national level generating longitudinal data.

Ultimately, it will also be important to collect sufficiently detailed longitudinal data to enable analysis of individual trajectories and transitions across the life course, and their implications for gender pay equity. Pay equity is an issue that should not be viewed simply as a 'point in time' comparison or an assessment of trends in aggregate 'points in time' ratios, but requires broadening to a focus on life-long earnings and life course patterns. It is a welcome development in Australia that longitudinal studies are being established, but some extension would be needed to adapt a survey such as HILDA as an effective vehicle for tracking gender pay equity issues.

Section 2 Recommendations

We commend the recommendations of the WESKI report to the Inquiry. In particular, we recommend:

- The re-establishment of a regular Australian Workplace Industrial Relations Survey that collects data from both management and employees at national level;
- Attention be given to the need for accurate data on hourly earnings for part-time and casual employees in ABS survey data;
- The inclusion of more detailed information relevant to gender pay equity in HILDA.

3.0 Education and information

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

In 2004, Australia was party to the Resolution of Gender Equality, Pay Equity and Maternity Protection, adopted by the 92nd Session of the International Labour Conference (ILC). That Resolution seeks to strengthen ILO Equal Remuneration Convention (No 100) and calls on the social partners to carry out capacity-building, training and advocacy programmes on all aspects of pay equity

Education and information have the potential to play a central role in addressing gender pay inequity. Their impact can be considered at a number of (overlapping) levels, including awareness of the extent of gender pay inequity among the general population, awareness of entitlements and employment standards among employees, transparency of pay levels within organisations, and understanding of the undervaluation of 'women's work' among the industry partners (employers, unions, employees) and members of industrial tribunals.

There is little direct evidence about the level of awareness of the extent of gender pay inequity in Australia, but it is not an issue that has engaged public debate in recent years and it has not had a high profile in any recent electoral campaigns. The Victorian government's Work and Family Council has recently undertaken some work that indicates that gender pay equity is very narrowly understood to mean equal pay for the *same* work. This misunderstanding of gender pay equity means that it is not widely perceived as a major issue of concern. The dissemination of information about the extent of the problem may raise public awareness and enhance support for remedial strategies.

More specifically, employees' awareness of entitlements and employment standards requires access to clear information through the industrial system. In Australia the shift away from centralised bargaining has been accompanied by a high degree of confusion and uncertainty about entitlements, nature of contract and jurisdictional coverage. Far from creating a 'simpler' system the recent wave of industrial relations reforms have resulted in a lack of certainty about issues related to the negotiation of entitlements such as wages, penalty payments and working hours (Jefferson et al., 2007; Pocock et al., 2008).

Under previous regulatory frameworks, industry standards were established in awards and this approach provided highly public and accessible sources of information about wages both within and between occupational classifications. The increased practice of individual bargaining, particularly formalised AWAs with their confidentiality provisions, has curtailed the free flow of information to employees and employers. This in turn is constraining the efficiency of the labour market. When considered against the extension of managerial prerogative and lack of understanding or information amongst some employers about fair wages and efficient processes to handle employment matters (Jefferson et al, 2007), it is apparent that the lack of institutional support and information may be contributing to inefficient labour market outcomes, lower productivity and ongoing gender inequities.

Following on from the above, an important recommendation in Jefferson et al.'s report to the WA Office for Women (based on research on low paid women in WA) pertains to information. Recent research into low pay in Australia, conducted by Masterman-Smith and

Pocock (2008) arrives at a similar conclusion. The current complexities and confusion suggest to Jefferson et al. and Masterman-Smith and Pocock (2008) a need amongst employees and employers for clear and concise information about the industrial relations system and its provisions and how to negotiate and vary individual (formal and informal) employment contracts. Calls to make occupational wage information more transparent are similarly made by Jefferson and Preston (2008). We note that to this end, the UK government is committed to introducing legislation that will outlaw pay secrecy clauses and make it unlawful to stop employees discussing their pay.

It may also be appropriate to target specific groups in terms of information and awareness-raising. A large scale '15% Off' campaign developed by the UK Equal Opportunities Commission in 2005 was directed towards young female students. This media campaign, highlighted the average 15% gender wage gap within three years of graduation and is a useful model.¹

It is important to consider the role of the employing organisation and management practices in facilitating or restricting access to relevant information. Management practices that recognise the underlying causes of gender pay inequity and that enable transparency around pay classifications and career pathways are essential if pay inequities are to be addressed. The sophisticated system of 'gender audits' recently developed in the New Zealand public sector is worthy of examination in this regard. Establishment of a trial of gender audits and promotion of 'best case' examples, including in the private sector, would be an important part of a comprehensive approach to gender pay inequity. An Australian example on which to build is the joint National Australia Bank and Finance Sector Union pay audit.²

