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**Community and Public Sector Union
State Public Services Federation Group**

Submission

To the

House 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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1. INTRODUCTION AND OVERVIEW

- 1.1 The Community and Public Sector Union – State Public Services Federation (CPSU-SPSF) represents workers in State Public Services. Our members are covered by specific State Public Sector awards and agreements however many are also employed as general staff at universities and in constitutional corporations. The majority of our membership are women.
- 1.2 We take this opportunity to make this Submission to the Inquiry and congratulate the Minister and the House of Representatives on taking this initiative after a period of long silence on the issue of pay equity at the Federal level.
- 1.3 The `gender pay gap` has been persistent and intransigent and while many see the solution to the `gap` and women's equality in the workforce as eventually responding to the market, or to women entering male dominated areas of work, or to education, all these solutions or explanations have failed so far. Wages in occupations and industries where women work haven't increased despite labour shortages and while women have increased education levels this still hasn't provided equality in earnings and career progression.
- 1.4 We will submit that the causes and solutions to pay equity are complex and that various means are required to advance the issue. We will submit that the issue needs to be tackled through various means at both a macro and micro level. That pay inequality needs to be `unpacked`. The `gender wage gap` gives us some indication of the `aggregate` problem but we need to examine and target particular workforces and occupations.
- 1.5 We will submit that the main contributing influence in institutionalising gender pay inequality is that the work that women do is underpaid and undervalued. It is clear that many women workers are low paid and they work in low paid sectors, in occupations such as carer's, retail and clerical workers, in lower paid sectors such as health and education.
- 1.6 It has been argued by some commentators such as Prof Mark Wooden that the problem with the pay gap is that women `choose` to work less hours in low paid occupations (National Press Club 7/5/08). This in some sense is true but masks the real problem that the work and occupations are low paid because the work performed is undervalued and not properly remunerated for the skill level of the work performed. If women `choose` to work in these sectors and `choose` to work part time this does not excuse or provide any justification as to why they should not be paid the appropriate value for their work. Such simplistic explanations will not resolve the pay equity problem.
- 1.7 This raises the question `who will do the work?` Also, why shouldn't women (or men) choose to work in these areas of employment if they so desire? The problem is that often the work that women do is overlooked or unrecognized. Many tasks and so called soft skills such as communication, decision making and pastoral care are undervalued and unrecognized as a work skill. Who is to say that making a decision about which child ought to be attended to, or which patient needs priority is less a decision or worth than that of an information systems officer deciding the priority of which computer to fix or in which order a bricklayer should lay bricks? However, current income rates indicate that many occupations where women work are valued at hundreds of dollars a week less than similarly but differently skilled male dominated jobs. Women's skills are valued and paid less.

1.8 A way forward to redress this problem of the gender gap is to have the work that women do properly valued and remunerated. The problem of undervaluation of women's work can be redressed through tackling gendered notions of skill and reward that exist in pay and classification structures in awards and agreements.

1.9 This submission will make recommendations that suggest reviewing and upgrading legislative, industrial, governmental agencies, policies and programs that would provide various means of addressing this somewhat neglected and persistent problem of pay inequality.

2. DEFINITIONAL CONFUSION: DISCRIMINATION; PAY EQUITY – WHAT DO THEY MEAN?

2.1. The term 'pay equity' is often used interchangeably with the term 'gender pay gap'. The two concepts are not the same thing. The gender pay gap generally refers to the aggregate difference in employment earnings of women and men. For instance women earn 84 per cent of male earnings. Whereas if we are to discuss pay equity we would examine the remuneration for particular work, for the value of work performed. We might compare the remuneration of nurses, a predominately female occupation, with that of police officers, a predominately male occupation, to examine if gender factors have influenced the rates of pay.

2.2. Discrimination occurs when two persons of the same merit but of a different race, colour, sex, descent or origin are paid different salaries for the same job or a job of equal value. When wage outcomes or the value of work is less for one worker than for another, based on notions of gender, this is discrimination. Gender wage inequality results in discrimination.

2.3. A fundamental principle and right at work is the elimination of discrimination with respect to employment and occupation. In order to eliminate discrimination at work the ILO has developed Conventions and Recommendations to achieve this goal. Australia is a signatory to the principle of Equal Remuneration for Work of Equal Value, which is defined in ILO Convention 100.

2.4. Pay Equity as a concept is defined within this Convention as 'not about men and women earning the same; nor it is about changing the work that women do. Pay equity is about redressing the *undervaluation* of jobs typically performed by women and remunerating them according to their value'. Put simply, it means remuneration of work through proper valuing of work which is free from gender bias.

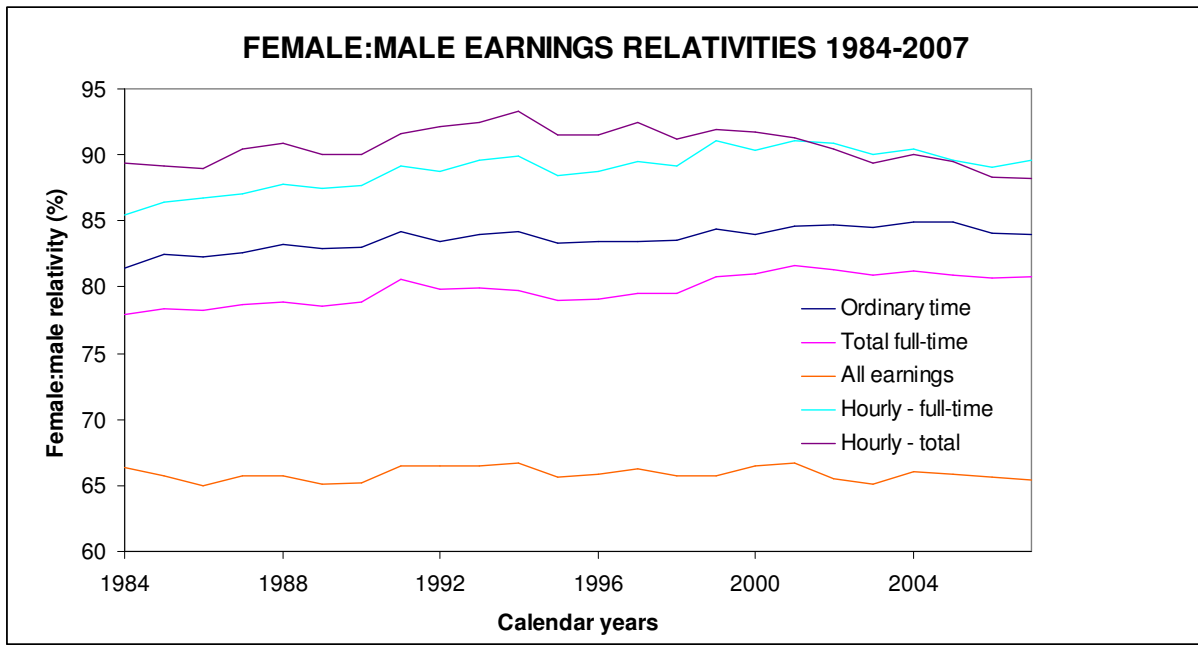
2.5. The meaning of 'Remuneration' also needs to be clearly defined. Remuneration should include all elements of work-related rewards. This includes allowances, benefits and bonuses, superannuation, performance related payments and non-monetary benefits.

2.6. We submit to the Inquiry that gender wage inequality is discrimination and we must question why, in Australia, something that is deemed as unlawful has remained persistent and intractable.

3. FEATURES OF GENDER WAGE INEQUALITY IN AUSTRALIA

3.1. The Facts: the Known Knowns

3.2. In recent years the aggregate wage gap has widened. The marked improvements made after the Equal Pay Cases of the 1970s have stalled and now indicate a declining 'flatline'.



3.3. Even with increased female participation in the workforce the gender pay gap has failed to improve and when one considers increased participation the situation could be said to have worsened.

3.4. There has been an increase of women in low paid jobs and much of the growth in employment has been in part-time and less secure forms of work.

3.5. Industrial Relations policies to de-centralise and individualise pay setting have had a detrimental impact on gender inequality in work arrangements.

3.6. The withering of the award system has worsened wage outcomes for low paid women.

3.7. A decline in the relative value of the minimum wage has worsened wage outcomes for low paid workers and has a significant impact on gender wage equality.

3.8. In regards to public sector employment, women employed are clustered into lower paid classifications and are less likely to have permanent employment arrangements.

3.9. Many women's skills are unrecognised and undervalued.

3.10. Despite increased educational levels women are still paid less.

- 3.11. The gender wage gap widens at the time that women start their families.
- 3.12. The gender wage gap has significant implications for women's future retirement incomes.
- 3.13. Reliance on the 'market' to eliminate wage discriminate has proven inadequate policy.
- 3.14. Failure to resolve pay equality has resulted in an inefficiently functioning labor market which discourages participation and has a detrimental effect on labour supply, productivity, efficiency and labour turnover.
- 3.15. Failure to resolve wage inequality also has significant impact on tax and welfare systems.
- 3.16. The Equal Opportunity in the Workplace Agency has failed to monitor, research and encourage equal opportunity.

4. CONSEQUENCES OF WAGE INEQUALITY

4.1. Women and Low Pay

- 4.1.1. When we look at the problem of low wage workers we find that women dominate the low pay sector. The low paid sector of the economy is not made up of young workers on a training wage but is dominated by women, the majority of whom have dependent children and many of whom are sole parents. Typically, female low wage workers are also paid less than male low paid workers. Because women have periods of time out of the labour force for child bearing and caring responsibilities they are more reliant on the aged pension than men, have less superannuation and are more likely to live in poverty in their older age. Women also bear responsibility for the care of family members with disabilities and for older members of their family. Lone parents are predominately women and lone mothers tend to have younger children living with them. Lone parents are more likely to rely on government pensions and allowances as their source of income and lone parents are over-represented in long-term low-income groups (ABS Social Trends 2004 and Social Trends 2006 Women's Incomes).
- 4.1.2. The relationship between women's low pay and the minimum wage is significant. Women are more likely to be reliant on the minimum award to set their rate of pay. Studies indicate that at a time when we have seen a decline in the minimum wage as a proportion of median earnings there has also been a growth of women characterised as low paid from 15.9% in 1989-90 to 27% in 2004 (Masterman, Pocock and May, 2007).

