

Dear Committee Secretary,

Please find below the SDA response to questions taken on notice at the Senate and Public Administration References Committee public hearing on 10 April 2017 regarding the Inquiry into gender segregation in the workplace.

1. HANSARD, Page 42

Ms Biddlestone: The other problem, I think, is that men are trying to access the same legislation as women in trying to achieve flexible working arrangements. So, if the legislation is not supporting women, it is certainly not supporting men either. We have many examples in retail where male employees seek flexible working arrangements so that they can take up caring responsibilities and parenting responsibilities, and their employer will not allow them to do that and uses business reasons because the legislation enables them to do that.

Senator McKENZIE: Can you quantify that for me, please. I would be very interested to know how many of your male members have sought to avail themselves of shifting to part-time work, for instance, in order to care for children.

The SDA doesn't collect data on the number of employees, male or female, who make requests to shift to part-time work or access flexible working arrangements so we are unable to provide the number of our male members who have sought to shift to part-time work for caring purposes.

We do know, through research that has been conducted and the recent inquiry by the Australian Human Rights Commission *Pregnancy and Return to Work National Review* and anecdotally through our representation of employees, that men also face discrimination and difficulty accessing flexible working arrangements to accommodate parenting and caring responsibilities.

The AHRC *Supporting Working Parents: Pregnancy and Return to Work National Review Report* released in 2014 found that one in two (49%) mothers experienced discrimination in the workplace during pregnancy, parental leave or when returning to work and that quarter (27%) of fathers and partners also experienced discrimination in the workplace when requesting or taking parental leave or when returning to work¹. The report also commented that 'Fifteen years on, the Commission has completed a second National Review. Broader in scope, this National Review confirms that the situation has not markedly changed'².

Of the fathers who experienced discrimination a third (35%) experienced discrimination related to flexible work.³ Of those fathers and partners who returned to work as an employee (99%), one in five (22%) requested adjustments to their working arrangements. The most common types of adjustments to working arrangements requested were flexible hours (34%), a change in starting and finishing times (24%), part-time work or jobsharing (14%) and a change in shift/roster (14%). The results revealed that four in five (80%) requests for adjustments to working arrangements were granted.⁴ This demonstrates that the current legislation is not only failing women but it is also failing men's ability to access flexible working arrangements so that they can participate in work and also participate more fully in the parenting and care of their children. The ability of men to access flexible working arrangements to enable them to share the care of their children with their partner also directly impacts on their partner's ability to participate in the workforce.

¹ Australian Human Rights Commission, *Supporting Working Parents: Pregnancy and Return to Work National Review Report 2014*, page 66.

² *Ibid*, page 7

³ *Ibid*, page 67

⁴ *Ibid*, page 76

Legislative changes are needed to strengthen the rights of parents and carers, whether they are women or men, to access flexible working arrangements such as the number of hours they work, when they work the hours and the way they work to accommodate caring responsibilities.

We have had a couple of examples in the last month which demonstrate the problem men have in accessing flexible working arrangements. The first was a male employee working in retail who requested a change in the days that he worked because his partner was returning to work after parental leave. His partner is a paramedic and needed to work over some weekends which meant he needed to care for his child some weekends. He requested a change to his working hours but this request was denied by the company. This forced the family to reassess his wife's ability to return to work.

The second example is a single father working in retail who requested a change to his working arrangements due to shared care of his young daughter. While his line manager agreed to the change this was overruled by the store manager.

Often the response from employers to male employees making requests for flexible working arrangements due to caring responsibilities is very negative, questioning their need to take on caring responsibilities where it is still so often seen as 'women's work'.

Implementing legislation to enable both women, and men to access flexible working arrangements because of parenting or caring responsibilities is needed to drive the change in cultural attitudes towards caring which impacts women's participation in the workforce and their economic outcomes.

2. HANSARD, Page 42

Senator MOORE: The Broderick report found—and I am sure all of you are across it—that, even at the very early stages of post-parental leave, blokes were copping much the same discrimination in their workplaces when they asked for leave, let alone women. It is a double whammy. It is the principle of flexibility of work, and flexibility has almost become a dirty word. It is like 'reform'—the word itself has values attached to it. Trying to find flexibility of work so that workers are being looked after is overlaid on the cultural perception that it is only women who have to make the sacrifice, so it is about balancing the two things.

Thank you so much for all your evidence. It really reflected each of your industries very clearly. In the evidence we have received, both in submissions and verbally today, there is this issue that so many of the people in unions are wanting intervention of some kind, usually legislative intervention around regulation. Employers groups, who have given very good evidence as well, are saying that is the wrong way to go; we should have more creative, individual responses. I refer you to section 80 of ACCI's submission, where it claims that having these interventions, as each of your unions has recommended, would have a negative impact. They say would cause more disunity in the workplace and women would be less able to be flexible in their work. Would you look at that from the point of view of the work that you are all doing and respond on notice? We do not have time to cover it now, but it is not a new argument. If you could respond, that would be really useful for us—because that dynamic has clearly come out in the submissions.

As provided in our response above we see many examples of employees who request flexible working arrangements and have these requests denied. There are significant societal and cultural issues at play in relation to the way women participate in the paid workforce while fulfilling their role as carers. Unfortunately, we have not seen any improvement in the prevalence of discrimination against women at work during pregnancy, parental leave and on return to work in the last 20 years.

While some employers are introducing diversity policies, some of which are creative, this is failing to drive the cultural change needed to achieve positive outcomes in relation to women's participation in the workforce and the gender pay gap, which is not only important for individual employees and their families but is also important for employers and the Australian economy.

The experience of the SDA is that while some employers in retail have introduced policies such as leadership and mentoring policies for women they still fail to implement policy which provides the practical support women need to undertake roles at a higher level, such as part-time work and flexible working arrangements. In retail, flexible work policies largely reflect the legislation so in most cases the limitations that are contained in the legislation are also built into policy.

The SDA has negotiated in a number of Enterprise Agreements more beneficial rights and entitlements for employees to enable them to access part-time work or reduced hours when returning from parental leave. In companies where this exists we see very little disputation regarding flexible working arrangements and accommodation of parental and caring responsibilities. The SDA believes that the establishment of this legally enforceable right in the enterprise agreement has driven cultural change in these companies and that regulation is a necessary driver.

The SDA does not agree with the proposition of the Australian Chamber of Commerce and Industry in paragraph 80 of their submission that *'policies that lead to gender balance....being viewed as a compliance or regulatory exercise will risk hardening attitudes to supporting gender diversity....and for many women this will represent a significant retreat in their working lives and the opportunities and fulfillment of work offers'*.⁵

The SDA does not believe that greater regulation and compliance will lead to a disincentive for companies to support gender diversity. Our experience is that it is regulation or the need to comply with a legal obligation which provides the driver for workplace cultural change and that from this change employers can then enhance what is required by legislation with more creative and innovative policies to achieve even better gender diversity outcomes.

We have now had 30 years of 'policy' and the gender pay gap persists. It is now time to make the regulatory changes we know are necessary to reduce the gender pay gap and improve the economic outcomes for women.

The SDA does not buy into the argument that greater regulation will have a detrimental outcome on the employment opportunities for women and that any negligible impact it may have would be entirely discounted by the significant tangible improvements it would provide for women.

⁵ ACCI, *Gender segregation in the workplace and its impact on women's economic equality*, Submission 30, paragraph 80.