Finally, linked with our comments above about the industrial relations system, we note that education and information are essential for the industrial parties if the often concealed gender-bias that underpins gender pay inequity is to be recognised, and new equal remuneration provisions (recommended in Section 6) are to be successfully implemented. As Whitehouse and Rooney (2007) have noted in relation to the Queensland Pay Equity inquiry and the equal remuneration principles developed, these processes contributed to 'the educative and developmental nature of the process of prosecuting gender pay equity'. This is an iterative and ongoing process that can best be developed at the federal level through a similar process of inquiry and response, specific case studies and trial cases, conducted at the level of the tribunal and engaging the industry partners.

Section 3 Recommendations

Consistent with Australia's obligations under the ILO Equal Remuneration Convention 100, and with the 2004 ILC Resolution of Gender Equality, Pay Equity and Maternity Protection, we recommend:

- A campaign be launched to raise community awareness and understanding of the concept of equal pay for work of equal value, including of the government's

¹ See: <http://83.137.212.42/sitearchive/eoc/Default2464.html?page=14929>).

² See https://www.business.vic.gov.au/BUSVIC/STANDARD.HTML//pc=PC_62457.html).

obligations in this respect under both Australian and international law. Further, that gender pay equity should be legitimised as an important national goal and that specific federal government commitments to address it be developed.

- The new institutional structures being developed under *Fair Work Australia* should simplify the industrial landscape, promote knowledge of employment entitlements and provide clear avenues for redress.
- Transparency around pay levels and career paths in organisational practice should be promoted and showcased. We recommend a phased approach of the use of gender pay equity audits, commencing first in the public sector and then widening to include the private sector. Over time pay audits should become a mandatory obligation.
- Case studies of potentially undervalued occupations should be conducted and trial cases run to educate the industry partners in the identification of gender-bias and the operation of equal remuneration principles within the new federal industrial relations institutional structure.

4.0 Labour market structures and wage negotiation

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

The institutional framework for wage bargaining is a crucial influence on gender pay equity outcomes, with more centralised arrangements tending to compress the wage distribution (and thus narrow the gender pay gap by reducing inequality overall) and facilitate the delivery of gender pay equity advances (by enabling broad comparisons and disseminating gains effectively). Australia's gender pay equity outcomes have benefited from the relatively centralised wage-fixing system that has been in place throughout most of its history, including at the time of the introduction of pay equity principles into the federal system (1969 and 1972). Cross-national comparative statistical analyses that take account of the degree of centralisation of wage setting provide strong evidence for this proposition (see Whitehouse 1992) as do a range of econometric studies that emphasise the importance of institutional, rather than human capital, factors in explaining differences in pay equity trends between Australia and countries such as the US and UK (for example, Gregory et al 1989).

It has long been anticipated, therefore, that the decentralising trend in wage-setting commencing in the late 1980s would lead to a widening of the gender pay gap in Australia, or at least impede further narrowing in spite of increases in women's educational attainment and labour force status. In practice, a number of complex and sometimes conflicting influences have impacted on the gender pay gap as wage setting processes have been decentralised and individualised (Whitehouse 2001; Preston 2003), making it difficult to identify a clear set of strategies for the advancement of pay equity, particularly in a way that moves beyond simply calling for a return to more centralised arrangements. Recent research by Austen et al. (forthcoming) shows that within industries such as Retail Trade and Cultural and Recreational services, employment status (such as part-time work) accounts for a sizeable share of the gender wage gap. In other low wage sectors such as Personal Services gender

wage differentials derive from other institutional factors such as union membership (with men receiving relatively higher earnings on account of their membership levels).

Notwithstanding the complexities associated with understanding the determinants of the gender wage gap it is possible to identify several of the ways in which Australian wage setting institutions and practices have supported the pursuit of gender pay equity, and thus to highlight features that can and should be incorporated into any revised model.

First, it is clear that the Australian system has done relatively well historically in protecting the low paid, and that (in comparison with low paid women in Britain and the US) low paid women in Australia have on average received wages closer to the male median wage than in some other countries (see Whitehouse 2007, Figure 2). This outcome is associated with the history of a relatively high minimum wage in Australia (Whitehouse 2007, Figure 4; Austen et al. forthcoming). These figures illustrate one of the ways in which gender pay equity has been indirectly supported in the Australian institutional framework and underline the importance of maintaining a decent minimum wage under new arrangements. In order to ensure the continuation of this comparative advantage, principles for establishing minimum rates should not be limited to goals such as international competitiveness or reduction of unemployment (goals which are in any case unlikely to be achieved through lowering wages) but should highlight the importance of a decent wage, the relevance of community standards and wage movements, and gender equity as goals of social and economic importance.

