

CENTRE FOR LEADERSHIP FOR WOMEN

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2009 SUBMISSION TO THE EOWW ACT REVIEW

DR DIANN RODGERS-HEALEY

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Submission to EOWW Act review,
C/- Health and Human Services Practice,
KPMG,
10 Shelley Street,
Sydney NSW 2000.

From: Dr Diann Rodgers-Healey
Founder
Australian Centre for Leadership for Women (CLW)
www.leadershipforwomen.com.au
PO Box 3144
Minnamurra
NSW 2533

Email: diann@leadershipforwomen.com.au

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Introduction

CLW recognizes that the EOWW Act and the EOWA has advanced women's equal employment opportunities in workplaces and has also contributed to raising an awareness of the significance of equality for women in workplaces. However, the fact remains that Australian women do not have equality in workplaces on many levels including pay equity, retirement savings and board directorships. Whilst the Act is to be credited in achieving positive changes for women in some organisations such as those that have been awarded the EOWA Employer of Choice for Women, the Act has not successfully and comprehensively eradicated inequities for Australian women in the workplace. With statistics showing that women's leadership is in fact regressing¹, what is needed is not just a positive appraisal about the levels of advancement that have been achieved through the Act and the Agency, but a thorough analysis of how the Act and the Agency can be strengthened to achieve its objectives in the context of relative inequality and slowing progress.

In this submission, I will consider some specific issues that deal with the Act and its management by EOWA, as well as some broader overarching issues.

Specific Issues of Concern:

1. Coverage of the EOWW Act

With the EOWW Act applying only to organisations with 100 or more employees, there is the implication that it is not important if organisations with less than 100 employees treat women unfairly. This seems to detract from the clarity and strength of the message of equal opportunity for all women. There are many small businesses which fall in this category for example, which employ women but which do not have to comply with the Act. The legislation therefore, does not appear to include in its focus a full range of employment opportunities for women.

Furthermore in 2007-08, 154 organisations did not submit a report in that year as their reporting obligations had been waived. Although it is expected that these organisations carry on with their programs during the waived period of reporting, such exemptions detract from the EEO momentum gained within the organisation and the broader community as the EEO message is softened. It is also not clear if exempted organisations still evaluate their actions which they would have done if they were

¹ Equal Opportunity for Women in the Workplace (EOWA), 2008 Australian Census of Women in Leadership, Canberra: ACT.

required to report in order to plan their actions for the next reporting year. Perhaps instead of granting exemptions for organisations that have demonstrated outstanding levels of compliance, they could be asked to mentor non-compliant organisations to achieve compliance.

2. Preparation of workplace programs

The preparation of workplace programs appears to be reliant on an employer conferring responsibility for the development and implementation of the program on a person having sufficient authority and status within the management of the organisation. It is also required that the employer must consult with employees, particularly employees who are women. As such, the onus of the development of the program lies with one person who has significant authority. It is not taken into account that status and authority could be a deterrent to how open women are about their experiences in the organisation. If an organisation's culture is not welcoming of open feedback and collaboration on developing positive cultures, then women are not going to risk stating their views.

EOWA's six-step program for designing and implementing a workplace program as is shown below requires that consultation with co-workers are undertaken in step 2 of the process. "Co-workers" identify the issues facing women. It is also stated that "Throughout the process, it is important to consult with employees at all levels of your organisation." It is not clear that the program requires direct consultation with women employees in the preparation of the program and throughout the process. They do not appear to be named as the first point of call.

Step 1	Prepare a workplace profile.
Step 2	Consult with co-workers to identify the issues facing women within your organisation. Analyse these issues, considering each of the seven Employment Matters.
Step 3	Prioritise your issues.
Step 4	Take action to address your priority issues.
Step 5	Evaluate the effectiveness of your actions.
Step 6	Identify future actions.

As the design and implementation of the program rests with the employer and selected person of authority, the system for change is one way as the women in the organisation for whom the program is designed are not **directly** involved in the planning or in the

evaluation of the program. There is no auditing of the programs or the reports submitted to EOWA by the key stakeholders, the women employees of the organisation. If changes are made to this effect, what must be considered is how much influence women will have over the evaluatory process to seek further refinement of the program. How transparent will the evaluation process be so that women's involvement in the process is uninhibited?

Thus whilst it is good that workplaces are required to have a program in place that actions their interpretation of the EOWW Act in their workplace, the effectiveness of the Program is diminished if it is not developed in a collaborative framework in consultation with women and is not monitored and refined collaboratively by the women employees in the organisation. The Programs would benefit from a joint management approach with a panel of women representing the women employees in the organisation and the appointed person by the employer.

