

Chapter 10: *Sex and Age Discrimination*

Statement from the Commissioner

The demographic changes facing Australia and our continuing economic growth have rapidly changed the climate in which Australians work and live. The Government's social and economic policy changes have contributed to the velocity of this change. A tightening labour market has been accompanied by further work intensification and longer working hours for many. At the same time the increasing longevity of Australians, the ageing of the workforce and the increasing proportion of retirees have placed increased pressure on Australians to both work and care more; to care not only for their children, often including adult children in need, but also for their parents and other family members.



Ms Pru Goward
*Sex Discrimination Commissioner
and Commissioner responsible
for Age Discrimination*

Thirty years of continuous improvement in the educational outcomes of women and girls is also flowing through to changing expectations of younger women in the workforce, women who, in their thirties, seek increasingly to combine paid work with motherhood.

Over the past twelve months the work of my policy Unit has strongly reflected these broader changes. There is great interest in the Age Discrimination Act amongst the business community and increasing discussion of the challenges facing older workers. There is growing recognition that Australia's fertility rate is a reflection of the difficulty many women have in combining motherhood with paid work. Broader public concern about the extended working lives of Australians, the need for self-funded retirement and the consequences of greater but less certain work effort for family life, childhood development and social stability has also fuelled interest in my work and views on a range of issues from child care to WorkChoices legislation and elder care.

My engagement in public media debates about these and other issues of national importance and my heavy public speaking schedule (I have delivered more than 100 speeches all over Australia during the year)

reflect the relevance of gender equality to these debates and public demand for information and analysis.

In the 2006 Federal Budget the Commission was provided with additional funding of \$1.150 million over four years to promote the Age Discrimination Act and conduct relevant research. In the remaining months of this financial year I have recruited staff to create combined Sex and Age Discrimination Units, known as 'SAGE', and have been developing a promotions strategy.

The substantive work of the Unit has revolved around our national project, *Striking the Balance: Women, Men, Work and Family*. Primarily this is concerned with the impact of unpaid work and responsibilities on gender equality and also on the role working arrangements have in determining the share of unpaid responsibilities. All members of the Unit have contributed to the project under the guidance of the Unit's director, Sally Moyle and Dr Sarah Squire, our policy officer.

Since the release of our *Striking the Balance* discussion paper in June 2005, we have conducted a total of 44 consultations and focus groups around Australia. These have included consultations in every State and Territory and with employers, employer bodies, middle executives, unions, community men's groups, community women's groups, regional bodies, carers' associations and aged care and disability lobby groups. The discussions were frank and remarkably personal and, in conjunction with the 181 written submissions, form the basis of the final paper, due for release later in 2006.

The project has deliberately sought to engage men, to seek advice from men and reflect their concerns as well as those of women. This strategy, along with my contribution to the discussion about post-separation parenting arrangements, has not always meant an easy relationship between me and some people in the emerging men's movement but I believe it is necessary to persist in seeking to reconcile the perceived competing interests of men and women. My efforts will not lessen and I believe others will join me. Men's and women's interests are not in competition and will only be achieved in cooperation.

Our continuing research partnerships are also designed to improve our understanding of the connections between unpaid caring responsibilities and economic outcomes.

The Unit has partnered with the National Foundation for Australian Women (NFAW) and the Women's Electoral Lobby Australia (WEL) to develop comprehensive data about women's pay and conditions. This should enable researchers and policy makers to monitor women's progress in paid work, including the impact of changing economic and social conditions on the choices women make about work and on pay equity. Other research partnerships are similarly concerned with the relationship between work, family friendly working conditions and outcomes for children.

The Unit has made written submissions to a number of parliamentary inquiries, including the Family Law Amendment (Shared Parental Responsibility) Bill 2006, the Workplace Relations Amendment (WorkChoices) Bill 2005, the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005; Family and Community Services Amendment (Welfare to Work) Bill 2005, the Age Discrimination Amendment Bill 2006 and the Sex Discrimination (Teaching Profession) Bill 2004. The Unit and I provided submissions to the Australian Industrial Relations Commission's Family Provisions Test Case and the Australian Government Award Review Taskforce. Some of these submissions received media attention while others were reflected in inquiry findings.