Another feature of the Australian wage setting system that has in the past supported the pursuit of gender pay equity has been the capacity for broad comparison that is possible within a system based on comprehensive award coverage and the principle of 'comparative wage justice' (even though that principle has also been used to protect relativities that advantage men). Reductions in coverage and content of the award system thus bring risks for gender pay equity, as do the prohibitions on comparisons and multi-employer bargaining that have been associated with the decentralisation and individualisation of wage setting. The award system assisted the pursuit of gender pay equity not only to the extent that it had broad coverage of the workforce, but also in its establishment of detailed classifications for jobs and the capacity to use these for comparative purposes within and across awards. In the federal jurisdiction, the use of 'work value' cases that drew comparisons with, for example, classifications in the Metals Industry award enabled some pay equity advances to be achieved (for example, for child care workers), even though this approach is increasingly limited by the widening gap between award rates and actual rates achieved through bargaining. One way to at least partly reclaim the value of the award system for gender pay equity purposes is to inject gender equity considerations explicitly into the current award modernisation process, while at the same time ensuring that awards retain relevance and coverage. It is vital that in the process of award modernisation classification structures and rates in feminised occupations and industries (like clerical and nursing) are not compressed.

We note with concern that the Australian Industrial Relations Commission is proposing to remove the anti-discrimination clause from modern awards. Its recent statement on the draft modern awards reads:

"Stand down and anti-discrimination"

[33] We have not included clauses dealing with stand downs in the exposure drafts because stand downs are provided for in ss.691A and 691B of the Act. *Nor have we included anti-discrimination clauses as discrimination is the subject of legislative*

regulation elsewhere. Both of these matters can be further considered if necessary." (emphasis added).

Notwithstanding the presence of prohibitions against discrimination in both state and federal anti-discrimination jurisdictions and in the federal *Workplace Relations Act 1996*, anti-discrimination clauses in awards form a useful function in reminding the parties that discrimination, including in pay, is prohibited.

Attention also needs to be paid to the impact of decentralised and individualised forms of bargaining on women's capacity to maintain a decent level of pay. In an early study of the impact on women of enterprise bargaining shortly after enterprise bargaining was introduced in Australia, Charlesworth (1996 and 1997) found that a number of risks to pay equity were emerging. These included the fact that predominantly female workplaces in the service sector had less to trade off in terms of so called inefficiencies and working time flexibility; and that there was no apparent relationship between the quantum of wage increases and working time trade offs. The expansion in ordinary hours and the reduction of penalty rates impacted on take home pay and undercut the potential for competency standards to assist in the delivery of equal pay for work or equal value across industries. Smith and Ewer's analysis of the impact of enterprise bargaining also pointed to the relative paucity of training-related clauses in agreements particularly in female dominated industries which worked to limit women's progression (Smith and Ewer 1995). More recent changes such as those established under WorkChoices exacerbate these risks. In particular, recent research has illustrated ways in which the restructuring of standard hours and the removal of penalty rates can impact severely on the take-home pay of low-paid employees, with reductions often affecting the most vulnerable (see Elton et al 2007; Macdonald et al 2007).

Section 4 Recommendations

We recommend:

- The revised framework for industrial relations must include effective means of establishing, and ensuring compliance with, a decent minimum wage. The principles on which wage setting is based should identify a decent wage, pay equity and gender equality as goals of social and economic importance.
- Features of the award system that enhance the capacity to address gender pay inequity should be revitalised, including the retention of detailed classification structures and broad coverage, and anti-discrimination clauses in modern awards. In addition the current award modernisation process should pay particular regard to gender pay equity issues, ensuring that embedded gender bias in classifications and pay rates is addressed in line with the principle of equal pay for work of equal or comparable value and that occupational classifications and rates in feminised areas of employment are not compressed.
- Principles of wage setting should enable effective comparison, removing constraints to comparisons within and across awards, industries and occupations.

- A bargaining system that allows ‘trade offs’ of entitlements and pay loadings should also ensure that employees are not worse off overall as a result, with a specific provision that the impact of any trade offs on gender pay equity be assessed.

5.0 Equal remuneration provisions in legislation

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

Before commenting on specific equal remuneration provisions, we note the importance of ensuring that gender pay equity is prioritised as an object of the revised federal legislation, and that it is not subordinated to concerns such as unemployment or economic competitiveness. In Queensland, for example, the *Industrial Relations Act 1999* identifies pay equity as an outcome that must be furthered by the Commission in the performance of its functions, and as an element of its principal object of supporting economic prosperity and social justice (s3). As Whitehouse and Rooney (2007) note, this contrasts strongly with the current federal Act, the principal object of which provides only that the legislation should ‘assist in giving effect to Australia’s international obligations in relation to labour standards’ (*Workplace Relations Act 2006*: s3(n)).

