

## Chapter 10: **Sex and Age Discrimination**

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### **10.1 STATEMENT FROM THE COMMISSIONER**

For the past eight months I have worked with the staff of the Sex and Age Discrimination Unit to continue the projects begun by the former Sex Discrimination Commissioner, Pru Goward. Ms Goward left HREOC in March 2007 following a leave of absence in November 2006. The Unit's major project throughout this reporting year is the women, men, work and family project, which entered its final stage with the launch of the *It's About Time: Women, men, work and family* final paper in March 2007. The paper, with its 45 broad-ranging policy recommendations is a tribute to the hard work and vision of Ms Goward, who initiated the project and engaged public debate on the issues.



**The Hon. John von Doussa QC**  
*Acting Sex Discrimination  
Commissioner and Commissioner  
responsible for Age Discrimination*

*It's About Time* addresses one of the biggest challenges facing Australian society in the 21st century; balancing paid work with family responsibilities. A common theme in the stories HREOC heard during this project was the issue of time: time pressures, conflicting demands on time and a desire for more time to spend with family and community.

Managing time is of course not only about individual choices and capacities, but about social values and the support that is offered by governments and workplaces. In response to what the Australian community told us, *It's About Time* sets out a holistic framework for addressing the many aspects of the work and family issue, as well as priority measures to assist men and women to strike a better balance between paid work and family life.



*Mr von Doussa at the launch of the 'It's About Time' paper with launch MC Elizabeth Broderick (far right) from Blake Dawson Waldron, and launch speakers Wendy Harmer and Charles 'Bud' Tingwell.*

Chief among HREOC's recommendations is the proposal for new legislation to provide protection from discrimination due to family responsibilities

– a *Family Responsibilities and Carers' Rights Act*. If implemented, this Act would provide more comprehensive protection for men and women with family and carer responsibilities by making discrimination on the basis of family and carer responsibilities unlawful in all areas of employment. The new Act would also include a right for workers to request, and have reasonably considered, flexible work arrangements to meet family responsibilities.

In my time as Acting Commissioner, I have had the opportunity to travel around the country promoting the paper and its findings in a series of community forums. Listening to the feedback at these forums, it is clear that work and family issues are not only relevant to employees balancing paid work with the care of small children. Time pressures affect individuals and families across the life course. A life cycle approach to these issues is therefore needed if we are to adequately support all forms of care, including elder care and care for people with disability.

We must also approach this issue from the perspective of gender equality. Increased paid work opportunities for women over the past 20 years have not produced a corresponding change in the division of unpaid responsibilities between women and men in the home. The effects of this situation can be far reaching; the experience of providing years of unpaid caring work can leave women with limited employment opportunities resulting in poverty in their later years.

While women complain of high paid and unpaid workloads, men in full-time work, especially those working long hours, complain of a lack of access to family life. HREOC deliberately sought men's views on this issue during this project; incorporating their perspectives is a key part of forming solutions to poor work and family balance. Men in senior management roles are particularly well placed to lead cultural change in the workplace by putting into practice the policies that many businesses now proclaim.

Workplaces are changing further as the so-called 'baby boomers' are ageing at a time when women are giving birth later in life, thus increasing the likelihood of dual caring responsibilities for both children and ageing parents. In the current tight labour market, many large employers are already responding with policies that assist employees with various caring responsibilities. Many are also recognising the skills that mature-aged workers can bring to their business. There is more work to do in this area, however, with research commissioned by the Sex and Age Discrimination Unit showing that ageist stereotypes among employers are a significant barrier to the employment of older workers. In response, the unit is currently developing a national age discrimination community awareness strategy to encourage positive attitudes towards older workers.

The Sex and Age Discrimination Unit has undertaken a range of other projects, including educational materials for Indigenous women on pregnancy and work. These materials were produced in partnership with the National Network of Indigenous Women's Legal Services and were developed through a series of consultations with Indigenous women in Perth, Kununurra and Port Augusta. There has been a high take-up of these resources among the Australian community.

Our continuing research partnerships remain a useful source of information for the Unit, helping us to develop evidence-based policy while also providing resources for other agencies as well as the general public.

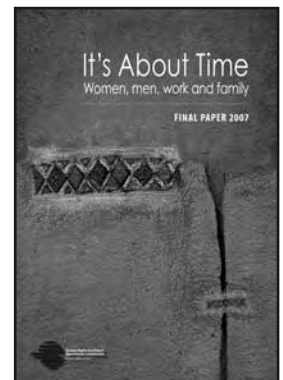
In addition, we have continued our involvement in a range of international activities, all of which highlight the unique place that Australia has in working within our region to promote the principle of gender equality and women's rights.