4.2. Participation, Turnover, Retention and Productivity

- 4.2.1. Most women are familiar with arguments that improvements in women's workforce entitlements such as equal pay, maternity leave and other benefits will result in women losing their jobs. This myth has been argued whenever any positive attempt to improve wages and conditions has been made. However the true picture is that when one examines participation rates both nationally and internationally, the narrowing of the gender wage gap has seen an increase in women's workforce participation. The problem facing

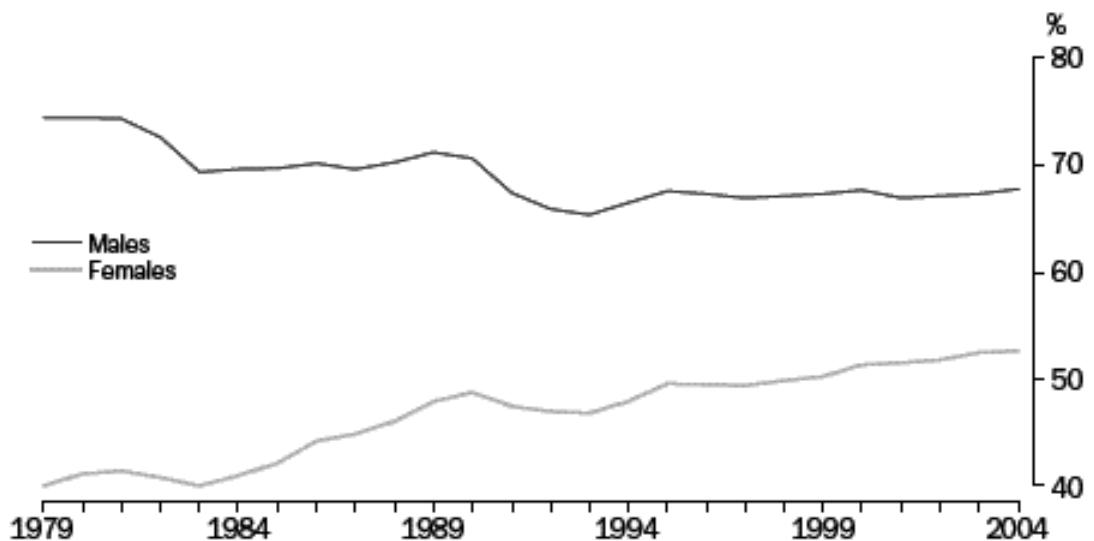
Australian policymakers is that while the closing of the wages gender gap has slowed so has the rate of improvement in women’s workforce participation. (see OECD Employment Outlook 2008)

4.2.2. Continuing inequality in the wages system has long term effects on the efficient function of the labour market and participation in employment. This is a significant issue when one considers forecasts of future labour shortages resulting from demographic changes. The recent study conducted by the OECD found that ‘by affecting labour market returns, discriminatory practices will discourage labour market participation’. (2008:185)

4.2.3. It also points out, with regards to continuing improvements in women’s workforce participation:

‘Empirical evidence indicates that, in addition to factors determining labour supply patterns, discrimination in the labour market – ie the unequal treatment of equally productive individuals only because they belong to a specific group- might be one of the forces behind the large and persistent disparities’. (140)

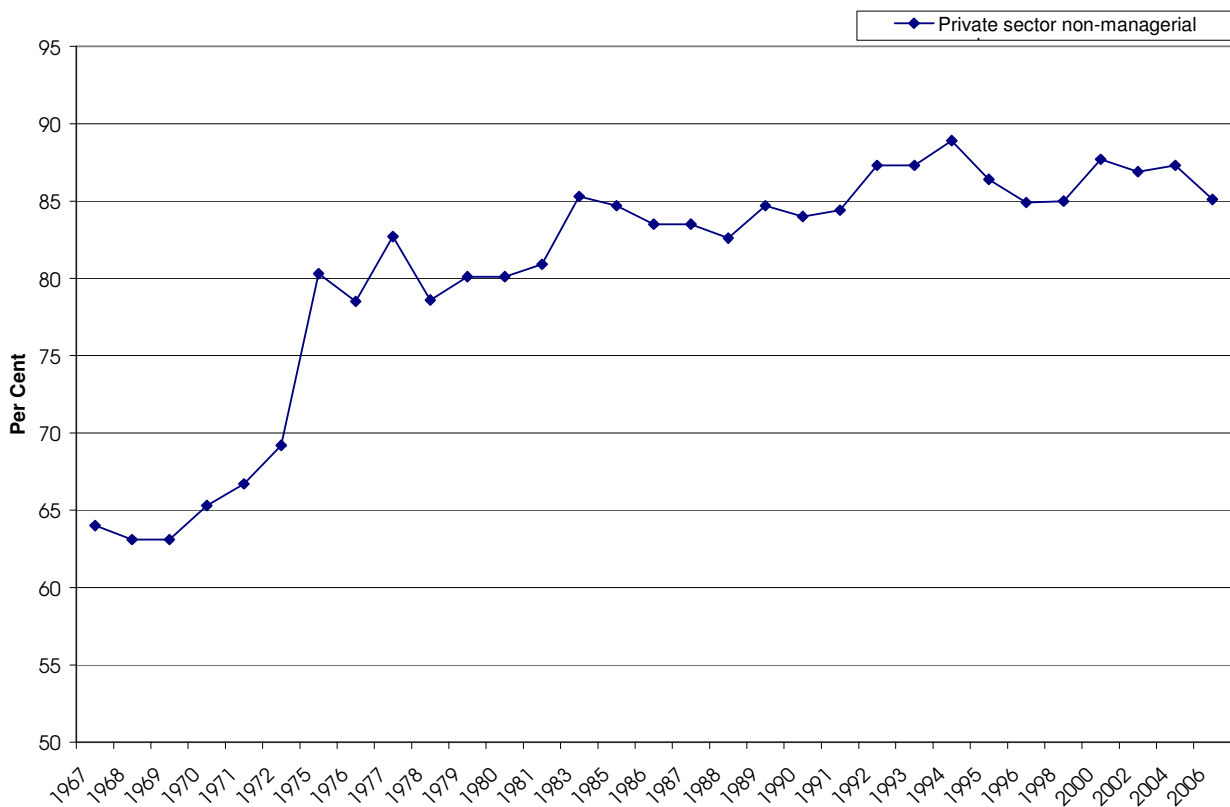
Proportion Of Men And Women Who Were Employed as a Proportion of the Civilian Population Aged 15 Years or Over



(a) As a proportion of the civilian population aged 15 years or over for each group.

Source: *Labour Force, Australia, Detailed - Electronic Delivery, Monthly* (ABS cat. no. 6291.0.55.001).

Gender Pay Equity Ratios 1967 - 2006 (Hourly Rates, Total Earnings)



- 4.2.4. Gender wage inequality distorts the proper function of the labour market and therefore calls for positive steps to correct for labour market failure. It has often been argued that the 'market' will correct for labor market failure, however under cross examination in the NSW Equal Remuneration Principles Test Case Prof. Mark Wooden agreed that discrimination has a negative effect on long term employment and therefore requires intervention by tribunals to correct for labour market failure. (IRCNSW, 2000:33)
- 4.2.5. Labour turnover is a significant cost to employers and addressing the issue of pay equity and workers' perception that they are remunerated properly for the work they do has an impact on decisions as to whether workers decide to stay in jobs, occupations and organisations. Grimshaw and Rubery found in their comprehensive study in the United Kingdom that:

'One indication of a mismatch between quality of work and the respective wage is pervasive evidence across a variety of sectors that businesses face significant costs caused by high staff turnover and unfilled vacancies. Costs include: recruiting and inducting staff; difficulties meeting customer targets; loss of orders and intangible costs of loss of organisational memory; and costly temporary agency work to fill vacancies. DfES estimated average cost to employers of each leaver as 2,500 pounds for sales staff and 4,300 pounds for managers. Existing staff, forced to cope with heavier workloads and low morale, feel resentful and eventually leave, perpetuating a downwards spiral (DfES 2002). (Grimshaw and Rubery 2007:121)

- 4.2.6. The New Zealand State Services Commission in their *'Equal Opportunity Progress Report'* show a relationship between the age at which the gender gap begins to widen in the public sector and the time at which women leave the public sector workforce. Women have shorter terms of employment and have a higher turnover rate than males at the same time that the gender gap widens.(SSC 2004)
- 4.2.7. We draw the attention of the members of the Inquiry to studies of nurses and personal carer's undertaken in the nursing home industry workforce. This is a workforce that is under threat of increasing labour shortages. Moskos and Martin of the National Institute of Labour Studies, in their study *What's Best, What's Worst? Direct Carers' Work in their own Words*, found that many workers felt dissatisfied with their pay:
- 'The pay is pathetic for the responsibilities we are given, not much of an incentive to work in this field.'
- 4.2.8. Another study undertaken by the Commonwealth Department of Education, Science and Training, into *Australian Aged Care Nursing: A Critical Review of Education, Training, Recruitment and Retention in Residential and Community Setting*, found that 'low morale and poor image which appears most profound in the aged care sector. Recruitment therefore becomes problematic as women in general, and nurses in particular, seek employment opportunities that are more rewarding emotionally and financially.This lack of recognition of expertise serves to devalue the role and, thus, render aged care nursing a low status pursuit'. And that 'the disparity between rates of pay for aged care nurses and acute care nurses clearly acts as a major obstacle to recruitment. (DEST:2001)
- 4.2.9. It would seem obvious that relying on the market to correct for labour shortages will not provide the answer and that immediate action needs to be taken to attract, train and retain workers in the industry.
- 4.2.10. The impending labour market shortages in the aged care industry and the undervaluation and underpayment of the work performed illustrates the need to address the issue of pay equity for this workforce. It indicates the importance of identifying particular workforces and drivers of wage inequality and seeking appropriate remedial action.
- 4.2.11. Gender pay inequality comes at a cost to productivity both at a personal level and to the economy in general. A worker's perception that they are not paid appropriately for the work performed leads to their exiting from occupations and workplaces and can also lead to under-utilisation and underperformance. This comes at a considerable loss of training, education and re-hiring costs.
- 4.2.12. Raising retention levels reduces employers' use of temporary agency work to fill vacancies at short notice and establishes the conditions for a stable model of service delivery or product manufacturing. Job stability impacts directly on the quality of work performed.
- 4.2.13. In the United Kingdom, the Women and Work Commission argues that better use of women's skills is the key to economic prosperity and that the under-use of women's skills is bad for women and bad for Britain.

- 4.2.14. Grimshaw and Rubery argue that ‘undervaluation of women’s work means that many women are working harder and delivering higher quality of services than is justified for a given wage.’ They go on to say a negative change in pay, introducing or reinforcing undervaluation, may have a negative impact on quality of service and productivity under certain conditions. (2007:114)
- 4.2.15. Undervaluation also has a personal cost in that women receive lower returns on their investments in education and training and on their experience. (2007:131)
- 4.2.16. We would submit that in order to address impending labour market shortages and to secure Australia’s economic prosperity, pay rates must reflect contemporary notions of value. To encourage women’s workforce participation and to attract and retain workers, workers must feel both satisfied with their work and rewarded. Australian policymakers must provide corrective mechanisms in Fair Work Australia and through other policies and programs.

5. PAY EQUITY: SUPERANNUATION AND RETIREMENT

- 5.1. An important issue that must be addressed is the effect of pay inequality and workforce experience on women’s retirement incomes. When we examine superannuation accumulation and women’s retirement income we find that women are more likely to live in poverty in their retirement. (ASFA Report June 2007)
- 5.2. Average Superannuation balances in 2004

Men	\$56,400
Women	\$23,900
- 5.3. Average retirement payouts 2004

Men	\$110,000.00
Women	\$37,000.00
- 5.4. 61% of age pensioners are women of whom 69% receive full pension.
- 5.5. The two reasons for such differences are the high incidence of full time work for men and the atypical work arrangements of women. Research by Jefferson and Preston indicates that, taking into account workforce experience, there is a 35% difference between male and female baby boomers’ superannuation accumulation. In 1996, men born in 1950 spent on average 27 years in full time employment whereas women spent 14 years in full time employment. Women spend more time in part-time employment than men. Pay inequality means the responsibility for child care remains with women because of the economic disadvantage suffered if a male partner reduces his employment. Furthermore as many women work part-time and casual, some in several casual jobs, they are denied the employer superannuation contribution. We recommend that all hours of work should attract the employer superannuation contribution.
- 5.6. Further, men are more likely to be paid more and are more likely to move into higher status occupations. Women are more likely to be in low paid jobs and to remain in low paid jobs. This again effects superannuation accumulation.