In terms of provisions in the revised Act, it will be crucial to include appropriate measures to address the undervaluation of work predominantly performed by women. There are a number of limitations of the federal provisions. The provisions have introduced a new test and onus for applications seeking equal remuneration remedies, namely that applicants are required to demonstrate that differences in rates of remuneration for work of equal value arise from sex discrimination. This is significantly beyond a test of simply demonstrating that the work in question is of equal value.

As Smith (2008) argues, the constitutional funding of the provisions by way of the external affairs powers has also limited the federal tribunal’s or applicant parties’ recourse to these provisions in conjunction with other provisions of the legislation. This has included the hearing of equal remuneration matters by the Full Bench, or applications to vary industry awards or settlements. This is because the Full Bench’s powers, in the majority of instances, are founded on matters arising from an industrial dispute, as defined in federal labour law. Similarly the Commission’s power to vary an award arise from an industrial dispute. Matters brought to the Commission under the equal remuneration provisions do not arise from an industrial dispute. The Commission’s powers are limited to those conferred by that section of the legislation.

Further the provisions are absent of any guidance to the tribunal or applicants as to the application of the provisions. The positive developments in the state jurisdictions of New South Wales and Queensland were assisted, particularly in the Queensland jurisdiction, by the conjunction of legislative provisions with an equal remuneration principle to guide the tribunal and the industrial parties in the application of the provisions. The new equal remuneration principles founded on the construct of undervaluation, are more capable of addressing gender pay equity than those available in current federal law (Smith 2008).

At present, the federal Act is ineffective in this area. The inclusion of 'equal remuneration principles' such as those developed in the wake of the 2001 Queensland pay equity inquiry would significantly advance the capacity to address this type of pay inequity at federal level.

Undervaluation is an important component of gender pay inequity, but it requires sophisticated tools to uncover the gender-bias embedded in the valuation of work and to devise means of redressing this type of inequality. The application of 'comparable worth' strategies designed to address this kind of inequality in Britain and North America has typically been subject to limitations, because they apply only within an enterprise, because it is often difficult to find a 'comparator' against which to assess the value of the job under consideration, and because of lengthy and complex processes of job evaluation and assessment of undervaluation. Equal remuneration principles developed in NSW and Queensland were designed to avoid these and related problems by allowing broad comparisons through (and beyond) the award system and by not requiring a specific comparator but rather seeking evidence of undervaluation in past wage determination decisions and conditions such as occupational segregation, limited bargaining power and casualisation. In addition, in an effort to avoid the kinds of barriers encountered with federal equal pay cases in the mid-1990s, they do not require proof of discrimination. These features, which greatly extend their utility, make them exemplary both within Australia and internationally.

Recent changes to the industrial relations landscape in Australia that have brought the majority of private sector employees under federal jurisdiction run the risk of consigning these important advances to history (see Lyons and Smith 2007; Smith and Lyons 2007; Whitehouse and Rooney 2007). It is crucial that the efforts put into developing these innovative developments are not lost in the push to unify Australian industrial relations systems. Important aspects of their translation into the federal jurisdiction will include ensuring that the legislation specifies the goal of equal pay for work of equal or comparable value, so that comparisons across different types of work are enabled, and that the relevant tribunals have the power to hear undervaluation cases, gather appropriate evidence and deliver redress.

It is important that funding be provided to build the capacity of the industry partners to better understand the complexity and importance of the gender equitable valuation of work. In New Zealand, as part of that country's action around gender pay equity, funding is allocated from a Contestable Fund to build capacity for pay and employment equity activities. The provision of funding recognises that organisations undertaking pay equity activities require both resources and expertise. Funding has been mainly as a contribution to the costs of project managers for reviews and for building union capacity for participation in the plan (Hall, 2007).

Section 5 Recommendations

We recommend:

- Gender pay equity should be made a priority in the federal Act, with the inclusion of the pursuit of gender pay equity as an object of the Act and an issue of 'public interest' that should not be subordinated to other objects.

- Equal Remuneration Principles based on those adopted in Queensland should be adapted for the federal system, and Fair Work Australia empowered to initiate, hear and make rulings in relation to undervaluation cases.
- That the federal provisions be amended in the following way:
 - removing the requirement for applicants to meet the test of sex-based discrimination;
 - removing the requirement for applicants to nominate a specific comparator;
 - introducing the test of undervaluation as the means to determine applications;
 - including within the terms of the federal legislative provisions the substance and intent of the equal remuneration principles determined in New South Wales and Queensland.
- Further, that consideration be given to founding the federal provisions under the corporations' power rather than the external affairs powers to enable the conjunction of these provisions with other sections of labour law. It is important that the right to equal remuneration be conjoined with the Fair Pay Australia's instruments of wage determination.
- Trial undervaluation cases should be run to educate the industry partners on these issues and to fine-tune processes for the identification and redress of gender-bias in valuations of work. Further that funding be provided in a similar fashion and on a similar basis to New Zealand's Contestable Fund.

