



**National Tertiary Education Union**

Po Box 1323, South Melbourne  
Victoria, Australia 3205  
Tel 03 9254 1910  
Fax 03 9254 1915

**NTEU Comment**  
**on the**

***Workplace Gender Equality Act 2012***

**Gender Equality Indicators**

**Organisation:** National Tertiary Education Industry Union

**Contacts:** Jeannie Rea, President  
[jrea@nteu.org.au](mailto:jrea@nteu.org.au)

Susan Kenna, National Industrial Officer  
[skenna@nteu.org.au](mailto:skenna@nteu.org.au)

**Details:** Level 1, 120 Clarendon St  
South Melbourne Victoria 3205  
Ph. 03 92541910

**Date:** 29 January 2013

## 1. Background

The National Tertiary Education Union (NTEU) represents over 27,000 staff working in tertiary education in Australia, in sectors defined as Higher Education, Further Education and Vocational Education and Training (VET).

NTEU covers employers ranging from universities, TAFE institutions, other education providers and research institutes.

Our coverage includes a diverse range of workers, from across general and professional staff to academics, of whom we have exclusive coverage. These workers include world leading experts in their field, academics across all disciplines, researchers, professional, technical and administrative staff, and university and institute trades and related staff.

NTEU welcomes the opportunity to comment on the Gender Equality Indicators. We are keen to ensure that the Indicators are measureable and that they allow the Gender Equality Agency to track progress over time.

NTEU previously made submission to the *Review of the Equal Opportunity for Women in the Workplace Act*, in October 2009. Key observations included:

- Highlighting the ageing demographic of the academic workforce; noting that up to one-third of academic staff were set to retire over the coming decade<sup>1</sup>
- Emphasising the gender pay gap and lack of career progression for women academics, when compared with men; in 2008 just 25% of professorial positions were occupied by women.
- Women predominate in casual employment in the higher education sector.
- Though women have entered the academic workforce at a greater rate since the introduction of the *Equal Opportunity for Women in the Workforce Act*, the rise in precarious employment and its disproportionate impact on women means that these workers are often denied access to basic employment conditions. A strengthened EEO/Gender Equality Act could 'normalise' these conditions and provide impetus for employers to improve them.
- A strengthened EEO Act could improve the role of men as fathers and carers.
- Workers need enforceable rights, via legislation, (and awards and collective agreements); policies and procedures are subject to the whim of employers.
- Compliance would be assisted by random audits of employers to verify their data.

---

<sup>1</sup> Hugo, G, *Some emerging demographic issues in Australia's teaching academic workforce*, Higher Education Policy Vol. 18, 2005; pp207-229.

## 2. Women in Tertiary Education

In 2012, 55% of all academic and general staff in universities were women.<sup>2</sup> Women represented 63% of all general staff and 45% of academic staff. By 2012, the number of women in *senior* general staff positions had doubled over the previous 15 years. However, women represented just 27% of professors.

When we consider that approximately 60% of academic staff in Australian universities are employed as casuals, we must acknowledge that many men and women in the sector miss out on basic conditions of employment such as parental leave, long service leave, certainty of hours and assistance in balancing work and family responsibilities.<sup>3</sup>

The *Workplace Gender Equality Act* must make an impact on the working conditions of university and other staff in tertiary education over time.

## 3. The Gender Equality Indicators

It is difficult to comment on the Gender Equality Indicators [GEIs] and how they will operate in practice, in the absence of Minimum (Industry) Standards. For example, in industries characterised by high levels of part-time employment, a minimum standard for the application of flexible working arrangements may require a higher threshold.

***Recommendation 1: The GEIs include minimum reporting requirements and employers must be required to report against the minimum standards (post April 2014) which include industry specific benchmarks. Genuine consultation must occur over these standards and benchmarks.***

### i. The Gender composition of the Workforce

This indicator must be more specific if it is to provide a real picture of the Australian workforce and one which assists with measuring progress against the other indicators.

For example, if progress is to be made on equal remuneration between men and women, detail is needed on employment status and classification by gender.

---

<sup>2</sup> Source: *Department of Education, Employment and Workplace Relations*; FTE for full-time, fractional full-time and casual staff by state, function and gender.

<sup>3</sup> Casual data is based on estimates; see NTEU Submission to *Inquiry into Insecure Work*, (2012); pg 8 for methodology.

