

Bridging the Gap Between Expectation and Reality

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1. INTRODUCTION

Before I commence today I would like to acknowledge that we are meeting on the traditional land of the Kulin nation and I pay my respects to the elders and the customs of the Kulin nation.

I'd like to talk today about the impact of equal opportunity legislation on the working life of women since its introduction 25 years ago. In doing so I'll look back at what the situation was like for women at that time and what has been achieved since then. I will then go on to talk about women's expectations today as distinct from the reality facing them in the workplace and ways of achieving the workplace we want in 2025.

2. INTRODUCTION OF EQUAL OPPORTUNITY LEGISLATION

I wonder if there are many people here today who were around 25 years ago and can remember the introduction of the Victoria Equal Opportunity Act. The introduction of the legislation can probably best be remembered by looking at the very first case of sex discrimination that came before the newly formed Equal Opportunity Board. The case I am referring to is the landmark case brought by Deborah Lawrie (Wardley) who lodged a complaint of sex discrimination against Ansett Airlines because she believed they would not employ her as a pilot simply because she was a woman.

Deborah's case was the first contested anti-discrimination case in Australia in 1978-1979. I will briefly talk about the case and the arguments used by Ansett to justify its decision to not employ females as pilots. It is salutary.

In February 1976, Deborah applied to Ansett Airlines of Australia for a position as a trainee pilot. She was finally granted an interview at the end of 1977 even though men less qualified than she had been interviewed in the meantime.

Sir Reginald Ansett was vehemently opposed to women pilots. Indeed he was known for his outright chauvinism. He had publicly opposed women's admission to the members' section of the Melbourne racecourse and raised a public furore in 1975 when, in the midst of a strike by 'air hostesses' over wages, conditions and maternity leave, he referred to members of their executive as 'a batch of old boilers'. Only a few years earlier 'hostesses' were still obliged to resign when they married or reached the age of 28, whichever came first.

Despite her qualifications and experience Ansett finally rejected Deborah's application in July 1978.

On August 2 1978 Deborah Lawrie lodged a written complaint with the Equal Opportunity Board alleging that Ansett Transport Industries had discriminated against her on the grounds of sex, in refusing to offer her employment.

Reg Ansett denied the allegation of discrimination but admitted that it was his strong personal view that women were not suited to be airline pilots. Ansett raised a number of objections to the employment of women as pilots:

- That pilots needed strength - even though there was no strength test for pilots
- That unions would object – but they didn't
- That women's menstrual cycles made them unsuitable - disputed by gynaecologists
- Pregnancy and childbirth would disrupt a woman's career to the point where it would jeopardise safety and incur extra costs for the company.

In June 1979 the Equal Opportunity Board found that Ansett had discriminated against Deborah Lawrie. The Board said that the childbearing potential of women should not be used as an excuse to limit women's role in society. That "anatomy should not be destiny". The Board ordered that Ansett employ Deborah at its next intake.

The decision was hailed as a powerful precedent.

Ansett proceeded to lodge subsequent appeals and it was not until the 16th January 1980 that Lawrie made Australian aviation history when she became the first woman to co-pilot a flight for a major domestic airline.

On March 4 1980, the High Court dismissed the appeal with costs awarded against Ansett.

We owe a great debt to Deborah for having the strength, forbearance, patience and sheer determination to see this case through to the end. I will talk later about how we need to move beyond a reliance on a stronger patient individual complainant such as Deborah to truly realise equality for women in the workplace. Clearly the Wardley v Ansett case was an important victory for all women. It showed women that equal opportunity laws could work for them and that sex discrimination would not be tolerated in the workforce.

Despite this success and the growing awareness of the incidence and effect of the discrimination experienced by women in the workforce and the wider community there was significant opposition to the introduction of federal sex discrimination legislation.

Introduction of Sex Discrimination Act

The passing of the 1984 Sex Discrimination Act did not go unnoticed. Even today it is described as “a landmark piece of social engineering”¹.