6.0 Fair access to training and promotion, sex-segregation and unpaid work

The adequacy of current arrangements to ensure fair access to training and promotion for women who have taken maternity leave and/or returned to work part time and/or sought flexible work hours.

One of the most striking explanations for gender pay differences is the concentration of women at lower levels of career structures. The earnings losses incurred by women who leave work to raise children are compounded by restricted opportunities for the continuity of employment and career progression, as well as the lack of access to formal training provision (Smith and Ewer 1995). A further barrier arises if women face a lack of access to suitable and affordable childcare or working hours provisions that consistently obstruct family responsibilities (Probert et al 2002). At the same time many women who have sought to accommodate both paid work and unpaid caring responsibilities are confined to casual and other low quality part-time jobs in undervalued feminised occupations. Not only does this facilitate a form of occupational crowding that is gendered (Probert et al 2002), but precisely because of the casual status of many women the proportion of part-time employees with practical access to family friendly benefits is low (Campbell and Charlesworth 2004). There is growing concern about the low and declining quality of part-time work in Australia (Buchanan and Thornthwaite 2002; Pocock 2003, Chalmers et al 2005). Not only does such

poor quality employment impose costs such as poor job security, low wages and short and unpredictable hours (ILO 2008), but it also makes it difficult to address gender pay inequity. Different methods of pay determination can also worsen the gender pay gap and disadvantage female employees concentrated in the award-reliant sector (Preston 2007).

Sex-segregation plays an important role in explaining gender pay inequities. Australia has long been recognized as a country with a very sex-segregated labour market. Recent analysis of this suggests that sex-segregation by both occupation and industry remains high. Australian women have increased their entry a little into more male-dominated occupations but there is little sign of movement of men into more female-dominated occupations. As a consequence women remain very concentrated in a narrow range of jobs, especially low paid jobs. While there were many initiatives in the 1980s and 1990s to encourage and support women in to non-traditional jobs, they are much rarer now. There are good arguments for encouraging women into higher paying jobs with good career prospects. It is also the case that employment conditions and flexibility needs to increase in many male-dominated jobs.

The sex segregation of the Australian labour market is reinforced by the gendered polarisation of working hours, wherein a large number of women, including many who have caring responsibilities, work short part time hours while men, including many fathers, work extremely long hours. The sex segregation of occupations and the gendered working time regime work to effectively exclude many women from full-time jobs, which in turn contributes to pay gaps. In addition job insecurity, including through casual employment that characterises much part-time employment, leads to 'pay certainty' gaps for many women, exacerbating existing pay gaps.

The return to work after childbirth is also associated with a decline in women's access to decent work. In a study of pregnancy discrimination, Charlesworth and Macdonald (2007) provide evidence of the issues and difficulties experienced by a number of Victorian women when they returned to work after maternity leave. This included being refused part-time hours, being made casual, having hours reduced, being returned to a lesser role rather than being given their job back, working part-time with full-time work targets and the lack of accommodation of breastfeeding or child care arrangements. These experiences have clear consequences for access to training and promotion. The protection in the unpaid parental leave standard (to be included in the forthcoming National Employment Standards) is diminished by the failure of some employers to honour the 'return to work guarantee' that is central to providing continuity of employment for women. This guarantee is undermined by dismissal and redundancy when pregnant or when on leave as well as being placed in an inferior job on return to work (Charlesworth & Macdonald 2008).

The Work+Family Policy Roundtable's Charter for Work and Family recognises the importance of gender equality, including pay equity, as one of the key principles that should underpin work and family policy in Australia. Decent wages are clearly key to securing women's economic and financial security, including in later life (Jefferson and Preston 2005). They also play an important role in affecting the employment participation decisions of many women. In this regard, labour market structures which narrow the gender pay gap play an important role in reducing the traditional gendered demarcation between paid work and care.

The gender division of labour also extends to analysis of unpaid domestic work and care. Australian women remain overwhelming responsible for domestic work, even amongst young workers. This casts a long shadow over the labour market for women, affecting their levels of

exhaustion and their pay rates. In this light, efforts to redistribute domestic work and care and to more fairly share it between women and men are likely to bear a pay equity dividend for women.