- 5.7. As far as lifetime earnings go, studies in the United States indicate that a 20% gap between men and women's wages transposes into about \$500,000 over a lifetime (Institute for Women's Policy Research 2007).
- 5.8. Pay equity is a complex and difficult problem to solve but it does have serious consequences for working women and their workforce participation, the efficient function of the labour market and Australia's future economic prosperity. It is true to say that the former Federal Government dropped the ball on pay equity and WorkChoices was a disaster for working women. The new Fair Work Australia could give us an opportunity to tackle gender wage inequality and build a 'modern' workplace relations system free of past gender biased notions of skill and work value.
- 5.9. We point out that policies which inhibit the growth of minimum wage rates by subsidising incomes of low paid women through tax and welfare arrangements have a detrimental effect on their ability to accumulate retirement incomes. The consequences of these policies must be given full consideration and must adequately ensure for no disadvantage in the accumulation of retirement savings.

6. INSTITUTIONAL STRUCTURES

6.1. The Australian Industrial Relations System

- 6.1.1. The Australian tribunal industrial relations system has, in the past, provided the most effective means to resolve the pay equity problem. The adoption of equal pay principles in 1969 and 1972 resulted in a marked closing of the gender wage gap. International studies indicated that the centralised wage fixing system had delivered greater wage equality and less wage dispersion than countries with more de-centralised industrial systems. (Whitehouse, Hammond and Harbridge). A significant determinate in addressing pay equity has been the ability of the State and Federal tribunals to make decisions that effect whole classes of women at an occupational and industry level.
- 6.1.2. There are four important elements of the system that the Inquiry needs to consider:
- the Equal Remuneration Provisions of the Workplace Relations Act;
 - the Award System;
 - the Federal Minimum Wage; and
 - Collective Bargaining.
- 6.1.3. We submit that the current re-structuring of the Workplace Relations system, Fair Work Australia, provides an opportunity to improve women's working lives and create a more efficient labour market.

6.2. Equal Remuneration Principles

- 6.2.1. In 1993 the Commonwealth Industrial Relations Act was amended to include equal remuneration provisions based on International Labour Organisation Convention 100, *Convention Concerning Remuneration for Men and Women Workers for Work of Equal Value*.
- 6.2.2. There have been few Cases taken under the provisions in the Federal Act owing to uncertainty as to the meaning and scope of the provisions and, when tested, failure in producing a satisfactory outcome. In its simplest explanation Cases have failed in the federal jurisdiction because of the need to prove direct discrimination. In the only application in the Federal Commission to proceed to arbitration, the HPM Case, the applicants were required to establish a discriminatory cause for any male/female earnings disparity. There was a reluctance by the AIRC to intervene in the regulation of over award payments and the decision in many ways narrowed the grounds in which equal remuneration claims could be heard. This highlights the importance of the advances in the Principles set in the NSW and Queensland Principles. The NSW and Queensland Principles are less restrictive (see Principles attached). We also attach for the benefit of the Inquiry a small case study of the NSW Librarian's Equal Remuneration Test Case.
- 6.2.3. There is now an opportunity to review the Equal Remuneration Principles in the current Federal Workplace Relations Act. The current provisions have proved to be inadequate in redressing the undervaluation of work. In reviewing the Equal Remuneration Provisions of the Federal Act, those drafting the Fair Work Australia framework need to examine Principles set in State Tribunals such as New South Wales and Queensland (see attachment) where the need to prove discrimination and establish comparable work value, as currently bedevils the Federal Act, are not required. The State Tribunals and Principles have proven to be much more successful forums for correcting gender wage inequality.
- 6.2.4. We also recommend that the removal by the WorkChoices amendments of the jurisdiction of State Industrial Tribunals to hear Equal Remuneration Test Cases be restored to State Tribunals.

6.3. **The Award System**

- 6.3.1. Historically the award system has played an integral role in setting wages and conditions for women workers. Women are more likely to be award reliant and have in the past benefited from the 'flow-on' effect of decisions that have affected occupational and industry level awards. Centralised wage fixing arrangements provided a better outcome for women than relying on their capacity to bargain outcomes.
- 6.3.2. Over the last decade there has been a shift towards de-centralisation and individualisation of employment arrangements. We have also seen the scope, coverage and content of awards reduced and it is therefore no surprise that we have seen greater wage dispersion and less even distribution of workplace entitlements.
- 6.3.3. Despite criticism of the 'inflexible' nature of awards, award setting and awards have been reflective of changes in industry and the economy. As part of maintaining the evolutionary nature of awards, the Rudd Government passed legislation to allow for 'Award Modernisation'. Awards are to reflect the nature of a modern workforce.

- 6.3.4. As part of the Award Modernisation Process the Australian Industrial Relations Commission (who certainly have the expertise to do so) could investigate skill, value, pay and classification structures which may reflect past concepts of the value of women's work. Award Modernisation provides a unique opportunity for tackling long held gender biased notions of skill and value of work.
- 6.3.5. The Federal Government has committed to conducting an Award Modernisation Process to be carried out by the Australian Industrial Relations Commission. In order to satisfy its legislative requirements, award rates of pay and classification structures must be subject to Equal Remuneration work value assessments as set out in the Objects of the Act and in accordance with section 576B (2). We submit that in order to satisfy these requirements the Commission, when conducting the Modernisation Process, therefore has jurisdiction to review awards to satisfy the Object of equal remuneration for work of equal value, in accordance with Section 576B(2).

6.4. **Award Modernisation: Putting into Effect the Objects of the Act**

- 6.4.1. On 28 March 2008 the Minister for Employment and Workplace Relations signed an Award Modernisation Request, which requires the Australian Industrial Relations Commission, when carrying out the Award Modernisation Process, to have regard to the following factors:

Division 2 – Award modernisation process

576B Commission's award modernisation function

- (1) It is a function of the Commission to carry out one or more award modernisation processes.
- (2) In performing its functions under this Part, the Commission must have regard to the following factors:
 - (a) promoting the creation of jobs, high levels of productivity, low inflation, high levels of employment and labour force participation, national and international competitiveness, the development of skills and a fair labour market;
 - (b) protecting the position in the labour market of young people, employees with a disability and employees to whom training arrangements apply;
 - (c) the needs of the low-paid;
 - (d) the desirability of reducing the number of awards operating in the workplace relations system;
 - (e) the need to help prevent and eliminate discrimination on the grounds of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, and to promote the principle of equal remuneration for work of equal value;**

- (f) the need to assist employees to balance their work and family responsibilities effectively, and to improve retention and participation of employees in the workforce;
- (g) the safety, health and welfare of employees;
- (h) relevant rates of pay in Australian Pay and Classification Scales and transitional awards;
- (i) minimum wage decisions of the Australian Fair Pay Commission;
- (j) the representation rights, under this Act or the Registration and Accountability of Organisations Schedule, of organisations and transitionally registered associations.

- 6.4.2. We recommend that in the Award Modernisation Process a contemporary assessment of work value and classification structures and rates of pay be undertaken in order to satisfy the legislative requirements of addressing the needs of the low paid, providing for the principle of equal remuneration for work of equal value, assisting employees to balance work and family and improving retention and participation in the workforce.
- 6.4.3. We draw the attention of the members of the Inquiry to the Submissions currently made to the Australian Industrial Relations Commission Award Modernisation Process by National Pay Equity Coalition, Women's Electoral Lobby and National Foundations of Australian Women suggesting the application of equal remuneration Objects of the Act to work performed in the Aged Care Industry.
- 6.4.4. We would suggest, given that the Australian award system has a long history of deciding issues relating to equal pay and work value and, as the personnel of the Commission have expertise in this field, that a specialist division of Fair Work Australia should be established to research, inquire, investigate and make decisions as to equal remuneration for work of equal value.
- 6.4.5. We therefore recommend that a specialised Division and Commissioner for Equal Remuneration be appointed within Fair Work Australia to have research, investigatory and award making authority.
- 6.4.6. We recommend that Fair Work Australia have the capacity for unions to bring cases to adjust rates of pay in awards that do not reflect the true value of the work performed.
- 6.4.7. We also suggest that annual wage rate reviews and award reviews satisfy the Equal Remuneration Provisions of the Award Modernisation legislation.
- 6.4.8. And importantly, we suggest that equal remuneration laws that govern award making and collective bargaining must apply at an industrial, occupational and workplace level. Industry and occupational settlements are necessary to effect change for whole groups of women workers. The main advances that have resulted in addressing undervaluation in such cases as NSW and Queensland child care workers, NSW librarians, and Queensland dental nurses, which delivered increases in wages for approximately 400,000 women

workers in the State jurisdictions, would not have occurred if left to workplace settlements. We submit that the industrial tribunal system has proven to be the most effective means of pursuing pay equity, we therefore recommend that in order to deal with system gender discrimination in pay the Commission needs board arbitral powers to hear, deal, conciliate and arbitrate on disputes in the equal remuneration matters.

6.5. Minimum Wage: Low Paid Women Workers

- 6.5.1. All international evidence indicates the importance of a decent and fair minimum rate in addressing the issue of gender wage inequality. As stated above, women are more likely to be reliant on minimum rates.
- 6.5.2. As the ILO states: 'the adoption of minimum wage policies is very relevant to women workers in poverty, because minimum wage policies set a floor for the wage structure by protecting low wage earners and improving the earnings of those disproportionately represented at the bottom of the occupational hierarchy, where many women are found.' (2007:19)
- 6.5.3. **There is no doubt as to the importance of the fair and decent minimum rate in addressing women's pay rates.**
- 6.5.4. Changes in wage setting and the setting of minimum rates over the last decade have resulted in greater wage inequality. Minimum wage recipients are now about 54% of overall median weekly earnings, compared to 62% a decade ago. Prof. Harper, Chairman of the Fair Pay Commission has stated that 'the level of the minimum wage has not kept pace with wages for middle-income earners'. (Schneiders: The Age 26.2.08)
- 6.5.5. We see the handing back of award pay setting to the jurisdiction of the Australian Industrial Relations Commission, the position prior to WorkChoices, as being a positive move. The new minimum wage setting body, Fair Work Australia, must ensure a fair and decent wage is set on principles of a fair wage for the work performed. A strong minimum wage is an important factor in improving women's wage outcomes and dealing with the gender wage gap as many women are reliant on minimum wages.
- 6.5.6. We submit that any proposal that discounts increases in the adjustment to the Federal Minimum Wage, based on tax cuts or welfare payments is a huge step backwards in pay equity. Workers ought to be paid for the value of their work, not on their personal circumstances. Furthermore, it is poor policy when we have forecasts of an ageing population which will be more reliant on superannuation. Cutting minimum wages will impede a worker's ability to build superannuation. The gender pay gap not only affects women's economic livelihood in their working life but also in their retirement.