Broadly speaking the legislation aimed to:

- Promote equality between men and women;
- Eliminate discrimination on the basis of sex, marital status or pregnancy and, with respect to dismissals, family responsibilities; and

¹ Symons, E It's one tough act to follow, The Australian, 30/7/2004, p.11.

- Eliminate sexual harassment at work, in educational institutions, in the provision of goods and service, in the provision of accommodation and the administration of federal programs

Remember that prior to the introduction to the Act, and as late as 1979, women were being sacked from the Commonwealth Public Service for getting married and falling pregnant.

The following are some comments from the debate in Parliament on the sex discrimination bill

“The real intention and purpose of the legislation, which enshrines a United Nations convention...is to destroy the structure, the fabric and the intrinsic role of the family unit, which for centuries has been the foundation of our orderly and disciplined society and culture. Many married women...undertake certain family duties and responsibilities which they believe are best undertaken by a wife and mother. They are also perfectly happy and, in their minds, they believe they are perfectly equal”.²

“From where did the clamour for equality originate? It began in the Eastern [European] Soviet bloc countries, which, while speaking loudly for equality, were not particularly renowned for their practice of human rights. I am sure that Australian women do not want the same rights as women in Iran and India.”³

For some the introduction of legislation that promoted equality between women and men appeared to be a great threat to the well being of society and for many others it was cause for celebration.

Affirmative Action

Subsequent to the introduction of the Sex Discrimination Act, the Commonwealth of Australia enacted affirmative action legislation aimed at enhancing employer awareness of, and responsiveness to, under representation of women in the workforce.

² Senator Noel Crichton-Browne, December 9, 1983 as reported in the Australian, 30/7/2004, p.11.

³ Senator Ron Boswell, November 29, 1983 as reported in the Australian, 30/7/2004, p.11.

The legislation recognised that individual complaints of sex discrimination were not going to achieve equality between men and women in the workplace and a systemic approach was needed. This legislation was subsequently replaced by the *Equal Opportunity for Women in the Workplace Act 1999*. Employers with 100 or more employees are required to demonstrate they have audited their workforce and intentionally identified issues relevant to women and measures taken to redress them. Organisations needing to comply with the legislation need to have in place an Equal Opportunity Workplace Program and report on its implementation annually.

Despite these legal advances, as Sara Charlesworth of the Centre of Applied Social Research, RMIT, told the recent Human Rights and Equal Opportunity Commission (HREOC) and Sydney University Women, Work and Equity recent Forum, it soon became apparent the “happily ever after ending was still a long way off”.

As Sara Charlsworth reminded us, “The Sex Discrimination Act operates in a political, institutional, social and workplace context. Its possibilities, contributions and limitations are as much shaped by changes in that context as the actual content of its legislative provisions.”⁴

3. GENDERED EXPECTATIONS

A brief overview of women and men’s expectations as well as the current reality reminds us of the importance of context.

Last month the Australia Institute released an insightful study of the attitudes and expectations of teenagers about work and care/domestic responsibilities.⁵

The study, carried out by Associate Professor Barbara Pocock of the University of Adelaide, is based on 21 focus groups with teenagers in Years 6 (10 year olds) and Year 11 (17-18 year olds).

⁴ Australian Financial Review, 13 August 2004, page 81.

⁵ “Work and Family Futures: How young Australians plan to work and care”. Barbara Pocock, University of Adelaide. Discussion Paper Number 69, August 2004.

It shows that, compared to boys' plans for shared housework, girls are unduly optimistic about how much their future partners will contribute to housework and childcare.

Girls are already developing strategies to ensure their husbands do their fair share while boys are planning their own methods of evading and reducing their responsibilities.

“Working class and young country women are more likely to espouse equal sharing of housework, while women from higher socio-economic areas appear more resigned, or will do it themselves to ensure high domestic standards and feelings of virtuous accomplishment”, the report says.⁶

The study highlights the importance of a supportive regime of parental leave, integrated quality part-time work and quality accessible childcare to meet 35 year old women's expectations in 25 years time.

