



SUBMISSION - NATIONAL GENDER EQUALITY STRATEGY

WEstjustice is a human rights and community legal centre in Melbourne's Western Suburbs. Our service area comprises almost a million people and the fastest growing and most multicultural communities in Australia.

Melbourne's West comprises areas of significant disadvantage and higher than average youth offending rates, family violence rates, workers in casualised and insecure employment, COVID cases and COVID deaths. In this environment, we consistently see complex legal issues and the cyclical impact this has on longer term economic, health, and life outcomes.

To service the needs of this community, we provide free legal services, education, and systemic reform across four impact areas: people experiencing economic injustice; people experiencing family and gender-based violence; youth; and culturally and linguistically diverse (CALD) communities.

This submission focuses on workplace inequality, based on the experiences of clients in the Employment and Equality Law Program. However, significant gender equality issues also arise in our other programs, see e.g. our [Restoring Financial Safety](#) report and our upcoming report *When do I Get to Tell My Story? Agency and Resistance in Family Violence Intervention Order Narratives*, co-authored by Fitzroy Legal Service and Latrobe University.

Reducing the gender and diversity pay gap

While the gender pay gap is commonly cited as an indicator of gender inequity, there is no data collected on other measures of diversity that interact with gender. Many of our clients come from CALD backgrounds and experience intersectional discrimination and disadvantage. We consider an intersectional analysis should be taken in terms of the gender pay gap so that these experiences are not omitted.

The Workplace Gender Equality Agency currently collects data on gender equality, but data on other key diversity indicators are lacking. We consider progress should be measured against other diversity indicators as well as gender. Appropriate funding to encourage research and discussion surrounding intersectional experiences will assist to achieve gender equality for all women and gender diverse individuals.

Removing workplace barriers

Women and gender diverse individuals commonly experience workplace discrimination. Notwithstanding recent legislative reforms, the framework remains inadequate to address our clients' experiences and further reform is required in the following areas:

- Many clients are engaged in insecure forms of labour and therefore, do not always have a clear employer that can be held liable. It's often difficult to claim against an individual perpetrator (who may have no capacity to change workplace processes or afford to pay compensation).
- Many clients also experience intersectional forms of discrimination (e.g. sexism and racism). However, the law requires that those experiences are delineated based on the protected attribute, which is not always possible.

- Damages in workplace discrimination and sexual harassment claims are significantly lower than damages recoverable for defamation (a claim that is often threatened by men and alleged perpetrators) or common law serious injury claims.

To assist determining the success of the Respect@Work recommendations, the following should also be prioritised:

- Mandatory reporting on measures taken by businesses to eliminate sexual harassment and discrimination under the positive duty (implemented with due regard to business capacity), to assist with accountability.
- Research to monitor outcomes in sexual harassment and discrimination claims, to track damages payments and success in improving access to justice.

Value placed on caring and appropriate wage setting

Women traditionally carry the burden of caring responsibilities and represent a significant portion of the caring sector, including significant representation from migrant women. Pay and conditions must be improved in these industries.

- The rate of pay in the caring sector must appropriately acknowledge the educational attainment and investment required for those roles. Women engaged by small employers do not often have the benefit of collective bargaining efforts which often assists with improved pay and conditions. Appropriate wage setting at the award level is important to ensure gender equality across these industries.
- Some of our clients in the care industry have been engaged as independent contractors and were being paid as low as \$8.60 per hour. Minimum wages must be extended to workers who are classed as independent contractors, who are doing work that is otherwise covered by an award.
- Monitoring wages in these industries may provide an indicator to ensure that work traditionally classed as “women’s work” is adequately remunerated. Current research also indicates significant disparity in retirement income available to men in comparison to women, which reflects the ongoing income disparity during the lifespan. Continuing to monitor income disparity at retirement as an outcome will also assist to evaluate whether measures taken reduces gender inequity at retirement age.

Finally, gender inequality means that women’s earnings are often significantly less than that of men. Women are often financially reliant on men and are vulnerable to exploitation especially when they are experiencing family violence. These experiences can be exacerbated in case of migrant women in an unfamiliar cultural and social environment. In addition, police may encourage women to leave their employment to help them manage their family violence situation. Economic independence is crucial for victim-survivors leaving violent situations and measures to promote women’s financial security and retention in employment must be supported.

Jennifer Jones
Legal Director, Employment and Equality Law Program

28 April 2023