6.6. **Collective Bargaining**

- 6.6.1. The right of workers to collectively bargain is a fundamental democratic right.
- 6.6.2. On the issue of pay equity and women's workforce experience, the ability to collectively bargain has been important in achieving fair and decent working standards.
- 6.6.3. All research indicates that women in unions do better than unorganised women when they have the right to collectively bargain agreements.
- 6.6.4. The recent Australian experience with WorkChoices and individual bargaining highlighted the importance for women of the right to collective bargaining. Professor David Peetz' analyses of AWAs indicated a widening of the gender gap. He found that the gender pay gap was worse on AWAs. Under registered collective agreements women received 90 per cent of the hourly rate of men on such agreements. Women on AWAs received only 80 per cent of the hourly pay of men on AWAs. He also found that the outcome for part-time workers was worse, that the gap widened significantly when part-time workers are considered, where the difference paid on AWAs is 24 percent. Australian Bureau of Statistics data showed that women on AWAs have hourly earnings 11 per cent less than women on collective agreements. Full time women workers in the organised sector are the best paid and part-time workers in the non-organised sector are the worst paid. Women in trade unions do better than women who are not. (Peetz 2005)
- 6.6.5. The findings of the *Report of the Taskforce on Pay and Employment Equity in the Public Service and the Public Health and Public Education Sectors* highlights the relationship between the ability to collectively bargain and pay equity outcomes. This Inquiry found that women in the public sector do better when they are members of a union and that collective organisation is more likely to produce pay equity than individual pay setting.
- 6.6.6. Importantly, one of the main recommendations of the Inquiry was the promotion and strengthening of collective bargaining. The Inquiry found that decentralised pay fixing in the public service appears to have disadvantaged women and can result in salary rates for the same occupations and the same job sizes varying between departments. The Inquiry recommended the promotion of multi-employer agreements.
- 6.6.7. The Inquiry also found that the difference between women's and men's average pay is smallest in the highly collectivised departments. The Inquiry found that individual pay setting processes may reproduce current market discrimination and that individualised job and performance evaluation systems can be subjective.
- 6.6.8. A significant factor in determining bargaining outcomes is the level at which the bargaining takes place. Women fare less well in decentralised bargaining systems and do better in higher level bargaining. Research by the OECD also suggests that coordinated bargaining is more likely to result in a compressed wage structure and lower gender pay gaps (OECD 2004 and Hammond and Harbridge 1996). It is therefore important that rules governing bargaining should allow for industry, occupational and workplace agreements. The agreements must be enforceable and the Commission must have the power to enable the review of agreements to ensure that they provide for equal remuneration.

7. EQUAL OPPORTUNITY FOR WOMEN IN THE WORKPLACE ACT 1999

- 7.1. The Equal Opportunity for Women in the Workplace Agency administers the Equal Opportunity for Women in the Workplace Act 1999.
- 7.2. The functions of the agency are to advise and assist employers in the development and implementation of workplace programs, to issue guidelines, to monitor the lodging of reports, to evaluate the effectiveness of workplace programs, to undertake research and educational programs and to promote the understanding of equal opportunity for women.
- 7.3. We suggest that it would be time to review the role and function of the Agency.
- 7.4. Our concerns are summarised as follows:
- 7.5. **Reporting**
 - 7.5.1. It is extremely important that, when addressing pay equity, proper and reliable information be available and examinable. The Act requires that employers with over 100 employees report annually. However it is unfortunate that Reports submitted and available for scrutiny provide little information. We invite members of the Committee to examine reports and the website. We attach an example for examination. The attached Report of the David Jones organisation and employer of many women. Like many reports, it provides little assistance in investigating the pay equity problem. The reports do not contain the information required to make any analysis or form any clear picture of equal opportunity or pay equity in large organisations. In most cases there is no wages data, no information on employment structures or work contracts. Most reports in their current state merely reflect human resources policy statements. While the Agency does have sufficient power invested in the Act, it would appear that the responsibility to interrogate and seek proper information has not been used effectively. We would suggest that reporting standards be upgraded to provide much better data. Reports need to contain information on matters such as wages, classification structures, starting salaries, career progression, occupational segregation, pay scales, pay systems, flexible work arrangements, training and development data, other forms of remuneration and turnover rates. The Agency must make use of its powers to investigate and interrogate further. This information should be made available publicly.
 - 7.5.2. We also suggest that the Act be widened to include public sector organisations.
 - 7.5.3. We also suggest that the application of 'waivering' of reporting requirements ought to be reviewed.
 - 7.5.4. Further: reports do not contain any information drawn from employees. We suggest a right to interview employees be included in the provisions that govern reporting requirements. Employee involvement would improve attitude and recognition that equal opportunity is a serious issue.

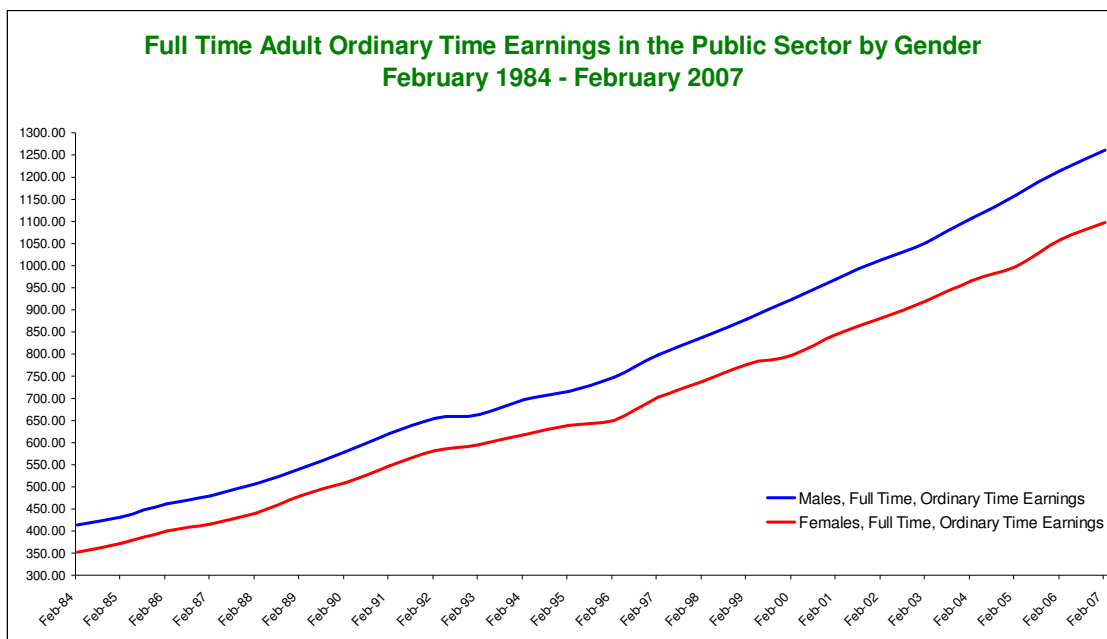
- 7.5.5. Reports to the Agency could provide a good data resource and research body that would give a clear picture of gender inequality in workplaces. Unfortunately, in its current form the Agency provides little value for those attempting to address the pay equity problem.
- 7.5.6. The Agency has, as one of its functions, the authority to conduct research into equal opportunity. Unfortunately the research conducted by the Agency has been very narrow and of little assistance in addressing the problem of pay equity. The major research conducted by the Agency, the *Australian Census of Women in Leadership*, while useful, does not strike at the heart of the problem of pay equity: the problem of women in the low pay sector. In fact one could argue that focusing Agency research monies to gender pay gap of women CEO's is somewhat insulting to the average women worker. Research needs to be much broader and relevant to Australian working women. Areas that research needs to be directed at are low paid workers, part-time workers, Non English speaking and indigenous women.
- 7.5.7. We suggest that the research function of the Agency be reviewed.
- 7.5.8. A main function of the Agency has been to make Employer of Choice Awards. While Awards may encourage good practice it may be that their usefulness might need to be reviewed to establish the real standing of these Awards in the community and their effectiveness in promoting equal opportunity.

7.6. **Promotion of Programs**

- 7.6.1. The Agency has a function to promote programs that will assist employers and encourage equal opportunity. We note the pay equity tools on the Agency website. We would suggest however that the Agency be more active in promoting programs, establishing workplace committees, gender audits, tools and remedial policies to employers. We draw attention to the New Zealand program referred to in the international part of this Submission.
- 7.6.2. We are concerned about the effectiveness of the Agency and therefore recommend an independent review of the role and function of the Agency which considers the modernisation of the Act, the expansion of the capacity of the Act to promote equal opportunity and to improve investigation and reporting processes.

8. **PUBLIC SECTOR WORKFORCE**

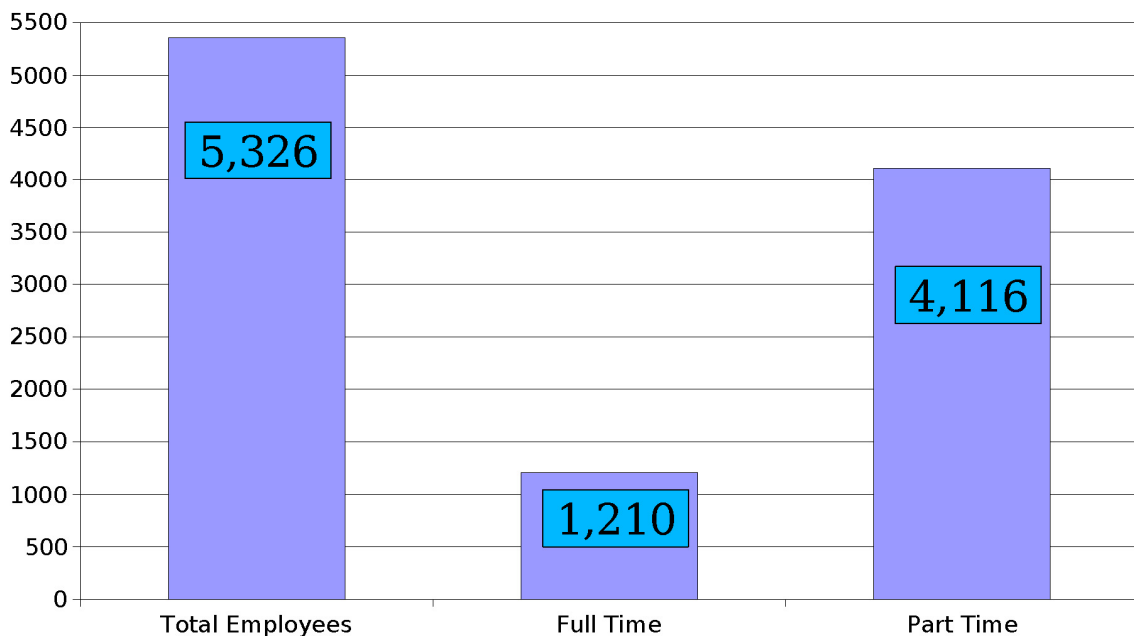
- 8.1. It is often thought that public sector workers are higher paid and enjoy better entitlements than many workers in the private sector workforce. It was a long held belief that the Government, as an employer, should set appropriate, decent and fair conditions of employment and set leading standards. While we have seen State and Federal Governments that have set precedents in employment (for example the Federal public service led the way in introducing paid maternity leave) unfortunately gender wage inequality is a feature of the public sector workforce.
- 8.2. Similar to the widening of the gender gap for the Australian workforce, the gender gap has also widened for the public sector workforce.