Although the ten year old boys and girls are not able to articulate it now, we are being told loud and clear that women and men in 2025 will need and expect significant supports to facilitate their work/care transitions and without them responsibility for childcare will jeopardise their labour market position and their care “choices” will be limited. We know that without political leadership and intervention, the burden will continue to fall on women.

This year the British Equal Opportunity Commission asked people what their expectations are for equality between women and men. They found a fair and commonsense approach. At work, people believed they should have the same opportunities and the same rewards, regardless of their sex: 88% of women expected to earn the same as a man who has the same qualifications. Over 90% of people wanted their children to make free choices about work, unrestricted by traditional stereotypes about which kinds of jobs are 'suitable' for women and men. Most women thought that there should be more women in powerful jobs: 85% thought there should be more women MPs and 85% thought there should be more women directors of

⁶ Ibid. p.vii

FTSE 100 companies. People expected support for working parents. In fact 68% of people said policy initiatives addressing work related opportunities for women could affect their voting intentions.⁷ These are all reasonable expectations and the British Commission has responded to them by identifying the following four principles, to guide future works:

1. Women and Men Treated Equally
2. Fair Treatment Not Discrimination
3. Caring Roles Shared
4. Equal Choice Not Stereotypes

4. THE REALITY

Examining how expectations are being met by reality we find that some real progress has been made. Examples include:

- Women now make up a growing share of young adults in education, increasing from 49.3% in 1993 to 52.4% in 2003 (ABS 2004a, 310)⁸
- Retention rates for girls in Years 10-12 now outstrip the rate for boys, at 81.6% compared to 72.3%.⁸
- In 1991 10.7% of men had bachelor degrees or higher, compared to 7.3% of women. In 2001 17.8% of women had a degree or higher, compared with 16.3% of men.⁸
- The Employment rate for women aged 15-64 years has increased from 29% in 1954 to 47% in 1980 to 62.2% in 2003.⁹

Despite these gains, there remains a real gap between expectations and the reality.

Nature of Employment

Nature of Employment: While it is true that more women than ever before are employed, an interesting picture emerges when we look deeper into the way in which women are employed. According to a recent report by the ACTU, 32% of all women

⁷ Equal Opportunity Commission Annual Report 2003-2004

⁸ Iain Campbell and Sara Charlsworth, Background Report: Key Work and Family Trends in Australia, Report Prepared by Centre for Applied Social Research RMIT University for the ACTU Test Case, April 2004, page 15.

⁹ Ibid. page 6

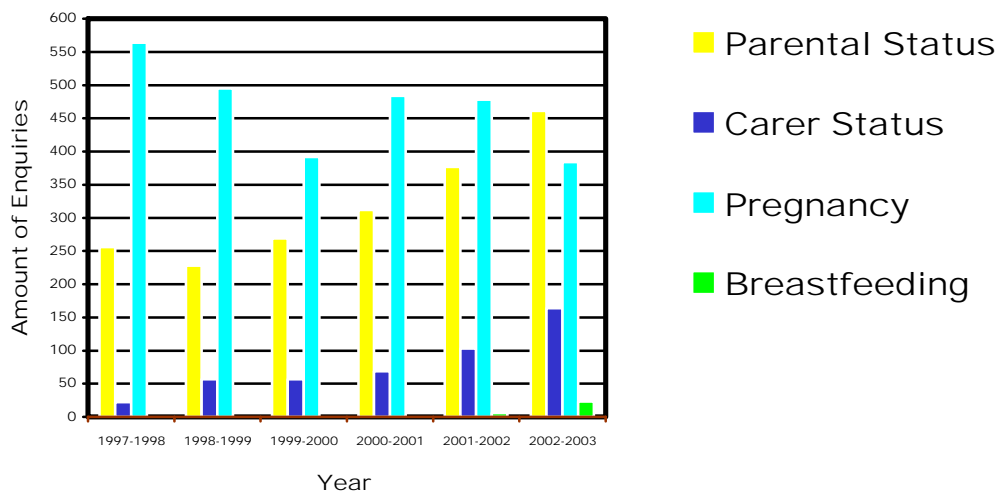
workers are casual (increased from 28% in 1990). Casual workers receive no paid sick leave, annual leave, carers leave or public holidays.¹⁰ The research also states that since 1996 35% of all the net new jobs created have been casual and 42% of all net new full time jobs have been casual. Women are also over represented in the part time work category. In August 2002 women held 70.5% of all part time jobs. Only 15% of employed men work part time compared with 45% of employed women.¹⁰