After more than five years as the Sex Discrimination Commissioner, the departure of Ms Goward left a large pair of shoes to fill. While it is never easy to follow on from such an effective advocate for the rights of women, I am grateful to have had the opportunity to steer the work of HREOC in this area during my time as Acting Commissioner. I also look forward to welcoming the new Sex Discrimination Commissioner, Elizabeth Broderick, when she takes over the role in September 2007.

## 10.2 RESEARCH AND POLICY

### 10.2.1 Paid work and family responsibilities – *It's About Time: Women, men, work and family*

In June 2005 a project on women, men, work and family was launched with a discussion paper called *Striking the Balance: Women, men, work and family*. The project examined the particular pressures facing men and women who seek to combine paid work with family responsibilities. A total of 44 public consultations and focus groups were held across Australia throughout 2005–06, and, along with 181 submissions and roundtable discussions, fed into the final stage of the project – the development and release of the *It's About Time: Women, men, work and family* Final Paper in March 2007.



The *It's About Time: Women, men, work and family* final paper and an accompanying community guide were launched at Blake Dawson and Waldron on 7 March 2007. The Acting Commissioner, actor and former carer Charles 'Bud' Tingwell and humorist/writer Wendy Harmer spoke at the event which was attended by approximately 130 people and attracted significant media coverage.

*It's About Time* was distributed to approximately 650 stakeholders including all federal Members of Parliament and Senators, policy makers, non-government organisations, employers, unions and interested members of the public. The paper and community guide were also made available online.

The launch was followed up by a number of community, business and academic forums around the country to disseminate the findings of the paper and gather feedback on the paper's recommendations. To date, forums have been held in Adelaide, Melbourne, Canberra, Brisbane, Perth, Darwin and Sydney with Hobart to follow. The community forums were organised in partnership with local organisations, such as state and territory equal opportunity and anti-discrimination agencies and universities. Employer forums were held in Brisbane, Sydney and Melbourne, and were hosted by the Diversity Council Australia as part of their Diversity Practitioners' Forum.



Mr von Doussa and NT Anti-Discrimination Commissioner Tony Fitzgerald at the 'It's About Time' Community Forum in Darwin on 17 May 2007.

### **10.2.2 Research Benchmarking Women's Wages and Conditions**

The Sex and Age Discrimination Unit, along with the National Foundation of Australian Women and the Women's Electoral Lobby, commissioned research by a consortium of academics (Women in Social and Economic Research – WiSER – based at Curtin University of Technology) into current pay and conditions for women in the labour market.

The research collated all available data relating to women's pay and conditions in Australia and gave a snapshot which provides a benchmark against which future research on women's employment can be measured. The research also identified gaps in currently available data and put forward recommendations about further research and data collection relevant to women's employment in the context of the new workplace relations framework.

The final report of this research, the *Women's pay and conditions in an era of changing workplace regulations: Towards a Women's Employment Status Key Indicators (WESKI) database* report, was released on 11 September 2006.

### **10.2.3 Trafficking in Women**

The Sex and Age Discrimination Unit continues to monitor the situation in relation to trafficking of women in Australia, and has regular contact with non-government agencies, academics and government agencies on the issue, as well as with the US State Department which prepares an annual report of each country's response to the problem.

### **10.2.4 Qualitative Research of Age Discrimination**

In the second half of 2006, HREOC contracted Social Change Media to identify key issues facing older people as a basis for determining the focus of a national community awareness strategy about age discrimination. This internal research showed that age discrimination is prevalent in Australia, that there are considerable barriers to preventing age discrimination in employment and that ageist stereotypes amongst employers are a significant part of the problem. This research is currently being used to develop the Sex and Age Discrimination Unit's community awareness strategy on age discrimination.

### **10.2.5 ARC linkage project 'Parental Leave in Australia: Access, utilisation and efficacy'**

The Sex and Age Discrimination Unit, on behalf of HREOC, 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.

The research team released its survey data in November 2006 and made it available on the University of Queensland website.

The third stage of the project – household interviews – is currently nearing completion.

### **10.2.6 ARC linkage project ‘Impact of Parents’ Employment on Children’s Wellbeing: The influence of employment quality, time and activities with children, and parenting practices’**

The Sex and Age Discrimination Unit, on behalf of HREOC, is an industry partner to the ARC linkage project ‘Impact of Parents’ Employment on Children’s Wellbeing: 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 and the NSW Commission for Children and Young People.