This would also mean that the evaluation of the Programs are done 'in-house' rather than solely reliant on external bodies to be the only evaluator of the Program. The EOWA could be the *final* body that evaluates the reports of the organisation. With women joining the evaluation process, the EOWA would have freed up its resources and effort that it currently employs to monitor the program during the course of its formulation and implementation. Women would be empowered to control and have a direct impact on causes of inequality in the workplace.

3. Goals of Workplace Programs

The identification of areas to be reported on by organisations is largely based on self-identification and disclosure by organizations. EOWA does not state specific goals of compliance to reach even a minimum standard of compliance by an organisation. The absence of such clarity could illicit from organisations reports on EEO achievements that are not wide in scope or significance to tackling key issues of inequality in workplaces. It provides organizations with the opportunity to partially comply by showing change in some areas, thereby achieving the lowest denominator of involvement and leaving untouched critical areas demanding a major shift, such as that of pay equity, recruitment and promotion.

4. Compliance and Enforcement

EOWA's lack of power to conduct self-initiated action or investigations of non-compliant organisations means that EOWA is not in a position to confirm what is reported nor consider the impact of unequal practices on women in non-compliant

organisations. EOWA does not have the power to investigate complaints from women experiencing barriers of inequality in the workplace. This lack of power indicates that EOWA will gently treat non-compliant organisations relying significantly on self-regulation and cooperative relations with employers through education and promotion activities. As such the Act does not provide adequate mechanisms for enforcement of the obligations it creates.

Whilst the EOWA's implementation of award schemes such as the Employer of Choice for Women draws the spotlight on compliant organisations which have exceedingly pursued women's advancement, non-compliant organisations, even if reprimanded by the EOWA, receive little media attention. As such, acts of poor governance remain unnoticed in wider circles.

The EOWA appears to have promoted the Employer of Choice successfully and organisations that have been recognized have flagged such recognition. Introducing band levels of compliance against which EOWA ranks every organisation that reports would not only bring into the fore those organisations that are outstanding, but also those in the mid and lower ranges. It would provide incentives to organisations to not just benchmark their own policies and workplace environment, but to reach EOWA benchmarks of recognition by aiming for higher band levels. Doing this in the public domain will add to the attraction of the Award.

Broader Issues of Concern:

1. Objects of the EOWW Act

As one of the principal objects of the EOWW Act is to “promote the principle that employment for women should be dealt with on the basis of merit,” EOWA needs to outline specifically the areas which organisations need to tackle to demonstrate where the merit principle is to be applied based on issues of equity.

For example, according to the Women Getting into Boards Report², the principle of merit used by boards was perceived by women to be narrow, gender biased and void of recognizing the transferability of skills. If women do not have the opportunity to develop the type of experiences required for promotion or board positions, then issues of merit need to consider what is needed not just for equality, but also for equity. Selection criteria for company boards is one area which could be specified by the EOWA for demonstrable changes by reporting organisations. Other areas could include recruitment and career pathways.

2. Role and functions of EOWA

The primary role of EOWA is to administer the EOWW Act and to provide information, advice, education and communication to reporting organisations and members of the broader community to achieve equal opportunity for women in the workplace. This role appears to be modeled on EOWA establishing a relationship with employers and promoting issues of women’s equality to society at large. What is implied and remains invisible in this role is the relationship between the EOWA and women employed by organisations. It is this relationship that needs to be brought to the fore with the aim to empower women to contribute to, design and monitor the evaluation of the Act in workplaces. With women working in disparate positions in an organisation, encouraging representations from women to cover the types of inequality in specific positions and levels will enhance the effectiveness of the workplace program that can be collaboratively formulated and monitored by a women panel within the organisation.

EOWA in assisting employers with workplace tools such as the *Pay Equity Tool* to audit and analyse gender pay distribution is demonstrative of it working with those in authority to change organizational cultures for women’s advancement. What is additionally needed is the incorporation of women in the management and evaluation

² Rodgers-Healey, D. Women Getting into Boards Report, Australian Centre for Leadership for Women (CLW) 2009

of such tools within the organisation. Women needed to be given the opportunity to directly report on the implementation of such tools. Empowering women in the organisations gives them the power to drive change and monitor it within the organisation.