Segregation of the Workforce

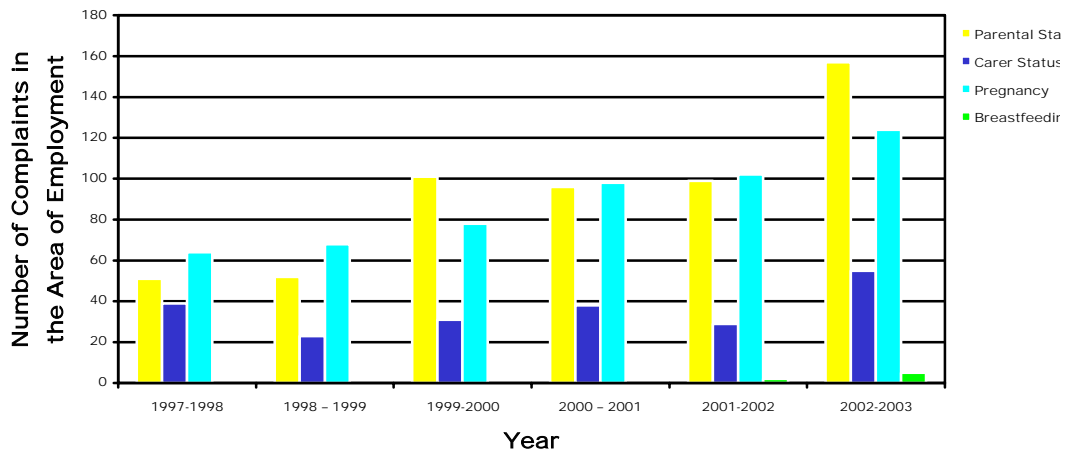
Segregation of the Workforce: Running alongside segregation in the employment status of women is the ongoing gender segregation of the Australian workplace. Women predominantly work in the retail trade (18% of all female workers) and health and community services (17%). Women also work in a narrow range of occupations; 27% of all working women are employed as clerical and sales and only 18% of females are in professional positions.

Discrimination on the Basis of Family Responsibilities

Discrimination on the Basis of Family Responsibilities: The Commission believes women and men are increasingly feeling pressure from inadequate provision being made for work care transitions, and carer responsibilities. Enquiries relating to discrimination on the basis of family responsibilities in employment have more than doubled between 1997 and 30 June 2003. Actual complaints lodged have increased 122% in this same period.



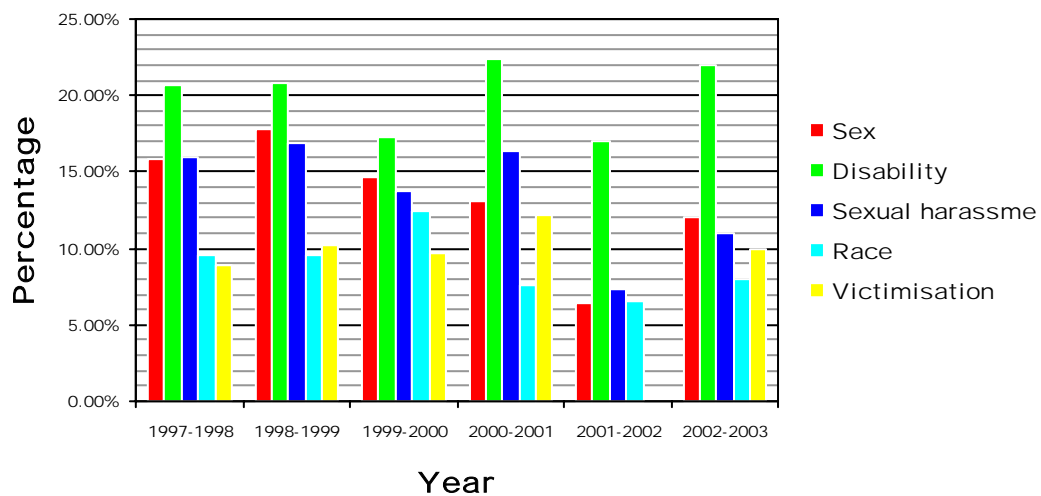
Note: Breastfeeding was introduced as a prohibited basis for discrimination in 2000.



