

# WESTERN AUSTRALIAN EQUAL OPPORTUNITY COMMISSION

## INQUIRY INTO THE *SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL 2004*

### SUBMISSION TO THE SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

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#### **1. Introduction**

- 1.1. The Western Australian Equal Opportunity Commission is responsible for administering the Western Australian Equal Opportunity Act 1984.
- 1.2. The Commission is opposed to the proposed Amendment to the Sex Discrimination Act 1985 because it believes this is inconsistent with the objects of the Act and will create a precedent which may impact on the Western Australian Equal Opportunity Act 1984.
- 1.3. In addition, the Commission also considers that even if the amendment were successful, the proposal to allow single sex scholarships will not rectify the gender imbalance of teachers in primary schools.

#### **2. Aim of proposal**

- 2.1. The Bill to Amend the Sex Discrimination Act attempts to address the gender imbalance of primary school teachers; a problem which has been widely identified, most recently by the report of the House of Representatives Standing Committee on Education and Training Inquiry into the Education of boys, *Boys: Getting it right*.
- 2.2. Minister Ruddock said, in his Second Reading speech – “ A House of Representatives inquiry report in the education of boys in June 2003 ...Boys: Getting it Right...identified as a significant problem the imbalance in the number of male and female teachers in schools, in particular in primary schools.” He noted that the imbalance was increasing and that the Report had found that “teaching was not an attractive career option for men”.
- 2.3. Further Minister Ruddock said “that the [Bill] would apply only if the purpose of doing so is to redress a gender imbalance in teaching....in schools, or a category of schools or a particular school.”

### **3. Inconsistency with objects of Sex Discrimination Act**

- 3.1. The Sex Discrimination Act 1985 was enacted to give effect to Convention on the Elimination of All Forms of Discrimination Against Women; to eliminate discrimination on the ground of sex and to promote equal opportunity.
- 3.2. The Commission contends that the proposed amendment is not consistent with these objectives. There is no evidence to suggest that the gender imbalance in primary schools is in any way due to discrimination, direct or indirect, against male teachers or a lack of equal opportunity due to policies or practices.
- 3.3. Neither is there evidence that males aspiring to be teachers are discriminated against.
- 3.4. The WA Equal Opportunity Commission has handled many complaints, many of which have been substantiated, from women about direct and indirect discrimination by the Department of Education. Indeed there has been considerable resistance to removing discriminatory policies by the Department. But there have been no complaints from men that would indicate that they are, as a group, aggrieved about their under representation and that positive measures are therefore required to redress the balance.
- 3.5. The evidence is to the contrary and even after 20 years of operation of State and Federal legislation, while women make up a large proportion of the teaching workforce, they are still under represented senior teaching and supervisory roles.
- 3.6. As recently as 1997, the Western Australian Equal Opportunity Tribunal awarded damages to a woman who was unable to gain promotion as a result of policies in place at the Western Australian Department of Education. In its decision the Tribunal said: "...women continue to occupy a relatively small percentage of promotional positions in schools despite comprising two-thirds of the teaching workforce." (Miller v. Minister for Education (1997).
- 3.7. The implementation of the objects of the Sex Discrimination Act rests in redressing discrimination, and providing, where discrimination is systemic and indirect, measures to overcome this discrimination. These restricted areas have specific limitations and are in response to long term discriminatory circumstances. Some of these circumstances include the requirement for female teachers to resign on marriage, no access to maternity leave, requirements for country service to

achieve promotion and permanency. As males have not been discriminated against in these ways, these remedies are inappropriate.

#### **4. Inadequacy of the proposal to rectify gender imbalance**

- 4.1. *The Boys: Getting it Right* report notes that there are a lack of positive male role models for boys in the community, (p???) including teachers in primary schools, where women teachers predominate. It recommends a number of strategies to address this issue. (See recommendations 14-21) these recommendations range across funding scholarships for male and female students, the intakes to teacher training courses, classroom strategies and involvement of family and community.
- 4.2. None of the recommendations refer to giving preferential or discriminatory treatment to males in respect of teacher training.
- 4.3. Factors such as low pay, and low status and teaching been seen as a traditionally female profession are cited commonly as the reason and would thus suggest the remedy lies in tackling these issues.
- 4.4. Further indications that the perceived problem does not warrant legislative remedy can be found in recent research which indicates that the number of male primary school teachers has in fact increased slightly over the last 12 years (Janet Smith, *Male Primary Teachers, the experience of crossing over into Pink-collar Work*).
- 4.5. She notes that the percentage of male teachers completing their degrees had decreased, possibly because they were using their degrees as 'springboards' into other degrees.
- 4.6. The provision of a limited number of scholarships will not rectify this situation in any substantial way.

#### **5. Implications for Western Australian Act**

- 5.1. The Western Australian Equal Opportunity Act has very similar objects, processes and remedies. This proposal sets a precedent, not only in this one area, but others where such imbalances may occur from time to time.
- 5.2. In a situation where the gender imbalance in this sector of the education workforce has not been demonstrated to be responsible for the apparent underachievement if boys in schools the Commission would support the development comprehensive strategies, as recommended by the *Boys: Getting it Right* Report.

## **6. Conclusion**

6.1. It is the view of the Western Australian Equal Opportunity Commission, this proposal is not the best way to address the problem of low numbers of male primary school teachers as it will not resolve the problem, will send the wrong message to the community about discrimination and undermine the integrity of the Sex Discrimination Act and other similar State and Federal legislation.