3. EOWW within the framework of HREOC

With the Sex Discrimination Act 1984 (SDA) being the key piece of federal anti-discrimination legislation protecting women in a range of areas of public life, including within employment, it seems that the Equal Opportunity for Women in the Workplace Act 1999 (the EOWW Act) focuses only on workplaces and how employers can develop and implement workplace programs to ensure women have equality of opportunity. As such, the EOWW Act provides an organizational focus that the SDA does not, and in doing so, specifically holds employers responsible for administering and reporting on organizational policies and practices that address equality in the workplace. The EOWW Act is proactive in requiring organisations to plan ahead and evaluate their programs on an ongoing basis whereas the SDA is about bringing matters of discrimination to the Commissioner's attention after the event.

The EOWA's responsibility to evaluate workplace programs and reports enables the government to have its finger on the pulse of what is and is not happening. For this to be at its optimum, EOWA would need to have the capability and resources to analyse the trends that emerge in a reporting period and to collaborate with other government agencies to develop strategies to address any key issues.

As HREOC announced it had changed its name to the Australian Human Rights Commission (AHRC) on 4 September 2008, it would appear that the focus on Equal Opportunity appears is implicit, not explicit. A merger of EOWA and the Sex Discrimination Unit (SDA) appears to be a step in the direction of combining efforts of bodies that deal with women's inequality. However, rather than the possibility of merging EOWA and SDA under AHRC, going a step further is needed in creating a unit that deals specifically with women's issues of inequality.

An Australian Women's Rights Commission (AWRC) could be created with the aims to protect, promote and monitor the rights of women in Australia guided by 3 leadership goals:

- the pursuit of Equality
- the pursuit of Collaboration between women and men to develop Equality

- the pursuit of Education to research and act on key issues related to women's equality in the corporate landscape, and to break gender barriers in the community

The existence of such an entity would allow for resources and operations to be concentrated in one body; would consolidate disparate units advancing women's issues with a common unified vision, and would give power to the AWRC commissioner to act on emerging trends with workplaces and non-workplace contexts. Such an initiative would recognise that for inequities against women to be eradicated, an integrated approach that tackles all forms of discrimination against women is required as there is a strong connection between all forms of discrimination against women. The AWRC could also incorporate other critical issues related to women such as the Elimination of Violence against Women.

Conclusion

The EOWW Act has been effective in meeting its objective of promoting and fostering equal opportunity for women in employment as the concept of equality for women has a presence in the corporate landscape. However, whilst corporate consciousness has been stirred to this extent, this has not translated into action. Women continue to fare less well than men on a number of key indicators while at work.

On reviewing the EOWA Act and Agency, it is clear that the focus has been on employers to put in place strategies to treat women equally. The Agency assists employers to create these strategies and monitors their outcomes. Specific suggestions for improvement as summarized below outline how the Act and Agency can be strengthened. However, broader implications of the overall approach for women's equality in Australia must be considered so that this Review achieves more than fixing an individual cell of the overall body of initiatives for women.

One of the key observations made in this submission in relation to the EOWW Act and Agency is that women need to be empowered to be the driving force of change in conjunction with the employers who employ them. They need to be involved in the monitoring and reporting of the workplace programs to EOWA so that they become the body responsible for confirming or denying if the organisation is operating on principles of merit. They need to be the first and last point of call in a transparent process that demonstrates how the organisation is achieving the objects of the EOWW Act. The EOWW Act needs to factor this involvement of women so that women are empowered legally to effect change in workplaces with the EOWA having final authority. Moreover, the principle of merit as applied by the EOWW Act needs to include a consideration of the issues of inequity for women.

The EOWW Act has a significant role separate from the SDA in providing an organizational focus holding employers responsible for administering and reporting on organizational policies and practices that address equality in the workplace. It is proactive and positions EOWA to analyse the trends that emerge in a reporting period and to collaborate with other government agencies to develop strategies to address any key issues. With more resources and education, this positioning could be strengthened. A merger of EOWA and the Sex Discrimination Unit (SDA) would combine and strengthen the efforts of both units to deal with women's inequality. However, the merger of these units under the AHRC could reduce the visibility of women's issues of inequality.

With 65% of the workforce being female, yet top management being 90% male³, with research from Catalyst and McKinsey⁴ pointing to the economic benefits of including women in leadership positions; it is timely that issues related to women are given frontline attention by government. An integrated approach centering on women is needed for a problem that is connected on many levels and manifest in different spheres of a woman's life. An approach that includes men in the process of change for women's empowerment and inclusion is needed.