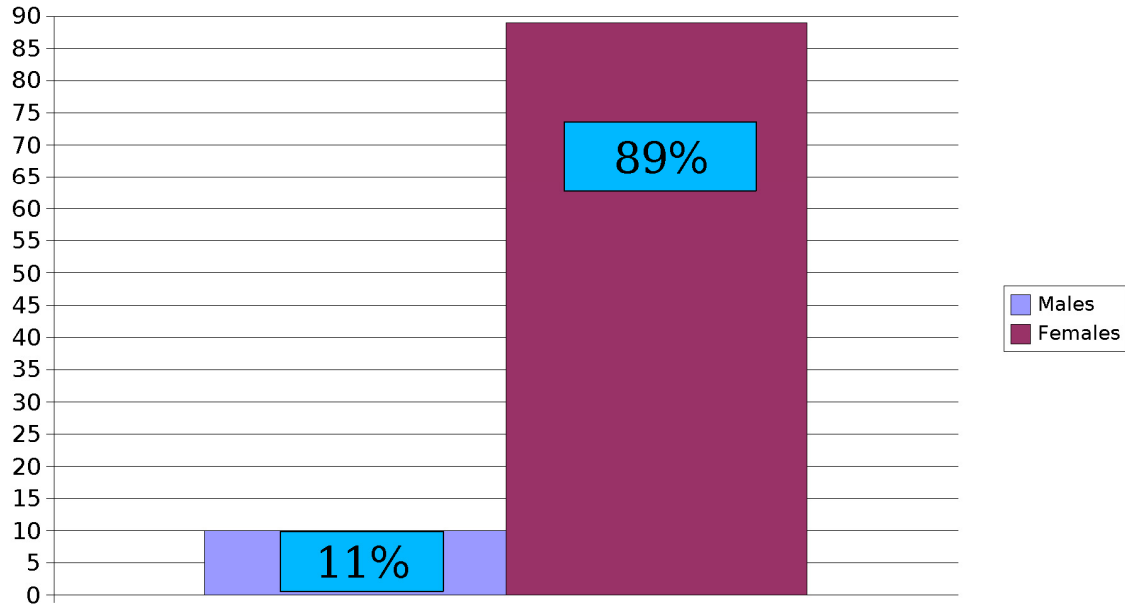
- 8.3. While average weekly earnings for public sector workers is marginally higher than the private sector workforce, when we unpack public sector employment and disaggregate wage structures we find that many public sector workers are low paid, and that these are likely to be women in certain occupations and departments. This again reinforces the necessity of 'unpacking' aggregates and looking beneath to see what drives the gender wage gap.
- 8.4. In the Australian Public Service women account for only 40% of Executive level classifications and 35% of SES classifications and are over-represented at the lower classifications. Women dominate in non-ongoing employment and are concentrated in APS1-3 Classifications. Women predominate in service provision positions.
- 8.5. The female public sector workforce is characterised as being in the lower paying classifications, part-time, casual and non-permanent contracts.
- 8.6. In relation to the gender wage gap for public servants, average total earnings of full-time workers in the public sector, as at February 2007, showed that women earned \$1113.60, while men earned \$1323.00: a difference of \$209.60, or 19%.
- 8.7. Women also predominate in the various State public sector workforces. They make up about 60-65% of State public sector workers. They also predominate in low paying occupations and departments.
- 8.8. An example can be found in the Western Australian public sector workforce, where 34.6% of permanent full-time public servants earned less than \$50,000 per annum. One third of full-time public servants earned less than average weekly earnings.
- 8.9. In 2004, in Queensland, average earnings for full-time permanent male employees was \$55,853.00, while for females it was \$48,838.00. Again a significant gender gap.

- 8.10. As stated above, we need to 'unpack' employment structures and identify low paid sectors and occupations. We know that women dominate in low paid sectors of the public services, especially in the caring professions. There are many examples to choose from. We present School Services Officers as an example.
- 8.11. School Services Officers perform a variety of functions ranging from administrative, clerical, accounting, child caring, school room support, parent communication, technical skills, fund raising and child protection duties to name a few. SSOs working in special schools are also called upon to perform personal care functions and can sometimes be subject to physical abuse. Like many female occupations, many of these skills are unrecognised and undervalued. Changes in technology, changing responsibilities and roles of schools in communities have also changed the nature of much of their work.
- 8.12. The School Support Staff workforce is dominated by women, many of whom don't have permanent ongoing contracts of employment, many are part-time workers and most are clustered in the lower pay range. The below graphs give an indication of employment structures for SSOs employed by the South Australian Government. As we can see, the majority of women are employed at the low grade of SSO1 with a salary range of \$29,401 to \$39,467. The SSO2 ranges from \$40,600 to \$53,853.

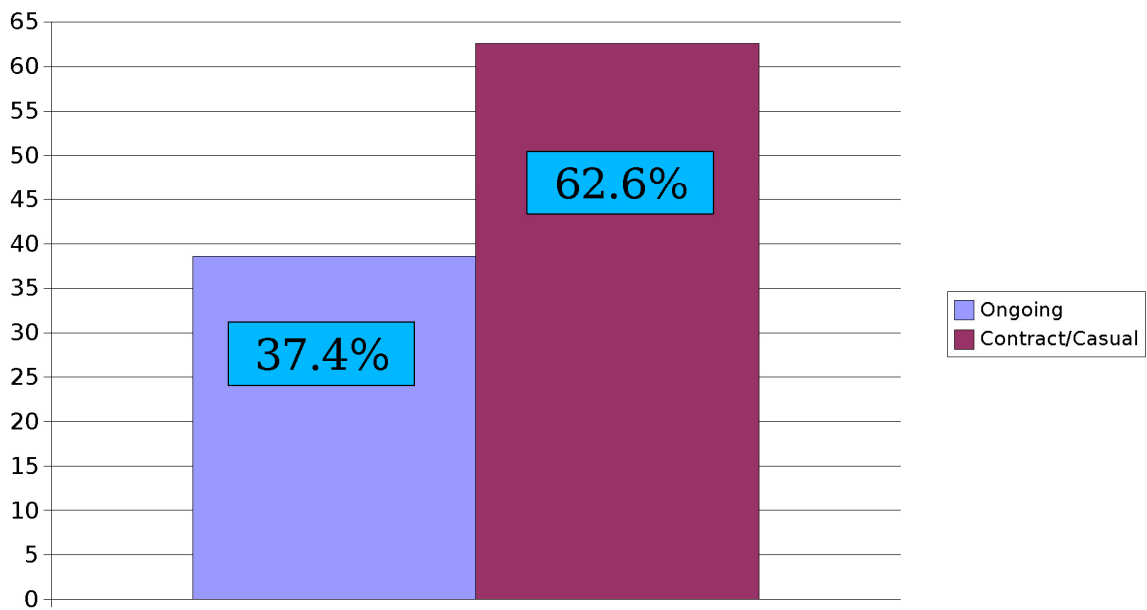
SSO's employed by DECS



Gender Breakdown of SSO's



SSO Employment Categories



8.13. The SSO1 range is well below average weekly earnings and is little more than wages received as a sales assistant in the retail sector.

8.14. We would suggest that unpacking of women's work and identifying unrecognised and undervalued skills would go some way to ensuring that these workers receive proper reward for the work that they perform.

8.15. **Obligations on Contracting**

8.15.1. We also suggest more rigorous requirements and enforcement of equity provisions in commercial contracts. Both State and Federal Governments can include equity obligations within government contracts with public and private sector service providers. For example in Canada federally regulated employers and contractors bidding for goods and service contracts are required to provide for employment equity. The UK also imposes obligations. This is one way of spreading best practice to the private sector.

9. **INTERNATIONAL EXPERIENCES**

9.1. Unfortunately, at the Federal Government level during the period of the Howard Government, the issue of Pay Equity was left unaddressed and in fact Workplace Relations policy exacerbated wage inequality. The situation was quite different in many of the States where Pay Equity Inquiries and programs and policies did advance. We draw the attention of the members of the Committee to the NSW Pay Equity Inquiry, the Queensland Pay Equity Inquiry, the Western Australia Pay Equity Inquiry, the Victorian Pay Equity Inquiry and the Tasmanian Industrial Relations Principles.

9.2. When we look at international attempts to solve the pay equity issue, the failure of the previous national Australian Government is somewhat embarrassing and lags behind international initiatives.

9.3. Various national Governments and organisations, such as the European Community, the International Labour Organisation, and Public Services International have attempted, by both legislative regimes and proactive policies, to resolve wage inequality.

9.4. In New Zealand, our near neighbour with very similar industrial history and similar period of economic development, the National Labour Government conducted a Pay Equity Inquiry and then developed a Pay Equity Taskforce. The Taskforce's efforts resulted in a Pay Equity Action Plan. The New Zealand program is targeted at the public sector and is a tripartite program made up of employers, unions and government. The program has identified problem areas through a system of audits, investigations and reviews, which it then suggests remedial actions to overcome. The plan acknowledges that the drivers of the pay gap operate at organisational, sectoral and occupational levels. The Taskforce has developed audit and job evaluation tools, workplace committees and advisors.

9.5. The program is a proactive program and has instilled a feeling of cooperation, enthusiasm and good will with participants.

- 9.6. The program has a budget which is a similar budget as currently directed to the Equal Opportunity in the Workplace Agency however it would appear that the outcomes have been somewhat more successful than those of the current Australian Agency.
- 9.7. The Inquiry is directed to the New Zealand Department of Labour website www.dol.govt.nz/services/PayAndEmploymentEquity to examine the program and tools developed.
- 9.8. In Great Britain there have been various policy initiatives aimed at reducing the gender wage gap and addressing pay equity. These initiatives have included recognition of the importance of an adequate minimum wage, legislative initiatives on work and family arrangements and inquiries and legislation to tackle undervaluation of women's work. We draw the members of this Inquiry's attention to the United Kingdom's new Equality Bill. The new Equality Bill, while addressing various forms of discrimination, pays much attention to the gender pay gap. The new Equality Bill attempts to address issues relating to best legislative methods in solving the problem of discrimination. We also suggest that the House Inquiry also consider comprehensive research conducted by the European Work and Employment Research Centre by Damian Grimshaw and Jill Rubery '*Undervaluing women's work*'.

10. RECOMMENDATIONS

- 10.1. Restructuring the national industrial relations system, Fair Work Australia, provides an excellent opportunity for a new Government to make legislation that will tackle the problem of pay equity. However we do note that there is a disconnect between the preparation of the legislation governing Fair Work Australia and this Inquiry into Pay Equity. We submit that recommendations submitted to this Inquiry need to be considered in the drafting of the main body of industrial legislation.
- 10.2. We recommend that a review and revision of the Equal Remuneration Provisions that bedevil the current Workplace Relations Act take place. We recommend that in order to deal with systemic discrimination in pay the Commission have board arbitral powers to make, conciliate and arbitrate awards and agreements in matters of equal remuneration.
- 10.3. Unfortunately the current provisions of the Federal Act have been unable to produce successful outcomes in solving the problem of undervaluation of women's work. To be effective the new provisions of the Federal Act should allow applications to be made at industry, workplace and occupational levels.
- 10.4. Equal Remuneration Principles adopted in New South Wales and Queensland industrial jurisdictions provide a good model and ought to be considered. These Principles exclude provisions to 'prove' discrimination and are based on finding 'undervaluation' of work performed. Further, as in the Queensland and New South Wales models, the requirement of finding a comparator should be excluded. Equal remuneration cases should not be limited to enterprise bargaining arrangements but should be capable of industry, occupational and workplace settlements.