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Although women and men in some instances can point to unlawful discrimination, reliance on individual complaints to remedy major structural impediments to accommodating carer responsibilities is manifestly inadequate. Systemic solutions are required to allow flexible work arrangements. The Commission is confident that structural arrangements for flexible work arrangements and quality part time work will also go some of the way to addressing the appalling low rates of employment for people with disabilities.

Disappointingly, the incidence of sexual harassment in the workplace is not decreasing. It remains the third highest area of our complaints. Complaints lodged with the Commission between 1997 and 30 June 2003 demonstrate this.



Similar trends have been observed by the Human Rights and Equal Opportunity Commission (HREOC). In a HREOC report released in 2003, complaints of sexual harassment between July 1999 and June 2002 increased for the first time in eight years.

The Commission has committed itself to analysing its enquiries and complaints data in 2004-2005 to better understand gender related complaints.

Pay Inequality

Pay Inequality: Discriminatory attitudes towards women in the workplace and the segregated nature of the workforce directly impacts on the existence of unequal pay for women. Notwithstanding the Commonwealth Conciliation and Arbitration Commission ruling in 1972 that Australian women should receive equal pay to men for equal work, thirty years later, across almost every occupation group, women are paid only a portion of the average weekly earning of a full-time adult male. For every dollar earned by a man in a full time job, women earn 84.7 cents in the dollar for equivalent full time work. The situation in Victoria appears to be worse according to the Australian Average Weekly Earnings data for February 2004. That is, women appear to be earning 20% (or \$215.18 per week) less than men on average weekly earnings. The percentage decreases further after taking into account part time work. Some of the factors contributing to continuing pay inequity are:

- Ongoing discrimination against women in the workplace restricts their employment choices and remuneration.
- The arbitration system and craft-based apprenticeship were, for most of the 20th century, used to limit womens access to the paid workforce and define their jobs as unskilled.
- Men were considered the full time bread winner who needed to provide for the family
- Womens work was assumed to require not skill, but feminine attributes, so the definition of it in terms of judgement, technique and responsibility was of marginal industrial relations interest.

- There is a poor weighting assigned to skills associated with work in service positions in comparison with work deemed to carry a high level of technical skill.
- Undervaluation of women's work is difficult to redress because women lack representation in bargaining structures.
- Rates of unionisation are lower for women than men.
- Women are less likely to participate in workplace bargaining processes
- Research shows the greater degree of decentralised wage bargaining the greater the disadvantage for women
- Women understate the nature of their work in appraisal situations

Unequal pay usually comes in two forms; women being paid less than men for doing a similar job; and women being paid less than men because they work in undervalued female dominated occupations such as teaching, nursing and hospitality.

Unequal pay occurs across all sectors in Australia, even in the female dominated retail industry where there is a 7% pay gap in favour of male workers. In health and community services men earn 25% more than women.

One of the biggest pay gaps is in the male dominated finance and insurance industry where a man can expect to earn 38% more than a woman. As power and social attitudes normally follow the lead of the person who controls the capital, breaking down barriers to women's opportunities within the finance sector would seem to be a priority area for attention. The allied legal services industry could also be of interest. In this regard it is interesting to note that in 2004 Morgan Stanley, US Wall Street brokers, were ordered to pay \$A74.2 million to settle 340 women's claims of unequal pay and denial of promotions. The Commission is pleased to note that the Morgan Stanley case has received attention from the Australian Institute of Company Directors who have been conducting seminars for company directors entitled "Are You Exposed"?