I propose that an Australian Women's Rights Commission (AWRC) be created with the aims to protect, promote and monitor the rights of women in Australia guided by 3 leadership goals:

- the pursuit of Equality
- the pursuit of Collaboration between women and men to develop Equality
- the pursuit of Education to research and act on key issues related to women's equality and to break gender barriers in the community

Such an integrated entity would allow for the concentration of resources, clarity of operations by a common vision, concentration of power to discern trends of inequality and changes required in policy, the creation of a facility to record and promote achievement in the areas of women's advancement to the national and international community driven by legislation applying to women.

Some specific suggestions for improvement:

Amend the EOWW Act to apply to all organisations employing women rather than just those with 100 or more employees thus enabling the Act to cover a full range of employment opportunities for women.

Organisations need to show compliance to specific goals of EOWA rather than on what is self-identified by the organisation.

Specific goals of EOWA need to be connected to the objects of the EOWW Act. As the developing of merit in organisations is identified by the EOWA as an object of the EOWW Act, specific goals need to relate to key areas which do not demonstrate merit in organisations .

³ EOWA 2009

⁴ **Catalyst, The Bottom Line: Corporate performance and women's representation on boards, Catalyst, New York, 2007; McKinsey & Company, Women Matter: Gender diversity, a corporate performance drive, McKinsey & Company, France, 2007; McKinsey & Company, Women Matter 2: Female leadership, a competitive edge for the future, McKinsey & Company, France, 2008.**

Specific goals of EOWA could be developed along a continuum from low, mid to high level of compliance with specific criteria to be met for the identification of how compliant an organisation is. Ranking organisations against band levels of compliance would bring into the limelight the achievements of all reporting organisations rather than just those at the top.

Organisations that have demonstrated outstanding levels of compliance could be asked to mentor non-compliant organisations to achieve compliance.

The design, implementation, evaluation and reporting of workplace programs needs to be done in collaboration with women employees or a panel of women employees representing the interests of disparate groups of women in the organisation. A joint management approach between a panel of women representing the women employees in the organisation and the appointed person by the employer needs to be in place in organisations reporting to EOWA.

Evaluation of workplace programs and the reporting to EOWA by women in the organisation needs to be transparent so that women's involvement in the process is uninhibited and free of repercussions. The EOWW Act needs to legally allow for women's involvement as program designers and evaluators.

EOWA needs to have power, resources and skills to initiate investigations to check the status of compliance in organisations as well as to investigate women employees' complaints about inequality in workplaces.

EOWA needs to have power, resources and skills to signal to policy developers key trends in women's equality in workplaces on an annual basis based on their evaluation of outcomes of workplace programs.

Author

Dr Diann Rodgers-Healey

Founder & Director of the Australian Centre for Leadership for Women (CLW)
www.leadershipforwomen.com.au

As an independent researcher, analyst and consultant, Dr Rodgers-Healey combines research skills with an in-depth knowledge of women's leadership and workplace issues to provide strategic insights for organisations, individuals and policy developers on leadership and women's empowerment. Her approach has guided transformations for learning organisations. Specific areas of focus include: Leadership and Gender Auditing; Strategic Planning; Organisational Development to include women through systemic change; Issue Resolution and Collaboration.

Dr Rodgers-Healey has held leadership positions in business and in the educational sector in London and in Australia. She has interviewed many national and international female and male leaders about their leadership journey and the barriers they have overcome.

The Australian Centre for Leadership for Women (CLW), a virtual Centre at www.leadershipforwomen.com.au was founded by Dr Rodgers-Healey to explore women's leadership and raise consciousness about women's issues. With a vision to empower women to understand and question leadership theory and practice and enable them to develop their own style of leadership, in 2001 CLW was short-listed for the Australian Award for Excellence in Educational Publishing and in 2002 it was selected to be archived in the National Library of Australia.

Her publications include a book entitled, *Mentoring Yourself*. Forthcoming publications include a book on women and leadership in Australia. Research projects have included an audit of women's leadership in the Victorian and Federal Police Force. Executive leadership coaching, mentoring and strategic planning for the development of vision statements have also been conducted for workplaces.

Diann Rodgers-Healey graduated with a Bachelor of Arts degree from Sydney University in 1986 and a Diploma in Education from the Sydney Institute of Advanced Education in 1991. In 1996 she completed a Masters of Education from the Australian Catholic University. Diann received her PhD from the University of Wollongong in the area of women and leadership in 2009. Diann will receive in November 2009 The World of Difference 100 Award from The International Alliance of Women (<http://www.tiaw.org/>) based in Toronto, Canada representing more than 50,000 women world wide whose mission is the economic empowerment of women.