- 10.5. We recommend that the term `remuneration' should include all elements of work related rewards, including allowances, benefits and bonuses, superannuation, performance related payments and non-monetary benefits.
- 10.6. Any defences contained in any proposed legislation should be limited and clearly defined and any onus of proof must lie with the employer to show that remuneration is not affected by gender undervaluation of the work.
- 10.7. The legislation should provide a right to request information about remuneration and an obligation to bargain in good faith.
- 10.8. We recommend that financial support similar to that provided in Queensland be made available to assist unions, organisations and employer groups in making equal remuneration claims.
- 10.9. The Minimum Wage is important to gender equity, as many women are low paid and reliant on minimum wages. The Minimum Wage should be set at a fair and decent level and not be subject to the personal tax and welfare circumstances of the wage earner. That when setting minimum award wages, the Commission be mindful that any reduction of rates based on tax and welfare arrangements will have a detrimental impact on superannuation accumulation. We applaud the return of award wage fixing to the jurisdiction of the Australian Industrial Relations Commission and the proposed Fair Work Australia.
- 10.10. We recommend that the employer superannuation contribution be paid on all hours of work performed.
- 10.11. We recommend that the Equal Remuneration Test Case provisions be reinstated into State industrial jurisdiction as was the case prior to the WorkChoices amendments.
- 10.12. We recommend that Federal and State Government isolate funding in budgets to improve the wages of low paid public services that are a result of historical gendered concepts of skill and worth.
- 10.13. We recommend that Fair Work Australia have the capacity for unions to bring cases to adjust rates of pay based on undervaluation of work.
- 10.14. We recommend that a specialised Division and Commissioner for Equal Remuneration be appointed within Fair Work Australia to have research, investigatory and award making ability. A specialist Commissioner can provide guidance and assist in conciliating awards and agreements.
- 10.15. We also suggest that annual wage rate reviews and award reviews satisfy the Equal Remuneration Provisions of the Award Modernisation legislation.
- 10.16. We recommend a review of the role and function of the Equal Opportunity in the Workplace Agency (EOWA). Reports to the Agency need to comply with the requirements of the Act and provide reliable and proper information as to wage and employment structures of organisations.

- 10.17. We recommend that the Agency be empowered to undertake reviews and that employers, unions and employees participate and that the process contain disputes settlement procedures.
- 10.18. We recommend that public sector employers and employees come within the jurisdiction of the Equal Opportunity for Women in the Workplace Act 1999 and that the Government, as an employer, shows leadership in conducting reviews and undertaking programs and policies to resolve pay equity problems.
- 10.19. We recommend that the Agency be more proactive and institute programs and policies that allow for investigation, gender audits and remedial action as well as employee involvement in identifying and resolving gender related work problems. The Agency should develop a Code of Practice to give guidance to Governments, employers and unions.
- 10.20. We recommend that the EOWA develop pilot projects in targeted occupations, industry sectors and organisations to identify gender biases in setting rates of pay.
- 10.21. We recommend that the research function of the EOWA needs to be directed to research that is of benefit to the majority of women and not directed to narrow research which appears to concentrate on high income earners.

11. CONCLUSION

- 11.1. We thank the Minister and the Members of the House Committee for allowing public submission and discussion in the matter of pay equity. Pay equity has important implications for securing Australia's economic prosperity and enabling us to satisfy future labour market demands.
- 11.2. The issue of continued gender wage inequality undermines fundamental values in our society which deems that discrimination is intolerable and unlawful. Failure to take measures to redress gender wage inequality ignores discrimination which not only results in Australia's economic loss but comes at a personal economic and social cost to women and their equal sharing of the benefits of our society.
- 11.3. The pay equity problem is complex and we have made suggestions and recommendations to industrial, institutional, legislative and Governmental policies that we believe would reform and reinvigorate the pursuit of gender wage equality.
- 11.4. We have suggested that pay equity needs to be unpacked and that a variety of methods including legislative, industrial and less formal policies and programs need to be utilised. We have also suggested that better information is required, that we need to uncover and identify how pay equity emerges in particular occupations and industries. What is clear is that inaction and faith in the market resolving the problem has failed. What is also clear is that the form that the industrial system takes is an important determinate in the pay equity outcome. We need positive action. All evidence suggests that the major gains in closing the gap and addressing the problem of women's low pay occurred as a result of industrial decisions from State and Federal Tribunals. These Decisions that applied at an industry and

occupational level have provided wage justice of whole classes of women workers and have been more effective than individualist based legal mechanisms. In order to deal with systemic discrimination the Industrial Commissions must have board arbitral powers to conciliate, make and arbitrate awards and agreements on matters of equal remuneration.

11.5. We look forward to continued activity and legislative reform.

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APPENDICIES

- 1. PUBLIC SERVICE ASSOCIATION OF NSW PAY EQUITY TEST CASE**
- 2. QUEENSLAND INDUSTRIAL RELATIONS COMMISSION EQUAL REMUNERATION PRINCIPLE**
- 3. PUBLIC REPORT ON EO WORKPLACE PROGRAM FOR DAVID JONES LIMITED**

PUBLIC SERVICE ASSOCIATION OF NSW PAY EQUITY TEST CASE

The Equal remuneration and other conditions principle - Background

The Public Service Association of NSW (PSA) in 2002 was able to deliver pay equity for our members who are librarians, library technicians and archivists employed by NSW Government bodies using the Equal Remuneration and Other Conditions Principle at section 23 of the New South Wales Industrial Relations Act 1996.

23 Equal remuneration and other conditions

Whenever the Commission makes an award, it must ensure that the award provides equal remuneration and other conditions of employment for men and women doing work of equal or comparable value.ⁱ

The Equal Remuneration and Other Conditions Principle was established on 30 June 2000 by the Full Bench of the NSW Industrial Relations Commission as a result of the Labor Council (now UnionsNSW) application to the Commission to implement the recommendations of the Pay Equity Inquiry conducted by Justice Glynn in 1998. The Pay Equity Inquiry itself arose out of the recommendations of the Pay Equity Taskforce which was established in 1996.

As pay equity has been thoroughly considered in NSW and in other states it is hoped that the current House of Representatives Standing Committee on Employment and Workplace Relations Inquiry will establish a pay equity principle federally without delay.

The PSA's Test Case

The PSA lodged our Award application with the NSW Industrial Commission on 20 December 2000 and claimed for improved pay and better career paths for librarians, library technicians and archivists employed by NSW Government on the basis that these female dominated occupations were traditionally undervalued in comparison with male dominated professions (mainly engineers and technicians) with similar levels of training and education.

We claimed that these female positions were inadequately defined and sought to include job descriptors for each classification and grade.

We also claimed for a single Award to cover all librarians, library technicians and archivists employed by NSW Government on the basis that work valuation at the enterprise or organisational level was not delivering pay equity outcomes.

We attempted negotiations with NSW Government to achieve a consent Award however the NSW Industrial Relations Commission needed to arbitrate the Award to deliver pay equity for our members.

While NSW Government agreed with the PSA that librarians, library technicians and archivists work had been undervalued and that there was a case to be made for increasing wages and improving career paths to achieve pay equity the parties could not agree on the structure of the Award or the remuneration payable to resolve the pay inequity.

The NSW Government argued that job evaluation at the local level was adequate to set wages however the Commission found with the PSA that job evaluation for salary setting did not take into consideration the following factors:

- Capacity of an organisation to pay;
- Market factors including supply and demand economics of particular jobs;
- Individual performance level of the person performing the job;
- Physical environment and conditions of the work;
- Particular requirements of the work such as travelling away from home;
- Manual dexterity;
- Physical capacity;
- Hours of work and
- Particular risks or dangers associated with the work.

Job evaluation outcomes for our members were also complicated by the subjectivity of the person undertaking the evaluation and further complicated if more than one job evaluation methodology was being used.

On 28 April 2002 the full bench of the NSW Industrial Relations Commission handed down their decision which recognised:

- The historical undervaluation of librarians, library technicians and archivists professions on the basis that most workers were women;
- The professional status of librarians, library technicians and archivists;
- That a single award should apply;
- That librarians and archivists should have a separate classification structure to library technicians;
- That the Award should contain classification descriptors;
- That the classification structure should include some hard barriers and
- That significant salary increases should apply immediately.

As a result of the test case, pay increases averaged nearly 16% across the classifications. The most substantial increases for our members occurred at higher grades, which received increases of 20-26% as the original Awards had very low wage ceilings for senior workers. The decision also abolished junior rates of pay for library technicians under 21 which meant an effective pay rise of 92% for these workers.

Lessons learnt

That an independent tribunal must be empowered to consider, and if necessary arbitrate and enforce pay equity.

While monitoring employment changes that affect pay equity, the provision of information on pay equity issues and pay equity audits help to identify the lack of pay equity, our experience with the test case highlights the need for an independent tribunal to consider, if necessary arbitrate and if necessary to enforce the pay equity principle for workers.

Justice Glynn's Pay Equity Inquiry in 1998 had established that the work of librarians, library technicians and archivists had been undervalued however we required the assistance of the Commission to resolve the disparity.

Bargaining in and of itself could not deliver the pay equity outcome even though librarians, library technicians and archivists have been highly unionised and actively pursuing wage justice since the 1930's as bargaining does not adequately address comparative work value and pay equity issues.

ⁱ The NSW Industrial Relations Commission determined the Equal remuneration and other conditions principle in the following terms:

Equal Remuneration and Other Conditions

- (a) Claims may be made in accordance with the requirements of this principle for an alteration in wage rates or other conditions of employment on the basis that the work, skill and responsibility required or the conditions under which the work is performed have been undervalued on a gender basis.*
- (b) The assessment of the work, skill and responsibility required under this principle is to be approached on a gender neutral basis and in the absence of assumptions based on gender.*
- (c) Where the undervaluation is sought to be demonstrated by reference to any comparator awards or classifications, the assessment is not to have regard to factors incorporated in the rates of such other awards which do not reflect the value of work, such as labour market attraction or retention rates or productivity factors.*
- (d) The application of any formula, which is inconsistent with a proper consideration of the value of the work performed, is inappropriate to the implementation of this principle.*
- (e) The assessment of wage rates and other conditions of employment under this principle is to have regard to the history of the award concerned.*
- (f) Any change in wage relativities which may result from any adjustments under this principle, not only within the award in question but also against external classifications to which the award structure is related, must occur in such a way as to ensure there is no likelihood of wage leapfrogging arising out of changes in relative positions.*
- (g) In applying this principle, the Commission will ensure that any alteration to wage relativities is based upon the work, skill and responsibility required, including the conditions under which the work is performed.*
- (h) Where the requirements of this principle have been satisfied, an assessment shall be made as to how the undervaluation should be addressed in money terms or by other changes in conditions of employment, such as reclassification of the work, establishment of new career paths or changes in incremental scales. Such assessments will reflect the wages and*

conditions of employment previously fixed for the work and the nature and extent of the undervaluation established.

(i) Any changes made to the award as the result of this assessment may be phased in and any increase in wages may be absorbed in individual employees' over award payments.

(j) Care should be taken to ensure that work, skill and responsibility which have been taken into account in any previous work value adjustments or structural efficiency exercises are not again considered under this principle, except to the extent of any undervaluation established.

