

Submission

to

Senate Employment, Workplace Relations and Education
References Committee

Inquiry into Workplace Agreements

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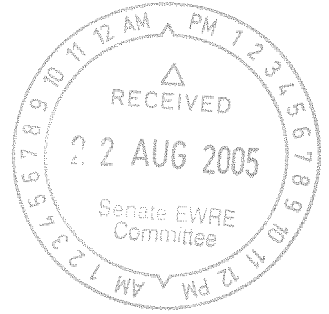
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Committee Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Dear Secretary

RE: Inquiry into Workplace Agreements

The Queensland Working Women's Service (QWWS) is pleased to provide the following submission to the Senate Inquiry into Workplace Agreements.

QWWS is funded by the Federal Department of Workplace Relations, the Office of the Employment Advocate and State Department of Industrial Relations to provide information, advice and advocacy to women on workplace matters.

The basis of the establishment for the Service in 1994/95, and similar services throughout Australia was the recognition that women experience disadvantage and reduced bargaining power relative to men and may tend to be concentrated in industries that are characterised by low pay, high rates of part-time and casual work, poor training opportunities and low unionism.

QWWS currently responds to over 5000 requests for assistance from women each year and has collected a significant body of information relating to internal labour market trends and issues women experience in negotiating their working lives.

Recently a study was conducted by QWWS in conjunction with Queensland University of Technology School of Business. This research analysed 17,000 reports of workplace related matters that had been made by women to our agency during a three-year period (June 2001 to June 2004). These findings suggested that a substantial number of women

in a wide range of industries, occupations and employment arrangements experienced serious problems in Queensland workplaces despite legislative protections.

Our response to this submission will include information collected by QWWS from our clients and from the above research.

Terms of Reference:

Whether the objectives of various forms of industrial agreement, including Australian Workplace Agreements, are being met and whether the agreement-making system, including proposed federal government changes, meet the social and economic needs of all Australians, with particular reference to:

The scope and coverage of agreements, including the extent to which employees are covered by non-comprehensive agreements;

During the period July 2004 to June 2005 QWWS provided specialised assistance to 3371 women. Of this group of women the majority were identified as working under state Awards or Certified Agreements (35%). Women working under coverage by Federal Awards or Agreements was (19%) this included (2% who were under AWA's). Women under Common Law contracts comprised 5% while 25% were Award free or unknown.

The capacity for employers and employees to choose the form of agreement-making which best suits their needs;

By far the majority of women contacting QWWS work in areas that are covered by State Awards and encompass the retail, clerical and services industries. Personal services/sales and clerical occupations comprise the most commonly represented groups within these areas (39.5%). Overall these proportions are very similar to the percentages for industries identified for women in the ABS 2002.

There is little scope historically within these industries for employees to nominate or choose their preferred identified Industrial coverage Agreement. Traditionally these areas are covered by Union/Employer Association negotiated Agreements or Awards. Occasionally QWWS receives requests for assistance from women who have been offered an Australian Workplace Agreement, this is more likely to be at the commencement of employment that during her employment and is viewed as a condition of accepting the employment.

QWWS is not aware from the experiences reported by our clients that 'choices' of type of agreement making instrument are readily offered to women seeking or changing employment, rather many women accept employment without being aware of the terms and conditions of their employment and little knowledge of comparative agreement making processes.

The parties' ability to genuinely bargain, focusing on groups such as women, youth and casual employees;

As previously stated, women's awareness of employment options and bargaining processes has been identified by QWWS as minimal amongst our clients. This impacts on their capacity to genuinely bargain especially in areas of part time and casual employment providing low-paid, unskilled and semi-skilled work.

While traditionally female oriented skills are now more in demand such as communication, relationship building and personal services the expansion of the services sector as a highly casualised industry often means that these skills are not identified as highly desirable or attracting high remuneration. Many of the jobs within the labour market are designed to appeal to women by offering, for example: flexibility, a local work place and fewer qualification requirements. Such positions include carer, cleaner, customer service representative, secretary, personal assistant and caterer.

Pay is generally low because the flexibility offered by jobs designed for women is often in high demand from those women who must balance work and family commitments. However, even where women are highly qualified, fully mobile and require less flexibility (for example, the young, single, newly qualified nurse) pay is kept low because this type of work is seen as 'natural' for women, rather than requiring *additional* learned skills and behaviour (as would be the case for men).

While women may make choices in relation to which employer or organisation they want to work with, their bargaining capacity is often reduced if they are negotiating outside of the employer's ambit of expectation or within areas that are designated as "women's work". For example while many women seek and accept part time work to be able to balance their family and or domestic responsibilities, these less than full time hours may not necessarily fit with family flexible arrangements or the timing demands of domestic and child care responsibilities. Many women who have accepted or negotiated part time work arrangements report that the hours are more likely to be designated by the employer and can often be very family unfriendly. (An example of this is women working for a transport corporation where part time work is 25 to 30 hours per week, however these hours are normally rostered as 7x4 hour shifts at varying hours during the week and often coinciding with family responsibilities with no full day of each week).

Through discontinuity of employment or change in employment status from full time to part time following family formation there is often downward pressure on women's wages and benefits and a decrease in training and promotion prospects with associated reduction in bargaining ability. Women are therefore less likely to be able to 'play the market' by negotiating a higher salary when moving between employment. Women therefore have less power at the negotiating table and are more likely to tolerate poorer pay and conditions.

