



VICTORIAN
WOMEN
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Submission to the inquiry into the Fair Work Amendment (Gender Pay Gap) Bill 2015

Submitted by:	Victorian Women Lawyers Association Inc (VWL)
Submitted electronically to:	Education and Employment Legislation Committee Committee Secretary Senate Education and Employment Committees PO Box 6100 Parliament House Canberra ACT 2600
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About us

Victorian Women Lawyers (**VWL**) is a voluntary association that promotes and protects the interests of women in the legal profession. Formed in 1996, VWL now has over 500 members. VWL provides a network for information exchange, social interaction and continuing education and reform within the legal profession and broader community. VWL has undertaken research into work practices affecting women in the legal profession, and provided protocols and training to effect change.

Details of our publications and submissions are available at www.vwl.asn.au under the 'Publications' tab.

Gender Pay Gap Bill - Overview

Since 1996 VWL has advocated for the equal representation of women and promoted the understanding and support of women's legal and human rights by identifying, highlighting and eradicating discrimination against women in the law and in the legal system, and achieving justice and equality for all women. In recognition of the substantial gender pay gap in the legal sector, in 2016 VWL will complete a project aimed at advocating pay transparency to Victorian law firms. This will involve the development of case studies and resources to promote the case for implementing pay transparency policies in law firms.

VWL welcomes the opportunity to make this submission to the Education and Employment Legislation Committee in relation to the inquiry into the Fair Work Amendment (Gender Pay Gap) Bill 2015 (**Bill**) and supports efforts to address the gender pay gap through law reform.

VWL is particularly concerned about the substantial gender pay gap in the legal industry and considers that the current lack of transparency within the private sector contributes to this gap. However, VWL also recognises that the issue is multi-factorial and is influenced by social factors, discrimination including unconscious bias, and pay negotiation models. VWL hopes that any legislative change in relation to this issue will be part of a broader policy response to address gender discrimination in the workplace.

The gender pay gap in the legal sector

While the gender pay gap across sectors is 17.9%¹ recent Workplace Gender Equality Agency (WGEA) data indicates that for full time employees in Legal Services the gender pay gap is as great as 34.3%.² VWL notes with concern that the gender pay gap is present from graduate level³ despite 61% of graduate solicitors being women.⁴ This discrimination continues as women progress in the legal profession, with the Law Council's 2014 National Attrition and Re-engagement Study (NARS) Report highlighting the multiple forms of gender discrimination experienced by women in the law. The NARS report identified a need for greater transparency, ease of access to information around rights and reasonable

¹ Workplace Gender Equality Agency, 'Gender Pay Gap Statistics', September 2015.

² Workplace Gender Equality Agency, 'Data Explorer' at <http://data.wgea.gov.au/industries/115>.

³ Graduate Careers Australia, 'An analysis of the gender wage gap in the Australian graduate labour market, 2013' June 2014.

⁴ Law Council of Australia, 'National Attrition and Re-engagement Study (NARS) Report' 2014.



expectations in relation to work hours, fee setting, pay and performance, with clarity around expectations with respect to career progression and goals.

VWL firmly believes that if discrimination is hidden, it cannot be resolved.

VWL is concerned in particular that the existing pay disparity affects women lawyers and the firms they work for by:

- a) increasing already concerning attrition rates of female practitioners from the legal industry, leading to increased costs for firms;
- b) as a result of attrition, creating male-dominated workplaces that decrease the likelihood that other gender orientated issues will be addressed meaningfully, such as flexibility in work arrangements and sexual harassment;
- c) facilitating discrimination and unconscious bias;
- d) potentially decreasing law firm revenue, as female practitioners may undervalue their billable time based on pay disparity; and
- e) impeding the progression of women across a wide range of industries, including through limiting the networking opportunities for female professionals and reducing instances of work referrals (particularly in male-dominated industries).

The social and economic benefits of addressing the gender pay gap have been supported by various studies. It is well-established that an increase in female employees in companies, including in senior roles, provides financial and organisational benefit to businesses and the economy more broadly.

VWL believes that the government has an important role to play in facilitating the cultural change needed to bring about female participation and equal pay, including through the passing of this Bill.

Endorsement of the Bill

VWL endorses the text of the Bill as drafted. We support the purpose of the Bill to void and make unenforceable any clause that seeks to restrict an employee's ability to discuss their remuneration.

VWL recommends that consideration be given to the introduction of a civil remedy provision to deter employers from including 'pay gag' clauses in contracts and to require employers to take steps to prevent their employees from being misled as to the effectiveness of such clauses that may otherwise appear in an employment contract. In particular, young and inexperienced workers may not be aware of their workplace rights and obligations.

VWL also encourages the implementation of a national educational campaign to raise awareness of these legislative changes once the amendment is passed.



Concluding remarks

VWL supports legislative reform that encourages pay transparency for employees and organisations. It is our organisation's view that pay secrecy, particularly in industries like the legal sector that incorporate a number of discretionary payments and bonuses as part of an employee's salary package, contributes to the gender pay gap.

Our organisation advocates for a broad policy response to the gender pay gap as we appreciate that the issue is influenced by a variety of factors. In particular, VWL is in favour of rigorous workplace gender equality reporting requirements that ensure employers are accountable for pay decisions that disadvantage women.

VWL is highly concerned about the significant gender pay gap in the legal sector which is substantially above the average sector pay gap of 17.9%. As such, VWL endorses the text of Fair Work Amendment (Gender Pay Gap) Bill 2015.

Stephanie Milione

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