



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

**Submission**

to

**LEGAL and CONSTITUTIONAL AFFAIRS COMMITTEE**

**INQUIRY INTO THE EFFECTIVENESS OF THE COMMONWEALTH SEX  
DISCRIMINATION ACT 1984 IN ELIMINATING DISCRIMINATION AND  
PROMOTING GENDER EQUALITY**

**Submitter:** David Carey – Joint National Secretary

**Organisation:** Community and Public Sector Union – SPSF  
Group

**Address:** Level 4, 160 Clarence Street  
Sydney, NSW 2000

**Phone:** 02 9299 5655

**Fax:** 02 9299 7181

**Email:** [fedsec@spsf.asn.au](mailto:fedsec@spsf.asn.au)

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 employed in Constitutional Corporations. A majority of our membership are women.

We make the following recommendations to the Legal and Constitutional Affairs Committee's Inquiry into the Commonwealth Sex Discrimination Act 1984. While we make the following recommendations we note the short time for preparation and submission to what are expansive terms of reference.

The aim of the Sex Discrimination Act 1984 is to promote substantive equality for women and men and equal enjoyment of human rights. The Act provides a complaints-based model that limits the form of complaints that can be made and the form of discrimination that can be remedied. Persistent gender inequality, particularly in regards to employment makes revision and strengthening of the Act imperative.

Discrimination is not acceptable in society or in employment so we would recommend that the phrase 'so far as possible' in the preamble and the objects be removed and strengthened to 'prohibit'.

We also submit that in order to address persistent and systemic discrimination the Sex Discrimination Commissioners powers of intervention and power to initiate non-compliant-based remedies need to be broadened and strengthened.

We suggest that the Act enable the Human Rights and Equal Opportunities Commission and the Sex Discrimination Commission to initiate inquiries into systemic discrimination of workers and in workplaces.

We would therefore submit that the Sex Discrimination Commissioner should be given statutory responsibilities to monitor, audit and report to Parliament on gender equality in workplaces with over 50 employees.

We submit that for this requirement to be fulfilled that resources be made available to ensure that proper investigation, research and reporting take place.

Proper resourcing of research, data collection and preparation of evidence would assist the Commissioner in intervening in cases in industrial and workplace jurisdictions and would go some way in resolving inequality at work.

Systemic discrimination in employment remains difficult to solve. Increased legalism and costs associated with running equality cases and the awarding of costs is a disincentive to pursuing these cases. We therefore submit that the criteria for legal aid include equality cases.

Currently the only grounds for complaints to be brought on the ground of family responsibilities is that of dismissal. However discrimination on these grounds is far broader as reported by HREOC in 'It's about Time: Women, Men, Work and Family'. We submit that recommendations in the report to introduce new federal legislation to expand protection against discrimination and establish an obligation on employers to reasonably consider requests for flexible work hours ought to be adopted.

We make the following recommendations:

1. That both the preamble and the objects of the Act remove the words 'so far as possible' and be replaced with the words 'to prohibit'.
2. That the Sex Discrimination Commissioner be empowered to intervene in proceedings before Fair Work Australia to give life to the objects of the SDA.
3. That the Sex Discrimination Commissioner be provided with sufficient resources to conduct inquiries and make submissions into direct and indirect inquiries in the industrial and workplace jurisdictions in matters of pay equity and conditions that affect workers with caring and family responsibilities.
4. That legal funding be extended to equality test cases.
5. That HREOC and the Sex Discrimination Commissioner have authority to initiate inquiries into systemic discrimination in the workplace.
6. That the Sex Discrimination Commissioner be given statutory power to monitor, audit and report to Parliament on gender equality in workplaces with over 50 employees.
7. That HREOC establish strengthen their monitoring and reporting duties and be given appropriate research capacity to fulfill these obligations.
8. That the Government extend the current prohibition on discrimination on the ground of family responsibility as recommended in the HREOC 'It's About Time' Report.

David Carey  
Joint National Secretary  
CPSU-SPSF.