The Unit and I undertook a range of additional activities in the education and awareness fields this year. It is all part of meeting the Sex Discrimination Act's objective to promote awareness of gender equality between men and women. At the request of the Attorney-General's Department we have developed culturally appropriate materials on pregnancy and potential pregnancy discrimination for Indigenous women at work, hosted an international workshop on Trafficking in Women and jointly hosted a round table on judicial responses to gender and the law which was useful for our own understanding of the issues as well as those invited to attend from academia, law firms and community groups.

Our continuing international work, particularly with women's organisations in China and Vietnam, reminds us that Australia is uniquely well placed to work with our neighbours in gender policy and the development of a regional approach to matters of common concern such as trafficking.

In my five years as Commissioner there has never been a slow and steady one where we have quietly worked away at issues of concern to Australian women. The issues are of great public concern and Australians expect that I will, with my Unit, contribute to public awareness and policy development with rigorous, evidence driven argument. To do so unstintingly over the year requires a hard working team with policy and people strengths and dedication to match. This Unit of four people also replies to an enormous amount of public correspondence as well as assiduously reading and researching international thinking on the issues of concern to us. I am deeply indebted to them all, especially Sally Moyle, the Unit's director, who is leaving the Human Rights and Equal Opportunity Commission after eight years in a variety of senior roles. We will miss her dearly.

I am grateful for the opportunity to have served the Australian public for another year and for their support for our work.

Research and Policy

***Striking the Balance* project**

On 22 June 2005, the Commissioner launched the *Striking the Balance: Women, men, work and family* Discussion Paper. Since the launch, the Sex Discrimination Unit (SDU) has held a total of 37 consultations and focus groups around Australia. Employees, employer groups, unions, men's and women's community groups and other interested individuals expressed their thoughts and experiences of combining paid work and family responsibilities. The SDU has also received 181 written submissions from individuals and groups which included employers, employer groups, unions, women's and men's community groups, academics, legal groups, and state, territory and federal governments and agencies. A round table meeting was conducted in January 2006 with advisory panel members from relevant academic, industry and community fields to inform the development of a final *Striking the Balance* paper.

The SDU is currently drawing on these submissions, consultations and round table discussions to complete the final stage of the *Striking the Balance* project.

Research Benchmarking Women's Wages and Conditions

On behalf of the Commission, the SDU teamed up with the National Foundation for Australian Women (NFAW) and the Women's Electoral Lobby Australia (WEL) in June 2006 to undertake research into the current position of Australian women in the workforce. The research is to provide comprehensive data about women's pay and conditions to enable researchers and policy makers to monitor women's progress in paid work. The research will be completed by October 2006.

ARC linkage project '*Parental Leave in Australia*'

The SDU, on behalf of the Commission, is an industry partner to the Australian Research Council (ARC) linkage project '*Parental Leave in Australia: Access, utilisation and efficacy*'. The project aims to provide benchmark information on access to, and utilisation of, parental leave in Australia; identify parents' preferences and unmet needs for parental leave; and assess broader implications for gender equality. Lead researchers are Dr Gillian Whitehouse and Dr Marian Baird.

An initial analysis of the research and a progress report were presented at a forum organised by the Commission as part of its in-kind support, held on 18 May 2006. Approximately 25 people attended the forum including academics, Commonwealth government officers, employer groups, legal practitioners, representatives from community legal centres and representatives from women's groups and NGOs.

ARC linkage project 'Impact of Parents' Employment on Children's Well-being'

The SDU, on behalf of the Commission, is an industry partner to the ARC linkage project *'Impact of Parents' Employment on Children's Well-being: The influence of employment quality, time and activities with children, and parenting practices.'*

Lead investigators are Dr Michael Bittman, Dr Jan Nicholson and Dr Lyndall Strazdins. Other industry partners are the Queensland Commission for Children and Young People, the Queensland Office for Women, the NSW Commission for Children and Young People.

The SDU has attended meetings with the investigators and industry partners in February and June 2006 at which preliminary findings were presented and discussed.

ARC linkage project 'Australia's response to Trafficking in Women'

The SDU, on behalf of the Commission, is an industry partner to an ARC Linkage project *'Australia's response to Trafficking in Women: Towards a model for regulation of forced migration in the Asia Pacific Region'*. The project is investigating gaps in Australia's legal and policy response to trafficking in women.