Section 6 Recommendations

We recommend:

- The development of policies that support women's participation in the labour market including practical access to:
 - High quality, accessible and affordable childcare
 - A government-funded national system of paid maternity, paternity and parental leave
 - High quality part-time work that leads to career advancement.
 - Efforts to encourage men, especially young men, to fairly share domestic work and care
 - Initiatives that help reduce the high level of occupational and industry sex-segregation that continues to prevail in the Australian labour market.
- That the federal government give serious consideration to extending proposed protection against unfair dismissal to all employees with three months service regardless of the size of the business in which they are employed.
- That the federal government amend the Sex Discrimination Act 1984 (Cth) to:
 - extend the protection under the Act against discrimination on the grounds of family responsibilities to indirect discrimination and to all stages of employment, not merely dismissal.
 - provide enforceable standards in relation to all forms of pregnancy-related discrimination; and
 - provide for the fast-tracked resolution of complaints that involve dismissal
- The federal government conduct an education and compliance campaign focusing on pregnancy and return to work, including placing priority on investigation and audits in this area, resourcing the Workplace Ombudsman/ Fair Work Australia to enable timely investigation and prosecution where the unpaid parental leave standard is breached.
- The federal government actively promote opportunities for women (and men) to obtain decent and productive work, particularly high quality part-time work, consistent with the ILO's decent work agenda. Further, that the Government should monitor progress towards the achievement of decent work, including effective access to education, training and lifelong learning as well as to promotion in keeping with ILO (2008) recommendations. This should include statistical indicators as well as monitoring of the legal framework for decent work.

7.0 The need for further legislative reform

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

A consistent feature of Australian state based inquiries into pay equity and recent international inquiries and academic research is the identification of the multidimensional nature of gender pay inequity. Commensurate with these findings advancing pay equity requires the coordination and integration of a number of policy measures (Probert et al 2002).

Apart from other mechanisms addressed in this report, other areas for further legislative, regulatory and policy reform include removing the comparator requirement from the *Sex Discrimination Act 1984* (SDA), the use of government procurement policy, and increasing pay transparency. However we stress that we do not attempt here to canvass the wide array of necessary mechanisms and legislative reform required to address gender pay inequity and gender (in) equality more broadly in Australia.

Australia is a signatory to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which places obligations on the Australian government to prevent discrimination on the basis of sex and achieve equality. The definition of discrimination in CEDAW is far broader than that in the SDA, being defined as ‘any distinction, exclusion, or restriction or preference made on the basis of sex which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field’

The definition of both direct and indirect discrimination in the SDA, including in cases of claims of gender pay inequity, in effect requires a comparator, which is not always possible in the female dominated workplaces and industries in which many women work. More over the complaint process under the SDA is designed to deal with individual instances of discrimination rather than systemic discrimination and only offers individualized, compensatory remedies. As Redman and O’Connell (2000) argue, the complex phenomenon of pay equity is not easily addressed by means of an anti-discrimination complaint mechanism that requires an individual aggrieved by an act and comparison with a similarly situated man. The CEDAW definition of discrimination however allows for a consideration of the effect of pay inequity on women both as individuals and as a group

The federal government’s purchasing power should be used to ‘buy’ gender equality outcomes including action to reduce the gender pay gap. The UK Equalities Review found that there was evidence that using procurement to promote equality in employment is generally accepted by the business community to be a sensible approach for government to take and further that requiring suppliers to follow sound equality principles could have a profound impact (cited in Rubenstein 2007: 17-18).

Currently there are some very limited powers under the Commonwealth Government Contract Compliance policy in respect of ‘non-compliant’ organisations under the *Equal Opportunity for Women in the Workplace Act 1999* (EOWWA). The policy provides that:

- Commonwealth departments and agencies will not enter into contracts for the purchase of goods and services from non-compliant organisations;

- Employers that have been named in Parliament for non-compliance will not be eligible for grants under specified industry assistance programs.

However given 'non-compliance' with the EOWWA is based on failure to provide a report rather than failure to develop an adequate program, the effect of this policy on equality outcomes in organisations reporting to the EOWWA has been very limited. We note for example that just 16 organisations were deemed non-compliant in 2007. Those who earn the Employer of Choice for Women citation by the Equal Opportunity in the Workplace Agency (EOWA) are now required to have a pay equity gap between average male and female salaries at each level of the organisation that is less than the national gender gap identified by the ABS (currently 17%). Notwithstanding the inadequacy of this measure of gender pay inequity, the details of these reports are not placed in the public domain and therefore lack transparency.