(k) Where undervaluation is established only in respect of some persons covered by a particular classification, the undervaluation may be addressed by the creation of a new classification and not by increasing the rates for the classification as a whole.

(l) The expression 'the conditions under which the work is performed' has the same meaning as in Principle 6, Work Value Change.

(m) The Commission will guard against contrived classification and over classification of jobs. It will also consider:

(i) the state of the economy of New South Wales and the likely effect of its decision on the economy;

(ii) the likely effect of its decision on the industry and/or the employers affected by the decision; and

(iii) the likely effect of its decision on employment.

(n) Claims under this principle will be processed before a Full Bench of the Commission, unless otherwise allocated by the President.

(o) Equal remuneration shall not be achieved by reducing any current wage rates or other conditions of employment.

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 288 – application for statement of policy

The Queensland Council of Unions and Others AND Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers and Others (No. B450 of 2002)

EQUAL REMUNERATION PRINCIPLE

VICE PRESIDENT LINNANE
COMMISSIONER SWAN
COMMISSIONER BROWN

29 April 2002

STATEMENT OF POLICY

This matter coming on for hearing before the Full Bench of the Commission on 22 March, 16 April and 24 April 2002, the Commission declares by consent as follows:-

EQUAL REMUNERATION PRINCIPLE

1. This principle applies when the Commission:
 - (a) makes, amends or reviews awards;
 - (b) makes orders under Chapter 2 Part 5 of the *Industrial Relations Act 1999*;
 - (c) arbitrates industrial disputes about equal remuneration; or
 - (d) values or assesses the work of employees in “female” industries, occupations or callings.
2. In assessing the value of work, the Commission is required to examine the nature of work, skill and responsibility required and the conditions under which work is performed as well as other relevant work features. The expression “conditions under which work is performed” has the same meaning as in Principle 7 “Work Value Changes” in the Statement of Policy regarding Making and Amending Awards.
3. The assessment is to be transparent, objective, non-discriminatory and free of assumptions based on gender.
4. The purpose of the assessment is to ascertain the current value of work. Changes in work value do not have to be demonstrated.
5. Prior work value assessments or the application of previous wage principles cannot be assumed to have been free of assumptions based on gender.
6. In assessing the value of the work, the Commission is to have regard to the history of the award including whether there have been any assessments of the work in the past and whether remuneration has been affected by the gender of the workers. Relevant matters to consider may include:
 - (a) whether there has been some characterisation or labelling of the work as “female”;
 - (b) whether there has been some underrating or undervaluation of the skills of female employees;
 - (c) whether remuneration in an industry or occupation has been undervalued as a result of occupational segregation or segmentation;
 - (d) whether there are features of the industry or occupation that may have influenced the value of the work such as the degree of occupational segregation, the disproportionate representation of women in part-time or casual work, low rates of unionisation, limited representation by unions in workplaces covered by formal or informal work agreements, the incidence of consent awards or agreements and other considerations of that type; or
 - (e) Whether sufficient and adequate weight has been placed on the typical work performed and the skills and responsibilities exercised by women as well as the conditions under which the work is performed and other relevant work features.

7. Gender discrimination is not required to be shown to establish undervaluation of work.
8. Comparisons within and between occupations and industries are not required in order to establish undervaluation of work on a gender basis.
9. Such comparisons may be used for guidance in ascertaining appropriate remuneration. The proper basis for comparison is not restricted to similar work.
10. Where the principle has been satisfied, an assessment will be made as to how equal remuneration is to be achieved. Outcomes may include but are not limited to the reclassification of work, the establishment of new career paths, changes to incremental scales, wage increases, the establishment of new allowances and the reassessment of definitions and descriptions of work to properly reflect the value of the work.
11. There will be no wage leapfrogging as a result of any changes in wage relativities arising from any adjustments under this principle.
12. The Commission will guard against contrived classifications and over classification of jobs.
13. The Commission may determine in each case whether any increases in wages will be absorbed into overaward payments.
14. Equal remuneration will not be achieved by reducing current wage rates or other conditions of employment.
15. The Commission may decide to phase in any decision arising from this principle. Any affected employer may apply to have any decision phased in. The merit of such application will be determined in the light of the particular circumstances of each case and any material relating thereto will be rigorously tested.
16. Claims brought under this principle will be considered on a case by case basis.
17. This Statement of Policy will operate from 1 May 2002.

Dated 29 April 2002.

D.M. LINNANE, Vice President.

D.A. SWAN, Commissioner.

D.K. BROWN, Commissioner.

Appearances:-

Ms S. Herbert for the Queensland Council of Unions.

Ms Y. D'Ath for The Australian Workers' Union of Employees, Queensland.

Ms V. Semple for the Australian Liquor, Hospitality and Miscellaneous Workers Union, Queensland Branch, Union of Employees.

Ms F. Bucknall for the Department of Industrial Relations.

Mr M. Smith and Mr P. Ryan for the Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers.

Ms S. Davis and J. McDonald for the Australian Industry Group, Industrial Organisation of Employers (Queensland).

Ms L. Vanderstoep for the Retailers' Association of Queensland Limited, Union of Employers.

Mr K. Law for The Restaurant and Caterers Employers Association of Queensland Industrial Organisation of Employers.

Mr R. Beer for the Local Government Association of Queensland (Incorporated).

Mr C. Lentini for the Queensland Hotels Association, Union of Employers.

Ms V. Lincoln for the Queensland Country Press Association – Union of Employers.

Mr G. Muir and Mr M. Patti of Employer Services Pty Ltd for the Private Hospitals Association of Queensland Incorporated, the Royal Queensland Bowls Association, the Australian Dental Association (Queensland Branch) Union of Employers, the Child Care Industry Association of Queensland Incorporated and the Queensland Master Hairdressers' Industrial Union of Employers.

Released: 30 April 2002

2007

Public report on EO Workplace program for

David Jones Limited

**submitted in accordance with the
Equal Opportunity for Women in the Workplace Act, 1999**

Submitted by: David Jones Limited

Industry: Retail

State: NSW

Parent company:

Other organisations covered by this report in addition to David Jones Limited:

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Workplace Profile

	Full time		Part time		Casual		Total Staff	%	
	Men	Women	Men	Women	Men	Women		Women	Men
Senior Management	29	17	0	1	0	0	47	38	62
Other Managers	328	572	3	32	0	0	935	65	35
Enterprise Agreement	174	302	742	4058	639	2010	7925	80	20
Totals	531	891	745	4091	639	2010	8907	79	21

- Overall, David Jones remains a female dominated workforce, female 79% and male 21%
- The senior management category excludes the CEO and Finance Director salaries.
- The differential in the average salaries for *other managers'* category reflects our market pay lines (as structured by Mercer Consulting). Each position has an entry, mid and premium amount, and in line with our Remuneration process, newly appointed employees start at the entry point. As the majority of new hires are female, the average salary differs to that of males. Any movement beyond the entry level point reflects our pay for performance philosophy
- 88% of the total David Jones workforce is in the Enterprise Agreement Category. 80% of this category is female.

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2. ANALYSIS

INTRODUCTION

David Jones Limited is the premium department store brand in Australia. We operate 37 Department stores across all mainland states and ACT.

Our Human Resources strategy continues to focus on promoting a highly participative and performance orientated culture that aims to build the skills and capabilities of our employees necessary for achievement of the business strategy and objectives. To this end, significant time and effort is placed on the selection, recruitment and development of employees in line with the competencies required to effectively run the business.

Currently David Jones has a healthy representation of women in management positions, of 982 employees in the management categories 63% are female and 37% are male. By undertaking specific activities as outlined in this report, the aim is to further improve the position of all employees, and ensure there are no gender biased impediments limiting the progress of women within David Jones Limited.

RECRUITMENT AND SELECTION

- All positions are recruited against a position description and assessed against clear competency based criteria for the role.
- All recruitment is conducted using an assessment against core management and universal competencies. The competencies are applied generically and equally to counter gender stereotypes. These competencies are as follows: Live for the Customer; Strive to Achieve; Unite the Business; See It, Do It; Results Through Others; Shape Our Future; Business Savvy; Cost Efficiency Leader.
- David Jones communicates the Recruitment and Selection Policy and supporting processes to the business, through our Intranet.
- All Managers and Human Resources Practitioners responsible for recruitment and selection are trained in behavioural interviewing to ensure consistency in application. The behavioural interviewing process uses past examples of behaviour as a predictor of future behaviour and minimises subjectivity.
- All employees have access to our internal advertisements via staff notice boards and Intranet.
- Of the 2553 new hires recruited during this reporting period 76% were female and 24% were male. This is a predominant trend in retail even though we have a performance based approach to recruitment.

PROMOTION, TRANSFER AND TERMINATION

- The policy underpinning promotion and transfers nominates succession planning as our first port of call, accordingly, external recruitment is the last resort once all internal options have been explored. Given that the majority of the workforce is female, the probability of a female receiving a promotion or transfer opportunity is high relative to males.
- The annual succession planning process for this reporting period commenced in December 2006. Formal workshops were conducted within all functions including the Senior Management group, to ensure all parts of the business are aligned in terms of time and energy invested in this process.
- Validation of all performance and potential assessments as well as identification of key talent is undertaken by senior management on an annual basis.
- Succession planning is a rigorous process, based on annual assessment of past and present performance and future readiness. Through our succession planning process, following the completion of performance reviews, managers who are suitable to expand their responsibilities or move to a more senior role are identified and form part of the David Jones key talent pool. Discussions are conducted to determine their career aspirations and an individual development plan is agreed for each individual.

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- The key talent pool is made up of 58% female and 42% male.
- The company wide reward and recognition program continues on an annual basis and reinforces the Company's focus on a high performance culture. Among team awards are also individual rewards- "Buyer of the Year" was male and there were 2 Runner Up prizes, which were awarded to one male and one female.
- The Stores function (where the majority of David Jones employees are located) have continued their success with succession planning. As per last year in addition to the yearly formal approach, monthly meetings continue to identify suitable candidates prior to any recruitment-taking place. The focus of the meetings is to identify suitable candidates based on merit, current performance and match to the job criteria. Now it has rolled on to front line employees for all stores supervisor recruitment.
- The majority of store management vacancies were filled internally. Of the 46 employees who were transferred or promoted to management positions, 60% were female and 40% were male.

TRAINING AND DEVELOPMENT

- The Merchandise Trainee Program - continues to be a core development program at David Jones. The current program comprises 100% female. The program provides Trainee Buyers and Merchandise Planners with the necessary skills to move into a more senior role, creating an established career path for graduates in the Merchandise Office.
- Retail Traineeships - were introduced to the Stores Function in August 2004 to further increase formal development opportunities for current and future frontline employees. The traineeship results in a formal Retail qualification - Certificate III in Retail Supervision, and increases the capability of frontline sales employees equipping them for promotion to Supervisor. At present 71% of trainees are female.
- Centralised training - for general programs and development programs continue, the Head Office Planning and Development team has focused on ensuring all employees have access to technical training opportunities through internal and external courses.
- Coaching for Superior Performance (CSP) - continues to be facilitated for new Managers and Supervisors in stores, with the program also being facilitated for Head Office managers. There are 18 accredited CSP facilitators (13 females and 5 males).
- Performance Recovery (PR) - continues to be facilitated for new managers in Stores and Head Office. Accreditation commenced for additional facilitators in this reporting period.