The pay disparity between men and women is not only discriminatory towards women, it is a family issue. Because pay inequality prevents women from succeeding

at work and discourages men from taking a greater role in childrearing, as well as a family issue, it is a men's issue as well.

Increasingly we hear men argue for a greater work/ family balance but the lack of affordable childcare combined with the pay gap forces most families to forfeit the earnings of the lower paid mother.

If we had equal pay, more men could spend time with their children without losing out financially. We will never achieve work and family balance until we have equal pay. Unequal pay keeps men from enjoying time with their families. It means men do not have an option of whether to go to work full-time, part-time or stay at home with the children.

When it comes to a choice about who is going to stay at home with the children – there is generally no choice because most men earn more than most women. The decision for women to stay home has as much to do with simple home economics as traditional beliefs that women are intrinsically better equipped to raise children. This in turn compounds pay inequality, because the longer a woman stays out of the paid workforce; the more difficult it is for her to return to a well-paid job.

Control of Workplaces

Control of Workplaces: It is not surprising that a lot remains to be done to bring about equality between men and women in the workplace when we consider the key findings of the 2002 Australian Census of Women Executive Managers and Women Board Directors. This Census was undertaken as a joint exercise between the Australian Equal Opportunity for Women in the Workplace Agency (EOWA) and the North American not for profit research organisation, Catalyst. Companies audited were amongst the top 200 listed on the Australian Stock Exchange and were compared with US companies in the Fortune 500 list. In summary:

- Women hold only 8.4% of executive management positions. This compares to 15.7% of corporate officer positions in the US.
- 47.4% of companies have at least one woman in an executive management position, comparing with 86% in the US.

- Only 8.2% of Board Directors are women compared with 9.8% in Canada and 12.4% in the US.
- 53.3% of companies now have at least one woman Board Director, although only 5.9% of companies have 25% or more of their Board made up of women.

Overall Assessment: Pru Goward, The Federal Sex Discrimination Commissioner's assessment of women's current status is that mainly middle class women have benefited from laws aimed at achieving gender equality. Paid maternity leave for women in lower paid jobs has been targeted by her as one of the keys to achieving equal opportunity for many women. On the other hand, Anne Summers, a ground breaking activist for Australian women's rights, argues in her book published this year "The End of Equality" that women are so far from achieving equality that nothing short of a royal commission is called for.

5. STRATEGIES FOR THE FUTURE

We need a range of strategies to bridge the gap between fair and reasonable expectations and the reality of women's position in the workforce.

Forty years ago the Australian Constitution did not recognise indigenous Australians as human beings, the white Australia immigration policy was still in place, phrases in relation to "citizens with disabilities" and "human rights" were not found together in the same sentence and the Women's Electoral Lobby had just been established and. When we are reminded of this and the gains made to date, we must be optimistically hopeful of achieving a lot more over the next 25 years.

Another 2004 study conducted by the US research organisation, Catalyst, provides powerful data to support governments and the private sector doing a lot more to redress gender inequities in the workplace.

The study examined 353 of the top Fortune 500 public companies and their gender diversity records, return on equity and total return to shareholders. Catalyst found a clear connection between gender diversity and financial performance. Indeed, the group of companies with the highest representation of women on their top

management teams experienced better financial performance than the group of companies with the lowest women's representation: 35.1% higher for Return on Equity and 34% higher for Total Return to Shareholders.¹¹

The Maxwell Report

It may surprise some of you to know that over 75% of discrimination complaints lodged with the Commission relate to employment. It is therefore pleasing to note that the current Review of the Victorian Occupational Health and Safety Act 1995 conducted by Chris Maxwell QC has recommended that psychosocial hazards be recognised equally to physical hazards as requiring workplace inspectors' attention.

The Maxwell report notes that psychosocial or work environment hazards can be insidious and are defined to include those aspects of work design and the organisation and management of work, and their social and environmental contexts, which have the potential for causing psychological, social and physical harm.¹² It is not too hard to see that employers responsibilities to provide a workplace free of the stresses associated with sexual harassment and discrimination, will over time receive greater attention. Notwithstanding this, reliance on reforms to Victoria's occupational health and safety regime is hardly likely to deliver the workplace women want in 2025.