Lead investigators are Professor Bernadette McSherry, Associate Professor Susan Kneebone and Dr Julie Debeljak. Other industry partners are ACIL Australia Pty Ltd, the federal Attorney General's Department and World Vision Australia. The research is progressing.

Education and Promotion

Materials for Indigenous Women on Pregnancy and Work

Following a recommendation in the 1999 Commission report *Pregnant and Productive: It's a right not a privilege to work while pregnant*, the SDU was requested by the federal Attorney-General's Department to produce culturally specific education materials on pregnancy, potential pregnancy and breastfeeding discrimination in the workplace for Indigenous women.

The project was funded by the Attorney-General's Department, the Office of Indigenous Policy Coordination and the Office for Women and was carried out in partnership with the National Network of Indigenous Women's Legal Services.

The materials consist of fact sheets about pregnancy and work and a brochure about unlawful discrimination and Indigenous women, including information on parental leave and returning to the workplace when children are very young. Following the launch, which is planned for late August 2006, the materials will be distributed to agencies including Aboriginal Legal and Medical Services, community legal services, Women's Legal Services and relevant government agencies.

Judicial Awareness Raising

On 9 February 2006, the SDU, along with the President and the Director of the Legal Section, attended a meeting with the Committee Secretariat of the National Judicial College Consultative Committee. The Commission advised the Committee on the design of social and cultural awareness training for the judiciary and has agreed to continue discussions with the Committee on the relevant resources that it produces.

To inform its position on the matter, on 1 February 2006, the President and the SDU hosted a round table discussion on judicial responses to gender which informed the Commission's position on gender issues and the law. The discussion was attended by academics, lawyers and community workers.

Trafficking in Women Workshop

Between 20 and 23 November 2005 the SDU, on behalf of the Commission, co-hosted a three-day workshop for National Human Rights Institutions (NHRIs) and NGOs entitled *Human Trafficking and National Human Rights Institutions: Cooperating to end impunity for traffickers and to secure justice for trafficked people*. The Asia Pacific Forum of National Human Rights Institutions (APF) partnered with the Commission in hosting the workshop, which was jointly funded by NZAid, the Commission and the Asia Regional Cooperation to Prevent People Trafficking (ARCPPT), an AusAID funded counter-trafficking program. The themes explored during the workshop included: researching and investigating trafficking; NHRIs engaging with the law and the administration of justice; working with NGOs and civil society to support victims and their rights; and internal, cross border and regional collaboration.

The workshop was attended by representatives from Australia, Fiji, India, Indonesia, Malaysia, Mongolia, Nepal, New Zealand, the Philippines, Republic of South Korea, Sri Lanka and Thailand. Also in attendance were representatives from the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-Region (UNIAP), the International Organisation for Migration (IOM), the ARCPPT and regional and national civil society organisations from Australia, Nepal and Thailand.

Australian Government departments were also invited to observe proceedings over the course of the Workshop. These included AusAID, the Attorney-General's Department and the Australian Federal Police. Approximately 35 participants and observers were in attendance each day.

Seminar on Women's Human Rights

On 10 October 2005, the Commissioner hosted a seminar on women's human rights featuring two guest speakers, Amena Shams, an activist with the Revolutionary Association of the Women of Afghanistan (RAWA) and Carmela Baranowska, a Walkley Award Winning Filmmaker. The seminar was well attended by approximately 55 people.

Education materials for the Age Discrimination Act

In the 2006 Budget, the Commonwealth Government allocated the Commission an additional \$1.150 million over four years to counter age discrimination in the workforce. Work has begun on a national campaign to raise awareness among older people about age discrimination. The SDU has commissioned a research project to identify key issues facing older people and will be used to determine the focus of the national community awareness strategy.

Two policy officers will be recruited to work on age discrimination.



Legislative Development and Submissions

Submissions were made by the Sex Discrimination Commissioner on behalf of the Commission to a number of parliamentary and other committees. For details, see Chapter 3.

Age Discrimination Amendment Act (2006)

The *Age Discrimination Amendment Act 2006* (Cth) was given royal assent on 22 June 2006. The *Age Discrimination Act 2004* (Cth) contained a general exemption from Commonwealth Acts and regulations which expired on 23 June 2006. The Age Discrimination Amendment Act replaced the general exemption with a more limited number of exemptions. These exemptions will continue to protect age-related provision in certain Commonwealth Acts and regulations such as targeted employment programs.