WORK ORGANISATION

- David Jones' structure is made up of 7 functions each headed by a Group General Manager. The Group General Managers make up the majority of the Management Committee, comprising 3 females and 4 males.
- All management positions within each function are graded and remunerated in accordance with structured market pay lines that adhere to the Mercer Consulting grading system.
- All management positions are graded using a formal job evaluation process. Job evaluations are conducted by an in-house panel and are based on position descriptions, specifications and job analysis questionnaire.
- All non management employees are covered by a current Enterprise Agreement (EA) with base wage rates aligned to 3 levels of skill and experience classifications. There are clear and regularised parameters within the Enterprise Agreement that cover the organisation of employees work, hours, rates of pay and the full range of work place entitlements.

CONDITION OF SERVICE

- All positions are covered by a standard contract outlining terms and conditions of employment that are aligned to David Jones policies and legislative requirements.
- Conditions of employment are uniform regardless of gender. The Orientation program is mandatory for each new employee to attend and ensures uniform understanding of policies and processes.

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- Company policies, processes and procedures are available through David Jones Intranet and accessible for all employees.
- The emphasis on employees utilising annual leave and long service leave remains a focus, thus ensuring employees have an appropriate work/ life balance.
- Employees are given the option of taking small blocks of annual leave and long service leave over a 12-month period. This allows for greater flexibility and encourages work/ life balance.
- Female Managers continue to have the opportunity to work flexible hours for an agreed period of time, to assist with transition back into the business after parental leave.

For example - 1 Regional HR Manager working on a part time basis

- 2 Planning and Administration Managers working in a job share arrangement
- 2 Store Managers working on a part time basis
- 2 Project Managers working on a part time basis

SEX BASED HARASSMENT

- The Code of Ethics and Conduct Booklet comprehensively covers David Jones policies and incorporates the Harassment policy. A confidential Ethics Hotline number is promoted throughout the booklet ensuring sensitive issues can be raised and are managed in a discrete and confidential manner. This booklet is given to each new employee and a signed page is required to be returned to HR to indicate the booklet has been read, and the policies understood.
- The anti-discrimination and Harassment Policies as well as Grievance procedure are accessible to all employees via the intranet. A self paced Harassment and Discrimination program was re-issued to all executives and line managers to enhance current awareness and promote re-education of our process.
- Anti-Discrimination and Harassment awareness continues to be part of the standard orientation program.

3. ISSUES PRIORITISED

Issues and opportunities identified for improvement since the last reporting period have been gathered via ongoing application of the following processes:

- Feedback through structured visits to our department stores by the Head Office Human Resource Team
- Feedback from all evaluations completed by participants for training and development programs during the year
- Analysing exit interviews
- Analysing quarterly reports regarding absenteeism, annual leave and turnover statistics
- Human Resource workshops and focus groups conducted for key employee initiatives
- Post Implementation Reviews (questionnaire) following roll out of key employee initiatives
- Annual review of the remuneration strategy and external salary benchmarking and market analysis
- We undertook an Employee Engagement survey to gather feedback from employees in relation to different aspects of their working life. We aim to gather important insights that will enable us to determine the steps we need to take to further improve our work environment. The overall results of this survey will be shared nationally from August 2007.

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OPPORTUNITIES IDENTIFIED

RECRUITMENT AND SELECTION

- Further consolidate quality and consistency of the recruitment selection process with line managers.
- Careers at David Jones – an internal campaign to promote opportunities for career progression within David Jones.

PROMOTION, TRANSFER AND TERMINATION

- Further instill the Company's pay and promote for performance culture for frontline employees and increase profile of succession planning and career paths for frontline employees.
- The key talent pool for Store Supervisors, in line with principles and processes applied to managers, have provided the opportunity for Sales Manager in Training for internal applicants.
- We have established a procedure within each state to review high performing employees for suitable supervisory or other career opportunities.
- Ongoing review of turnover within our stores cosmetic departments with the aim of increasing rates of retention. NB: This review is of particular interest due to the predominance of females employed within cosmetics.

TRAINING AND DEVELOPMENT

- Ongoing review of the current orientation program as part of our continuous improvement process.
- Continue to build management employees skills and capabilities, for example coaching and feedback by either reviewing or identifying additional internal and external courses.

WORK ORGANISATION

- Review and achieve greater storewide consistency in the ratio of casual to permanent employees.
- Review and revise the existing Frontline Sales Incentive Scheme to achieve more consistent performance and reward criteria in line with the pay for performance culture.

CONDITION OF SERVICE

- Ongoing consolidation Performance Development Review (PDR) for Sales Supervisors and Retail Trainees to ensure increased objectivity in the performance assessments process. This is now an annual process.
- In terms of the Enterprise Agreement, achieve increased national uniformity on key work condition clauses and minimise state based differences.

SEX-BASED HARASSMENT

- Decrease levels of dependency by line managers on Human Resources practitioners for employee relations advice by increasing their knowledge.

PREGNANCY, POTENTIAL PREGNANCY AND TERMINATION

- Further investigate workplace flexibility for the transitioning of employees returning to work after parental leave.

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4. ACTIONS TAKEN

As a result of the issues identified in the last 12 months and since the 2006 report, the following actions have taken place or are currently in progress

RECRUITMENT AND SELECTION

- We have implemented a Recruitment Management System in February 2007 to automate and streamline the majority of our recruitment process. This will improve candidate care through more timely and consistent communication and reduce recruitment timelines. The Recruitment Management System features a careers intranet which allows employees only to review and apply for current vacancies online as well as an external careers site which enables applicants to apply for current vacancies online.
- We continue to focus on recruitment and retention for Beauty positions which are predominately female employees. The key focus areas are reviewing flexibility in working hours, develop product knowledge training sessions for new employees and continue to promote the David Jones brand and career opportunities via our Recruitment Management System and Careers at David Jones.
- In line with business compliance, all people managers attend the behavioural interviewing training course to ensure consistency in the approach to interviewing. The roll out to the relevant Managers was completed at the end of 2006. All new Managers are booked in to complete the course within the first 6 months of employment.

PROMOTION, TRANSFER AND TERMINATION

- We plan to hold seasonal meetings with Account Executives of all beauty brands. The purpose of the meetings will be to share initiatives that will increase retention and reduce the turnover. Attraction is the current focus and stores are continuing to work on retention as part of their HR strategy.
- Retail Traineeships continued in order to profile succession planning and address a gap of formal development opportunities for frontline employees. The majority of our workforce (88%) are in the frontline category, of this 80% are female. The traineeship results in national qualifications Certificate III in Retail Supervision. Our review of the Retail Trainee program showed that we have retained a higher number of Retail Trainees than in previous years.
- The key talent pool of Stores Sales Supervisors provided the opportunity to create a position and development program of Sales Manager in Training. Once promoted to a Sales Manager in Training position, the participant is required to complete the Foundations of Management Program. The program provides for ongoing support from the Store Manager and HR, and enables a successful transition from Supervisor to Manager while providing qualifications in Certificate IV in Retail Management.
- Careers at David Jones - is a project that aims to promote opportunities for career progression within David Jones. Currently in phase two, we continued to review this project through a series of surveys designed to ascertain current levels of interest in a career at David Jones, as well as current levels of knowledge regarding the framework that supports career progression and links to performance. The results from the surveys showed an uplift in employee's awareness in relation to career opportunities, career progression and links to performance.

TRAINING AND DEVELOPMENT

- David Jones supports a number of employees in gaining business-related qualifications through recognised external educational institutions. Education assistance has been extended to 6 females and 1 male.
- Other external training provided include: Compliance training e.g. first aid – 177 from 281 were female; IT training e.g. Advanced Excel – 18 from 23 were female.
- Business Basic modules continued to be offered this reporting period with one additional module available for 2007. The internally developed program is available for all employees and allows them

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to develop their basic business skills. Currently there are 7 modules ranging from time management to managing change. The modules are self-paced allowing for flexibility in terms of time to be completed.

WORK ORGANISATION

- Changes in the clerical and stores enterprise agreements have been made to promote greater security of and access to leave, including parental leave through conversion of casual employees to permanent status.
- The extension of parental leave to apply to employees with between 6 and 12 months service.
- A structured process for the conversion of stores sales casuals to permanent has been established and reviewed monthly. This process has assisted in reducing turnover by increasing opportunities for all employees to have more consistent working hours, a set roster and structured working hours. Every 6 months discussions are held with applicable employees to explain the process and benefits for converting to part time.
- The full roll out of the new Frontline Sales Incentive Scheme is now complete nationally and has proven successful to date, resulting in the average incentive payment 20% more comparing to the payments given from the previous commission scheme and an increase in productivity by 77%. We will continue to review the results and the effectiveness of the scheme.

CONDITIONS OF SERVICE

- The Performance Development Review (PDR) for Sales Supervisors and Trainees in stores has been successful and as a result of the post implementation review, has recently been extended to non-sell Supervisors. This is now an annual process with the outcomes feeding into management resource planning for the subsequent year.
- In line with the Stores enterprise agreement in March 2006, as part of the Clerical enterprise agreement negotiations, a number of flexible workplace practices were negotiated and agreed with the SDA, resulting in a positive outcome particularly for female employees.

For example - increasing maximum hours for permanent part time employees in Stores to 36 hours per week, allowing the employee to have increased flexibility in the amount of working hours worked per week while also receiving benefits as a permanent employee

- Carers leave is now more contemporary and applies to any person within the household.
- Business leave may be taken in half or 1 day amounts as required
- Parental leave will now apply to employees with 6 months service or more

SEX BASED HARASSMENT

- The Foundations of Management Training for Sales Managers incorporates Harassment and Discrimination. This has now been extended to all Stores Line Managers.
- Harassment and Discrimination self-paced training is completed by all new people managers as part of the orientation process.

PREGNANCY, POTENTIAL PREGNANCY AND BREAST FEEDING

- Parental leave policy is currently being reviewed. To date there has been demonstrable success in the practice of transitioning employees on parental leave slowly back to the workplace by providing flexible part time hours.

5. EVALUATION OF ACTIONS TAKEN

All actions to date will be subject to final assessment and post implementation reviews.

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6. FUTURE ACTIONS

All future actions will be contingent on the results of the reviews and will be reported in the next report.

RECRUITMENT AND SELECTION

- The new position of Manager Strategic Sourcing has been created. The key accountabilities of this role is the development of the David Jones sourcing strategy which is aimed at enabling optimal selection and succession of candidates.
 - For example, we will conduct further research into best practice recruitment and selection principles and evaluate the effectiveness of the current process and identify opportunities for improvement and enhancement. This will enable us to gain an understanding and take into consideration the needs and aspirations of women in the workforce with family responsibility.
- We are currently working with our stores to recruit and establish a pool of mobile beauty consultants. This will be piloted in New South Wales stores and if successful will be rolled out to other states.

TRAINING AND DEVELOPMENT

- Careers at David Jones – ongoing surveys will be conducted to continue to measure the effectiveness of the campaign. This will ensure that women in frontline roles are aware of career progression opportunities.

WORK ORGANISATION

- David Jones will continue to review the Parental Leave policy to ensure it remains aligned to industry best practice.

REPORTS ARE ACCEPTED BY EOWA AS A TRUE AND ACCURATE RECORD AND AS HAVING BEEN APPROVED BY THE CEO OR HIS/HER REPRESENTATIVE.