

Our Ref: 0006/88/05
Enquiries: Yvonne Henderson

Committee Secretary
Senate Legal and Constitutional Committee
Parliament House
Canberra ACT 2600

Dear Committee Secretary

Sex and Age Discrimination Legislation Amendment Bill 2010-10-26

The Equal Opportunity Commission welcomes the opportunity to make submissions in relation to the Sex and Age Discrimination Legislation Amendment Bill 2010.

The Commission welcomes the range of positive amendments to Australia's anti-discrimination legislation, which complements the Western Australian Equal Opportunity Act 1984.

In particular I note the amendments to:

- extend the protections against sexual harassment in the workforce for employees and students
- the inclusion of breastfeeding as a ground,
- ensuring that men and women are equally protected,
- extension of the ground of family responsibilities to all aspects of work, and
- the establishment of an Age Discrimination Commissioner.

However, the proposed reforms in the Bill do not address one of the central recommendations of the report of the 2008 *Inquiry the Effectiveness of the Sex Discrimination Act 1984 in elimination discrimination and promoting gender equality* produced by the Senate Standing Committee on Legal and Constitutional Affairs.

The Report found that the Sex Discrimination Act 1984 was severely limited in its effectiveness because of its reliance on individuals pursuing complaints. It identified the need for the laws to be able to initiate action to redress discrimination and to actively promote gender equality.¹

The Commission strongly urges the Committee to consider including the recommendations of the Senate report with respect to increasing the statutory functions of the Sex Discrimination Commissioner in relation to:

¹ Senate Committee on Legal and Constitutional Affairs, *Effectiveness of the Sex Discrimination Act 1984 in Eliminating Discrimination and Promoting Gender Equality* (2008) [11.77].

1. broad inquiries into gender equality; initiating complaints for breaches of the SDA without requiring an individual complaint. (Recommendation 11.99)
2. Independent monitoring and reporting to the Australian Parliament on progress to achieve gender equality. (recommendation 11.87)

The *Western Australian Equal Opportunity Act 1984* recognises that an individual complaints based model, is not of itself enough and provides the Commissioner with powers under Section 80 to initiate inquiries and investigations, and make recommendations. In recent years, this power has been used to undertake two major investigations:

- a. An inquiry into discrimination against Aboriginal people in public housing, and
- b. An inquiry into whether people of minority ethnic or Aboriginal backgrounds are discriminated against in the private rental market.²

The Commission has been able to work collaboratively with government, industry and non-government organisations to implement the recommendations of these reports.

As well, this Commission, in a review of the WA Act, has recommended to the State Government the inclusion of a 'gender duty' in the Act, similar to that operating now in the United Kingdom, which puts a responsibility on employers and service providers to eliminate sex discrimination.

Implementing these reforms reflect the knowledge and experience we have garnered over 25 years of anti-discrimination laws and are fundamental to transforming the way our laws deal with discrimination.

² The reports of these Inquiries: *Finding a Place* and *Accommodating Everyone*, respectively, are available on the Commission's website: www.eoc.wa.gov.au

I would be very pleased to supplement this submission with oral evidence to the Committee at any public hearings.

Yours sincerely

Yvonne Henderson
COMMISSIONER FOR EQUAL OPPORTUNITY

29 October 2010