***Recommendation 2: The Gender Equality Indicator [GEI] “The gender composition of the workforce” [s.3] should be amended or supported by regulation to provide mandatory reporting on the gender composition of the workforce by gender, occupation and classification.***

**ii. The Gender composition of governing bodies**

***Recommendation 3: The GE “The gender composition of governing bodies” should be amended or supported by regulation to provide mandatory reporting on all levels of management of governing bodies, by gender.***

**iii. Equal remuneration between men and women**

The gender pay gap across Australian industries remains stubborn, at around 17.5%.<sup>4</sup>

It is very difficult to disaggregate earnings data for public higher education, by gender, via ABS data. Probert, Ewer and Whiting attempted to calculate the gender pay gap in higher education based on 1996 data. They used unpublished ABS data from the *Employee Earnings and Hours Catalogue*; the idea being to include part-time workers by using hourly rates of pay. For the record, the gender pay gap identified at the time was between 19-20%.<sup>5</sup>

The gender pay gap is of course affected by the occupational and classification composition of workers in Higher Education. For example, 2009 data showed that only 8% of women working in universities worked at a Senior Lecturer level, and only 5% above a Senior Lecturer role, while 65% of all female university staff were non-academic staff, (down to 63% at 2012). The proportion of men classified above a senior lecturer role was 2 ½ times that of women in 2009.<sup>6</sup>

For NTEU, this dilemma in isolating pay data illustrates our key contention: NTEU is certain there can be no progress on closing the gender pay gap without full transparency from employers. This requires detailed reporting.

---

<sup>4</sup> *Average Weekly Earnings – Trend at February 2012*, Catalogue 6302.0, ABS (released 17.05.12). The gender pay gap for the industry category Education and Training was 22% over the same period. However, this statistic represents total earnings for all male and female employees, does not consider the large cohort of casual employees in the sector and is not specific to tertiary education.

<sup>5</sup> The authors discuss how gender pay gap calculations can vary widely; see Probert, B; Ewer, P and Whiting, K, *Gender Pay Equity in Australian Higher Education*, NTEU, 1998. An ARC Linkage project commenced in 2011 in collaboration between various academic researchers and NTEU. One of the many aims of the project is to compare detailed measures of gender pay equity with estimates derived from the study by Probert et al.

<sup>6</sup> Source: Department of Education, Employment and Workplace Relations, Higher Education Statistics, 2009.

***Recommendation 4: In order to meet the requirements of GEI (c) at s. 3, employers be required to use the Gender Equality Agency pay equity tool and to report the outcomes of this analysis to the Agency and relevant unions on a confidential basis. NTEU recommends that the Agency publish the overall gender pay gap found within each reporting employer so that results are transparent and the Agency, employers, employees and unions can measure progress over time.***

**iv. Availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees, and to working arrangements supporting employees with family or caring responsibilities**

The effectiveness of this indicator will depend on the Agency's capacity to obtain reports which actually describe the utility of these terms, conditions and practices. It is for this reason that many unions sought employee and union consultation on reports prior to them being submitted. Employees are in a position to provide detail on what actually happens at the workplace outside of mere policy commitments and this may contribute to closing the gap between policy and practice.

***Recommendation 5: The GEI at s. 3 (d) must be prescriptive if it is to reflect practices in the Australian workplace. Specific indicators should include:***

- ***Flexible working hours arrangements***
- ***Other flexible working arrangements such as part-time work, job share, work from home etc., by gender.***
- ***Career transition and promotion for part-time workers, by gender.***
- ***Utilisation of parental leave.***
- ***Number of workers returning from parental leave.***
- ***Number of requests for flexible working arrangements by gender, employment status, occupation and classification which were granted and denied.***

**v. Consultation with employees on issues concerning gender equality in the workplace**

Employers in higher education have access to large human resource departments, including resources devoted to equity, access and diversity. They have structures in

place to communicate in a sophisticated way between faculties, departments and employees.

NTEU is extremely disappointed that the Gender Equality Act does not provide for consultation with employees, prior to the finalisation of reports. Employers are only required to “inform” employees, shareholders and employee organisations that they have lodged a public report, and provide access; [s.16]. Employees and employee organisations then have the opportunity to comment to the Agency *after* the report has been submitted; [s. 16B].

To NTEU, this approach seems to contradict the aim of the fifth Gender Equality Indicator; those most affected by these arrangements do not have a chance to input formal reports to the Agency.

***Recommendation 6: It is vital that the Agency devise specific procedures and practices for:***

- ***Publicising the rights of employees and employee organisations under the Act.***
- ***Accurately recording comment on reports.***
- ***Providing feedback to employees, employee organisations, industry and employers.***
- ***Ensuring the GEI and minimum standards are assessed against any comment provided by employees and employee organisations.***

***The Agency must consult widely with employees and employee organisations in the development of minimum standards, due to be set by 1 April 2014.***

***The Agency should develop procedures for on-going consultation with employees and employee organisations around gender equality issues.***

***The Agency should name employers who do not consult with stakeholders, including unions, in accordance with section 16 of the Act.***

***The Agency should not reinstate the “Employer of Choice for Women” citation until progress has been made in implementing minimum standards, after 1 April 2014, and employers should not be eligible for such citation unless they have shown real improvement against minimum standards and industry benchmarks over time.***

***The Agency must be adequately resourced to ensure that consultation and education around the Act is meaningful.***