The social objectives, including addressing the gender pay gap and enabling employees to better balance their work and family responsibilities;

The demographic changes that have occurred over the past 50 years have seen major economic, social and cultural transformations including an increase in women's workforce participation. These changes have meant that much larger numbers of workers (usually female) are attempting to balance both paid employment and family responsibilities.

Legislative and Policy reforms have generally supported the corresponding demand for female participation and for flexible models of work. Despite legislative structures, Australia does not have gender pay equity and has amongst the highest rates of occupational segregation in the OECD with working women remaining concentrated in feminised industries. Australia also has amongst the lowest workforce participation rates in the OECD for women with two or more children.

The adoption of work-family practices within organisations can be ad-hoc and the availability of part-time work is at present not mandatory for employers of workers following becoming a parent or during the significant changes in demands for caring responsibilities during the family developmental cycle. Despite policies, organisational culture may also influence the uptake of work-family balance initiatives and career consequences for those who have periods of absence from the workplace can be significant.

Although one of the social objectives through legislative provisions has been the elimination of discrimination against women in the workplace, QWWS is aware that harassment, sexual harassment and discrimination is still a concern for women at work. A staggering 5,000 cases of workplace harassment were reported to QWWS in the three-year period analysed. The seriousness of this problem reflected in the QWWS data was also reflected in the high numbers of concurrent reports of dismissal (26.7%).

A recent HREOC (2004) study revealed that overall 28% of adults in Australia had experienced sexual harassment, with over two-thirds of respondents identifying that they did not formally complain because of perceived lack of management support. Sexual harassment was reported by 1243 or 6.3% of the women in the three year study by QWWS. The issue was more frequently reported by 18-25 year olds than other age groups and was most commonly (more than half) reported by women working in clerical or sales/personal services occupations.

Sex discrimination was reported by 1037 women or 5.3% of the women in the 3 year study, reports were more likely to come from women under 45 years of age and was over-reported by women in the finance/insurance industry and personal services sector. It was under-reported in the health/community sector.

Pregnancy discrimination was reported by 657 women (3.3%) of the QWWS clients over the three year study period. More than half were accounted for by two occupational groups being clerical and personal service workers.

Family responsibilities discrimination was reported by 372 women or 1.9% of the 3 year study group. Permanent part-time employees were more likely to report family discrimination compared to other employment status categories and nearly half were accounted for by the occupational groups clerks and sales/personal service workers.

Race discrimination was reported by 264 women or 1.3% of the 3 year study sample, not surprisingly from women from NESB and ATSI backgrounds. Enquiries from primary industry were over represented in this category with more than three-quarters of the clients residing in a regional area.

The QWWS 3 year study revealed patterns of internal labour market issues on a scale much broader than those dealt with by more formal, legal avenues such as industrial relations, anti-discrimination and human rights commissions. The findings suggest that despite legislative structures there are still social and cultural processes that disadvantage women in Australia from fully and equally participating and negotiating their own "feminised" workplace agendas and that women often find themselves in workplaces that do not support their advancement, equality and needs as parents and care givers. These conditions ultimately impact more broadly with disproportionate representation of women in certain low paid occupations and within a narrow band of industries with limited scope for bargaining, undertaking career paths and training opportunities.

The capacity of the agreements to contribute to productivity improvements, efficiency, competitiveness, flexibility, fairness and growing living standards; and

Industrial instruments that govern conditions of employment, together with formal and informal policies and practices within a place of employment can contribute to the above where they establish effective and responsive communications between staff and management and create opportunities to exchange ideas, explore challenges and resolve disputes. These include structures for addressing power imbalances that can potentially exploit or disadvantage more vulnerable individuals or groups of workers. As outlined above, women bargaining for themselves may not always have the negotiating capacity to ensure that these conditions form part of their individual agreements.

For women to participate on an equal basis there must be avenues in agreements to ensure pay equity, acquire and recognise skills, gain experience and expertise in areas that generate career opportunities. In the light of the current gender pay inequity it is essential to strengthen the application of the equal remuneration provision in relation to all industrial instruments including, awards and other decision making capacities of the Industrial Commissions (or regulatory bodies) to ensure that the equal remuneration principle is embedded in the wage-bargaining processes. Overseas studies have provided evidence of this link between collective bargaining and gender pay equity, (Swedish

Presidency Study, 2000, '*Highlighting the pay differentials between men and women*', Sweden: Government Offices.)

It is not uncommon for women accessing QWWS services to report that lack of acceptable conditions, perceived reductions in working conditions or incidents such as discrimination or unfair treatment reduce the incentive for productivity increases and indeed the incentive to perform paid work in the first instance.

Australia's International obligations

The Director-General of the International Labour Organisation (ILO) has called for gender issues to be considered as core principle in all aspects of ILO's statistical development to address gender concerns and enable a better understanding of the functions of labour markets.

Gender pay equity is an important principle of a number of international conventions on equal remuneration and anti-discrimination to which the Australian Government is a signatory. Australia has a fundamental obligation to ensure through its legislative and policy mechanisms that gender pay equity is in accordance with government commitments to ILO Convention 100 outlining equal remuneration for men and women workers for work of equal value and ILO Convention No.111 concerning discrimination in respect of employment and occupation. This is an important principle that needs to be entrenched in all industrial agreements.

As greater numbers and diversity of women participate in the Australian labour market there could be a stifling effect on Australia's capacity to be relevant in an increasingly global economy if we fail to address gendered disadvantage that exists within our social processes and within bargaining structures and institutions.

Should you require any further comments or clarification please contact QWWS Director Kerriann Dear on 07 32111440

Yours sincerely



Kerriann Dear
QWWS