One way of ensuring that employers in the private sector adhere to minimum decent employment and anti-discrimination standards in the SDA and move to address systemic gender pay inequity is to ensure that government contracts are only awarded to those organisations that can *demonstrate* that they meet those standards and are measuring and taking action to reduce gender pay gaps. The use of government purchasing policy has been particularly effective in Victoria where law firms tendering to carry out services for the government are obliged to provide evidence of a minimum amount of pro bono work undertaken and provide details on the quantity and value of the legal work given to women barristers. As a consequence, the rate of pro bono work has risen significantly as has the rate at which women barristers are briefed.

Finally, one of the difficulties in addressing the gender pay gap in Australia is the growing non-transparency of pay. Increasingly details of salaries and performance-based pay are made confidential and it is difficult, if not impossible, for a large number of employees to know how their own remuneration compares with that of their colleagues. This is particularly an issue in the Australian finance sector. Transparency around wages and conditions is an essential precursor to the pursuit of fair pay that does not discriminate on the basis of gender (Elton et al 2007). In the UK, the new Equalities Act is to outlaw pay secrecy clauses and make it unlawful to stop employees discussing their pay. The UK Equality and Human Rights Commission will also conduct pay equity inquiries into particular sectors, including the financial services sector and the construction industry and will work to improve transparency about the pay men and women receive.

Section 7 Recommendations

We recommend:

- The definition of 'discrimination' in the *Sex Discrimination Act* 1984 be amended to remove the requirement for a comparator in line with CEDAW. Further, that the Australian Human Rights Commission conduct pay equity inquiries into specific industries, such as the finance sector which have large gender pay gaps.

- The federal government use its procurement power to award government contracts only to those organisations that have undertaken a pay equity audit and have an action plan to reduce any gender pay gaps in place.
- The Equal Opportunity for Women in the Workplace Agency require a full pay equity audit to be undertaken by employers applying for Employer of Choice for Women status with details of the gender pay gaps and action to reduce these placed in the public domain.
- The federal government introduce legislation to prohibit pay secrecy clauses in employment contracts and make it unlawful to prevent employees discussing their pay.

8.0 Conclusion

This submission to the House of Representatives Inquiry into 'pay equity and associated issues related to increasing female participation in the workforce' summarises select findings from members of the Work+Family Policy Roundtable plus other important Australian work on the subject. The report is organised around the key questions posed by the committee with each section containing a set of recommendations.

Overall we note that the gender pay gap is a complex phenomenon that is continually being reproduced and reshaped. Currently the gender pay gap in the Australian full-time labour market is around 16 per cent although recent convergence in the gap derives from slower wages growth amongst men in full-time private sector employment and less from policy interventions such as equal opportunity initiatives, affirmative action, transparent promotion policies, work and family policies and legislative interventions.

As the world economy faces a significant slowdown it is likely that women will struggle to maintain and improve their relative pay position. Indeed, if there is one lesson from the recent economic boom (particularly as it applied in Western Australia) it is that boom conditions, record unemployment and skill shortages are not enough to improve the relative pay of women (Jefferson and Preston 2008). In Western Australia, women in low paid work remained in an invidious position unable to negotiate and bargain for improved terms and conditions.

Securing women's economic and financial security is an important moral, social and economic goal. In the various sections of this submission we outline a series of recommendations which might be followed in pursuit of this goal. Key amongst them is a call for a more comprehensive inquiry which includes ample time for consultations, public hearings and commissioned research. We also seek a commitment to monitor progress towards the achievement of decent work. This exercise should include statistical indicators as well as monitoring of the legal framework for decent work. In the lead up to the June 2009 International Labour Conference, the ILO has announced a global campaign on gender equality and the world of work: 'Gender Equality at the Heart of Decent Work'. If gender equality is at the heart of decent work, then gender pay equity is at the heart of gender equality.

8.1 Summary of recommendations

1. The establishment of a comprehensive inquiry on the issue of pay equity with sufficient time set aside for wide-spread public consultation, public hearings and commissioned research. Further, that the links between gender pay inequity and household decisions about women's employment participation after child birth be a specific focus of such an inquiry.
2. We commend the recommendations of the WESKI report to the Inquiry. In particular, we recommend:
 - The re-establishment of a regular Australian Workplace Industrial Relations Survey that collects data from both management and employees at national level;
 - Attention be given to the need for accurate data on hourly earnings for part-time and casual employees in ABS survey data;
 - The inclusion of more detailed information relevant to gender pay equity in HILDA.
3. A campaign be launched to raise community awareness and understanding of the concept of equal pay for work of equal value, including of the government's obligations in this respect under both Australian and international law. Further, that gender pay equity should be legitimised as an important national goal and that specific federal government commitments to address it be developed.
4. The new institutional structures being developed under *Fair Work Australia* should simplify the industrial landscape, promote knowledge of employment entitlements and provide clear avenues for redress.
5. Transparency around pay levels and career paths in organisational practice should be promoted and showcased. We recommend a phased approach of the use of gender pay equity audits, commencing first in the public sector and then widening to include the private sector. Over time pay audits should become a mandatory obligation.
6. Case studies of potentially undervalued occupations should be conducted and trial cases run to educate the industry partners in the identification of gender-bias and the operation of equal remuneration principles within the new federal industrial relations institutional structure.
7. The revised framework for industrial relations must include effective means of establishing, and ensuring compliance with a decent minimum wage. The principles on which wage setting is based should identify a decent wage, pay equity and gender equality as goals of social and economic importance.
8. Features of the award system that enhance the capacity to address gender pay inequity should be revitalised, including the retention of detailed classification structures and broad coverage, and anti-discrimination clauses in modern awards. In addition the current award modernisation process should pay particular regard to gender pay equity issues, ensuring that