The research is progressing with preliminary findings presented and discussed at various national and international conferences.

It is expected that some papers with results of the study will be available around October 2007.

### **10.2.7 ARC linkage project ‘Australia’s response to Trafficking in Women: Towards a model for regulation of forced migration in the Asia Pacific Region’**

The Sex and Age Discrimination Unit, on behalf of HREOC, 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.

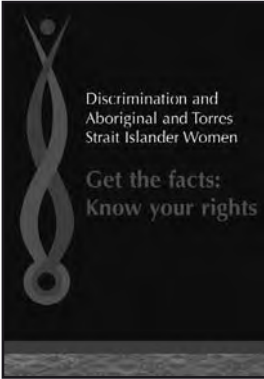
The project aims to evaluate Australia’s response to trafficking in persons, particularly women and children, from the perspective of criminal justice, international human rights law and migration law.

The project is currently in its second phase. Investigators are interviewing government and non-government representatives in Australia and the Asia Pacific Region. To date they have conducted interviews in Thailand, Laos and Cambodia, and are planning to conduct interviews in Myanmar in coming months.

Preliminary findings have been presented at a number of national and international conferences and seminars.

## 10.3 EDUCATION AND PROMOTION

### 10.3.1 Materials for Indigenous Women on Pregnancy and Work



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

The materials consist of a folder containing 12 fact sheets covering information about pregnancy and work along with a more general brochure about unlawful discrimination and Indigenous women. The materials include information on parental leave and information on returning to the workplace with young children.

This 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 Attorney-General launched the materials at HREOC on 29 August 2006. The then Sex Discrimination Commissioner Pru Goward and Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma also spoke at this event. The materials have been distributed to Aboriginal Legal and Medical Services, community legal services, women's legal services, Indigenous organisations, women's organisations, legal centres, unions and other relevant organisations and government agencies around the country. Hundreds of kits have also been distributed as a result of orders received following the launch. The materials are also available on HREOC's website.

### 10.3.2 Community Awareness Strategy on Age Discrimination

Based on the Sex and Age Discrimination Unit's research on age discrimination issues, a community awareness strategy on age discrimination issues is being developed. The elements of the strategy include a revised age discrimination brochure incorporating focus group feedback, the development of a print advertisement campaign and web-based materials aimed at overcoming negative stereotypes and discrimination against older workers.

## 10.4 INTERNATIONAL ACTIVITIES

### 10.4.1 Human Rights Technical Cooperation Program

The Sex and Age Discrimination Unit is working with the International Programs Unit on domestic violence activities of the Australia-China Human Rights Technical Cooperation Program. The then Sex Discrimination Commissioner Ms Goward participated in an Anti-Domestic Violence Workshop led by the All China Women's Federation in Urumqi Xinjiang Autonomous Region on 26 and 27 July 2006 as part of the Human Rights Technical Cooperation Program activities.

### **10.4.2 Japan International Labour Foundation (JILAF) Delegation**

The Sex and Age Discrimination Unit met with a 12 member delegation of Women Trade Union leaders on 1 February 2007. The Japan International Labour Foundation (JILAF) sent International Exchange Teams consisting of women trade union leaders of RENGO (Japanese Trade Union Confederation) in order to promote international cooperation by exchanging views on labour, economic, social and gender equality issues. The purpose of the delegation was to deepen the understanding on gender equality issues and to learn about women and work issues in Australia.

### **10.4.3 Visit by Papua New Guinea General-Secretaries**

The then Sex Discrimination Commissioner Pru Goward met with two political party General-Secretaries from Papua New Guinea on 24 October 2006. Ms Joyce Grant, Secretary-General, of the National Alliance (part of the governing coalition) and Ms Monica Hasimani, Secretary-General, PNG Greens Party. The women had been in Australia undertaking the Political Party Development Course conducted by the Centre of Democratic Institutions at the Australian National University with other political party leaders from South East Asia and the South Pacific. The visit to HREOC was organised by the federal Office for Women.

### **10.4.4 Attorney-General's Department Australia-China Legal Professional Development Program**

A member of the Sex and Age Discrimination Unit met with Ms Li Xin, Division Director in the International Judicial Cooperation Department of the Supreme Prosecution Service in China, to brief her on the Unit's work. Ms Li visited HREOC as part of the Attorney-General's Department Australia-China Legal Professional Development Program.