Despite 25 years of equal opportunity legislation in Victoria and the vicarious liability provisions of the Equal Opportunity Act which make employers responsible for the actions of their staff, the incidence of discrimination and harassment has not diminished. In fact our research has shown that while 25% of the general population experience discrimination, 72% choose to do nothing about it¹³. Choose not to seek redress. I say "choose" with some caution. This is because reasons for not taking action include it being

¹¹ The Bottom Line: Connecting Corporate Performance and Gender Diversity

¹² Recommendations 88-90

¹³ *Victoria - the place to be equal: A summary of research into the impact of the Equal Opportunity Act 1999* (2000) Research conducted by Newton Wayman Research Pty Ltd for the Equal Opportunity Commission Victoria

Reasons for Not Taking Action

- Too daunting to take on a large powerful organisation with seemingly unlimited resources.
- Too costly, both financially and emotionally
- Anxiety and fear about a formal legal process and difficulties in proving a case
- A fear of exposure, lack of privacy and threats to current or future employment.

How do Businesses Comply?

Given the high percentage of complaints concerning employment, you might ask what has been the response of business to the legislation? How well does business comply with the legislation?

Sadly the report card is not good. Again from research done by the Commission we know that:

- Up to 66% of employers do not have a formal equal opportunity policy or complaint resolution procedures
- Organisations with less than 100 employees are least likely to have appropriate policies and procedures and 3 in 5 people work in these small business
- Nearly half (44%) of the respondents to a complaint were not aware the issue was actionable under equal opportunity law

Why is this so? Why after 25 years of equal opportunity legislation, of education and of individual complaints is discrimination and abuse so prevalent and use of and compliance with the legislation so low? The answer is firstly that as a community we haven't seriously nor comprehensively addressed discriminatory attitudes, there has been nothing like the road toll or quit smoking strategies and campaigns. Secondly we've relied on individual complaints to rectify the system but systemic issues need systemic responses. An individual complaint of racism will not combat systemic racism across an industry sector or employer. We should not expect the individual victim to be responsible for fixing the system. Thirdly we need to consider

compliance. Unlike occupational health and safety, environment or business regulation, there are no compliance requirements or provisions in the Equal Opportunity Act 1995.. Imagine trying to reduce the road toll without 0.05 rules, booze buses, speed cameras, issuing fines, and probationary licences without police.

To illustrate this further, if a person is bullied at work and it results in physical or psychological damage or distress under safety at work legislation, the employer can be named publicly and incur a hefty fine. However, if this same behaviour is called sexual harassment and pursued under equal opportunity legislation there is no provision for fines and strict confidentiality is required in conciliation.

Justice Statement

Having regard to the above, the Commission is delighted that in May 2004 Victorian Attorney General, Rob Hulls, released a Justice Statement outlining directions for his portfolio over the next ten years which includes an undertaking to establish a process of consultation with the Victorian community on how human rights and obligations can best be protected in Victoria. In relation to Victoria's anti-discrimination laws, the following strategies have been identified as subjects for consultation:

- Moving the focus of the Equal Opportunity Act 1995 away from responding to complaints towards proactive and creative forms of compliance.
- Identifying new tools for improving compliance such as industry-based codes of practice, accreditation and model-employer schemes.
- Encouraging employers to audit and monitor their workforces to identify where barriers to employment, goods and services occur.
- Vetting all new legislation to ensure that unintended discrimination does not occur.

Today presents a real opportunity to provide the Government with feedback on which direction laws supporting gender equality in Victoria should take. To assist in thinking about more pro-active ways of addressing discrimination in the workplace, I'll now outline four international examples of how other western democracies are now approaching these issues. This overview was prepared by the Commissions

recently retired Chief Executive Officer, Diane Sisely when launching Women against Sexual Harassment's report "Taking it Seriously – Contemporary Experiences of Sexual Harassment in March 2004".