Sex Discrimination Act (Teaching Profession) Bill 2004

The Sex Discrimination Act (Teaching Profession) Bill 2004 (Cth) passed through the House of Representatives on 12 May 2005 and was introduced into the Senate on 14 June 2005. The Bill proposes to alter the provision in the Sex Discrimination Act that prohibits discrimination on the basis of sex in areas including education. The Bill seeks to permit the provision of teaching scholarships to persons of one sex.

The Commissioner made a submission to the Senate Inquiry into the provisions of the Sex Discrimination Amendment (Teaching Profession) Bill in 2004 opposing the proposed amendments. The Bill remains on the Senate notice paper awaiting further debate.

International Activities

The Commissioner and the SDU took part in a number of international programs throughout 2005–06 including:

- Working with the Commission's International Programs Unit on domestic violence activities as part of the Australia-China Human Rights Technical Cooperation Program. The Commissioner and an SDU Policy Officer attended and presented at a workshop on domestic violence in Shanghai between 25 and 29 July 2005.
- Between 30 August and 2 September 2005, the Commissioner attended the Thirteenth Annual Workshop of the Framework on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region in Beijing.
- Between 29 August and 1 September 2005, the Commissioner attended the Tenth Anniversary Commemoration of the Fourth World Conference on Women in Beijing. The theme of the conference was 'Beijing + 10: Towards Gender Equality and Common Development'.
- The Commissioner participated in the Tenth Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions (APF), hosted by the National Human Rights Commission of Mongolia in Ulaanbaatar between 24 and 26 August 2005.
- Between 19 July and 10 October 2005 the Director of the SDU spent three months in Vietnam working as a legal systems specialist on a project designed to assist the Viet Nam Women's Union in developing and drafting of the Law on Gender Equality. While working on the project, the Director of the SDU was approached to assist the development and facilitate the delivery of an International Workshop on Implementation and Enforcement Mechanisms for Gender Equality Legislation. The Director of the SDU and the Commissioner attended this workshop which was held on 12 and 13 December 2005 in Hanoi.
- The Commissioner attended an Australian and New Zealand Leadership Forum in Auckland on 5 and 6 May 2006. The Commissioner also attended a number of meetings organised by the New Zealand Equal Opportunity Commissioner Judy MacGregor.

Speeches

Commissioner Goward and the SDU were involved in approximately 130 meetings and made over 103 speeches during 2005–06. A selection of speeches by Commissioner Goward, listed below, can be accessed on the Commission's website at: www.humanrights.gov.au/speeches/sex_discrim/index.html

Work Life Balance, AIM Breakfast address, Sydney, 11 May 2006

Towards Prosperity, Towards Prosperity Conference, Adelaide, 2 May 2006

Do we still need Feminism?, The Brisbane Institute, Brisbane, 14 March 2006

After the Barbecue: Perspectives on work-life balance in Australia, Work Life Balance Conference, Perth, 22 February 2006

Violence Against Women: A Men's Issue, Commemoration of the International Day for the Elimination of Violence Against Women White Ribbon Day, Canberra, 25 November 2005

A 360 Degree Review: Flexible Work Practices – Confronting myths and realities in the legal profession, Victorian Women Lawyers, Melbourne, 11 November 2005

Efficiency, Effectiveness and Equity in Public Administration, Institute of Public Administration National Conference, Tasmania, 4 November 2005

The Family Friendly Business – is it profitable?, Women Chiefs of Enterprises International, Australian National Conference, Adelaide, 28 October 2005

Striking the balance: Carers and the Future, Focus on Carers Conference, Carers Association of SA, Adelaide, 18 October 2005

Balancing work and family and how this affects men, Australasian Men's Health Forum, Sydney, 12 October 2005

Economic Determinism, Women, Men, Work and Family, Reserve Bank Central Banking Management Program, Sydney, 30 September 2005

Age shall not weary them: Making sense of demographic shifts, Diversity Council Australia Inaugural Diversity Conference, Sydney, 7 September 2005

Trafficking in women: Where have we come from and where to from here?, Project Respect Forum, Melbourne, 12th August 2005

Work and family, Australian Social Policy Conference, Social Policy Research Centre, UNSW, Sydney, 20 July 2005

EEO: Future Directions, MGSM 17th Women, Management and Employment Relations Conference, Sydney, 21 July 2005