## **10.5 EXEMPTIONS UNDER THE SEX DISCRIMINATION ACT**

### **10.5.1 Forensic Technology Pty Ltd**

Forensic Technology Pty Ltd, trading as Crisis Support Services (CSS), is a non-profit organisation that provides a range of counselling and community support services. It offers counselling for men, via both the Mensline Australia family and relationships operation and Suicide Helpline services.

CSS sought an exemption from the Sex Discrimination Act to:

- advertise nationally for and recruit male counsellors to join their Graduate Trainee Program; and
- at the end of the program, to offer employment to as many male counsellors who completed the program, as it considered appropriate.

The applicant stated that a need for male counsellors had arisen in relation to CSS' counselling services due to increased use of these services by men who request to speak to a male counsellor. The application noted that the current gender ratio of staff



at Mensline is 35:65 (male: female) and documented some evidence in support of the preference of male callers' requests to speak to a male counsellor.

HREOC accepted that, based on the gender-ratio and small number of staff at Mensline, it is currently unable to accommodate the number of requests it receives from men to speak to a male counsellor.

HREOC also accepted that some men, particularly those from culturally and linguistically diverse backgrounds, have difficulty seeking assistance or counselling from a female in times of crisis. HREOC was of the view, however, that the current evidence was inconclusive as to whether men generally preferred to speak to a woman or a man in a situation of crisis.

HREOC granted the exemption for one year and noted that stronger supporting evidence might lead HREOC to consider granting the exemption for a longer period.

## 10.6 LEGISLATIVE DEVELOPMENT

The Sex and Age Discrimination Unit contributes to legislative development by making written and oral submission to Parliamentary and other inquiries. A list of these submissions can be found in Chapter 3 of this report, *Monitoring Human Rights*.

## 10.7 SPEECHES

Former Commissioner Goward, the Acting Commissioner and the Sex and Age Discrimination Unit were involved in approximately 50 meetings and made over 70 speeches during 2006–07. A selection of these, listed below, can be accessed on HREOC's website at [www.humanrights.gov.au/about/media/speeches/sex\\_discrim/](http://www.humanrights.gov.au/about/media/speeches/sex_discrim/)

The following speeches were presented by Commissioner Goward.

*'Making the Boom Pay,'* the 2006 Economic and Social Outlook Conference, Melbourne, 3 November, 2006.

*'Healthy Workforce,'* WA State Health Conference, Perth, 2 November, 2006.

*'Is it profitable for small business to be family friendly,'* NSW EEO practitioners Association Seminar, Sydney, 25 October, 2006.

*'Age Discrimination and in relation to older people with disabilities,'* Centre for ageing and Pastoral Studies Conference, Canberra, 28 September, 2006.

*'Work Life balance,'* Diversity Practitioners Forum, Sydney, Melbourne, Wollongong, September, 2006.

*'Embracing, Challenge, Diversity and Change,'* Pilbara Women in Management Conference, WA, 21 September, 2006.

*'Men's health, work and family,'* Australian Market Research Society Conference, Melbourne, Brisbane, Hobart, September, 2006.



*'Adult Learning,'* Adult learners Week, Sydney, Melbourne, Brisbane, Hobart, 4–9 September, 2006.

*'Sex Discrimination Act,'* National Conference of Muslim Women," Canberra, 1 September, 2006

*'Implementation – Growing the potential workforce by attracting people from different backgrounds,'* Resources and Infrastructure Industry Skills Council, Sydney, 23 August, 2006.

*'Striking the Balance,'* Australian Institute of Family Studies, Melbourne, 17 August, 2006.

*'Striking the Balance and The Law,'* QUT Faculty of Law Public Lecture Series, Queensland, 12 July, 2006.

*'Demography, Destiny and Public Policy,'* Social and Economic Policy Public Lecture Series, Canberra, 11 July, 2006.

*'Economic growth and community development,'* Wakefield Development Council Forum, South Australia, 6 July, 2006

*'Making the most of the ageing workforce,'* Newcastle Business Club Lunch, 4 July, 2006.

The following speeches were presented by John von Doussa QC in his capacity as Acting Commissioner:

*'Working Time and the Work-life Balance,'* Melbourne Institute Public Economics Forum, Canberra, 26 June, 2007.

*'It's About Time: Women, men, work and family,'* Community Forums, Sydney, Melbourne, Canberra, Adelaide, Darwin and Brisbane, March to June, 2007.

*'It's About Time: Key findings from the women, men, work and family project,'* Australian Institute of Family Studies Seminar, Melbourne, 12 April, 2007.

*'It's About Time: Women, men, work and family,'* Final Paper launch, Blake Dawson and Waldron, Sydney, 7 March, 2007.