Other Jurisdictions

Canada – Employment Equity Act

The Canadian Employment Equity Act 1995 aims to address disadvantage in employment experienced by women, visible minorities, Aboriginal people and persons with disabilities. It gives the Canadian Human Rights Commission the power to audit the performance of public employers and private employers employing more than one hundred persons to ascertain whether they are complying with the legislation.

The legislation requires employers to take active measures to assess and address inequity within their workforce, in particular to:

- Survey their employees and undertake a workforce analysis to establish whether gaps in representation of designated groups exist;
- If gaps are found, analyse employment systems to identify barriers for the designated groups;
- Develop a plan to remove barriers, implement positive measures to correct the effects of past exclusion, and establish hiring and representation goals; and
- Monitor progress in implementing their employment equity plan.

The compliance work of the Human Rights Commission involves examining documentation, conducting on-site visits, and interviewing managers, employees and union representatives. The Human Rights Commission also monitors ongoing compliance, including employers' progress against hiring and promotion goals.

Persuasion and negotiation are the preferred approaches to dealing with instances of non-compliance. However, if employers fail to cooperate, refuse

to sign undertakings or do not satisfy the undertakings they agreed to, the Human Rights Commission may issue a compliance notice requiring certain actions within a specific time frame. If a direction is not fulfilled, the Commission may ask a Tribunal to issue an order of compliance.

Britain - Race Relations Act as amended in 2000

The *Race Relations (Amendment) Act 2000*, places a general statutory duty on a wide range of public authorities to promote racial equality and prevent racial discrimination. The Commission for Racial Equality ("CRE"), any other organisation or an individual can apply to the High Court for judicial review of a public authority's failure to comply with the general duty.

The *Race Relations Act* also empowers the Home Secretary to impose specific duties on public authorities stating what the authority must do in order to better comply with the legislation. This power has been used to require a number of public authorities to prepare and publish a "Race Equality Scheme". A Race Equality Scheme must articulate how the authority will:

- assess whether their functions and policies are relevant to race equality;
- monitor their policies to see how they affect race equality;
- assess and consult on policies they are proposing to introduce;
- publish the results of their consultations, monitoring and assessments; and
- train their staff on the new duties.

If the CRE is satisfied that a public authority is not complying with its specific duties, it has the power to serve a compliance notice requiring the authority to take action. If, after three months, the authority has not taken action as directed, the CRE can apply to a court to order compliance. Wouldn't it be good to be able to do this in relation to the Equal Opportunity Act!

Northern Ireland - *Northern Ireland Act 1998*

In particular, section 75 of the *Northern Ireland Act* places a statutory duty on all public authorities, including government departments, government agencies and organisations, and District Councils to promote equality of opportunity.

Each public authority is required to prepare and submit an "equality scheme". Equality schemes must state how the authority, when fulfilling its ordinary functions, will address inequality.

Equality schemes must be submitted to the Equality Commission for approval within a legislatively imposed time frame. The Equality Commission has the power to refer an equality scheme to the Secretary of State for non-compliance, request revised schemes, investigate complaints and generate investigations. Public authorities are also required to publish equality impact assessments detailing whether the work of the authority has had any adverse or positive impacts upon the promotion of equality.

The United States

In the United States the Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2001 (FEAR) requires agencies to make employees aware of discrimination and whistleblower protection laws. Agencies must also now file an annual report detailing the number of discrimination or whistleblower cases filed against them, how the cases were resolved, the amount of settlements and the number of agency employees disciplined for discriminating against other workers or harassing them.

If similar provisions to those operating in Canada, Britain, Ireland and the US were available in Victoria the Commission could audit employers current practices and assist the development of employment equity plans to rectify identified problems. Periodic monitoring would be undertaken and if agreed plans were not being implemented or compliance fell away a compliance notice could be issued by the

Commission, as it is done in Canada. If a compliance notice is ignored the business would be referred to VCAT for confirmation of the compliance notice.

6. CONCLUSION

The Commission believes we need to re-assess the way we regulate workplaces in relation to gender equality. The Victorian Government's Justice Statement presents us all with a unique opportunity to have a say in how this can be done to ensure today's 10 year old girls and boys expectations become reality in 2025.