embedded gender bias in classifications and pay rates is addressed in line with the principle of equal pay for work of equal or comparable value and that occupational classifications and rates in feminised areas of employment are not compressed.

9. Principles of wage setting should enable effective comparison, removing constraints to comparisons within and across awards, industries and occupations.

10. A bargaining system that allows 'trade offs' of entitlements and pay loadings should also ensure that employees are not worse off overall as a result, with a specific provision that the impact of any trade offs on gender pay equity be assessed.

11. Gender pay equity should be made a priority in the federal Act, with the inclusion of the pursuit of gender pay equity as an object of the Act and an issue of 'public interest' that should not be subordinated to other objects.

12. Equal Remuneration Principles based on those adopted in Queensland should be adapted for the federal system, and *Fair Work Australia* empowered to initiate, hear and make rulings in relation to undervaluation cases.

13. That the federal provisions be amended in the following way:

- removing the requirement for applicants to meet the test of sex-based discrimination;
- removing the requirement for applicants to nominate a specific comparator;
- introducing the test of undervaluation as the means to determine applications; and
- include within the terms of the federal legislative provisions the substance and intent of the equal remuneration principles determined in New South Wales and Queensland.

14. Further, that consideration be given to founding the federal provisions under the corporations' power rather than the external affairs powers to enable the conjunction of these provisions with other sections of labour law. It is important that the right to equal remuneration be conjoined with the Fair Pay Australia's instruments of wage determination.

15. Trial undervaluation cases should be run to educate the industry partners on these issues and to fine-tune processes for the identification and redress of gender-bias in valuations of work. Further that funding be provided in a similar fashion and on a similar basis to New Zealand's Contestable Fund.

16. The development of policies that support women's participation in the labour market including practical access to:

- High quality, accessible and affordable childcare
- A government-funded national system of paid maternity, paternity and parental leave
- High quality part-time work that leads to career advancement.
- Efforts to encourage men, especially young men, to fairly share domestic work and care
- Initiatives that help reduce the high level of occupational and industry sex-segregation that continues to prevail in the Australian labour market.

17. That the federal government give serious consideration to extending proposed protection against unfair dismissal to all employees with three months service regardless of the size of the business in which they are employed.

18. That the federal government amend the Sex Discrimination Act 1984 (Cth) to:

- extend the protection under the Act against dismissal on the grounds of family responsibilities to all forms of discrimination on this ground;
- provide enforceable standards in relation to all forms of pregnancy-related discrimination; and
- provide for the fast-tracked resolution of complaints that involve dismissal

19. The federal government conduct an education and compliance campaign focusing on pregnancy and return to work, including placing priority on investigation and audits in this area, resourcing the Workplace Ombudsman/ Fair Work Australia to enable timely investigation and prosecution where the unpaid parental leave standard is breached.

20. The federal government actively promote opportunities for women (and men) to obtain decent and productive work (consistent with the ILO's commitment to decent work). Further, that the Government should monitor progress towards the achievement of decent work, including effective access to education, training and lifelong learning as well as to promotion in keeping with ILO (2008) recommendations. This should include statistical indicators as well as monitoring of the legal framework for decent work.

21. The definition of 'discrimination' in the Sex Discrimination Act 1984 be amended to remove the requirement for a comparator in line with CEDAW. Further, that HREOC conduct pay equity inquiries into specific industries, such as the finance sector which have large gender pay gaps.

22. The federal government uses its procurement power to award government contracts only to those organisations that have undertaken a pay equity audit and have an action plan to reduce any gender pay gaps in place.

23. The Equal Opportunity for Women in the Workplace Agency require a full pay equity audit to be undertaken by employers applying for Employer of Choice for Women status with details of the gender pay gaps and action to reduce these placed in the public domain.

24. The federal government introduce legislation to prohibit pay secrecy clauses in employment contracts and make it unlawful to prevent employees discussing their pay.

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