

## **SUMMARY: SUBMISSION TO THE REVIEW OF THE EQUAL OPPORTUNITY FOR WOMEN IN THE WORKPLACE ACT (1999)**

The later response to the Issues Paper of the Review of the Equal Opportunity for Women in the Workplace Act (1999) answers question 1.4: What regulatory role should government play to achieve equal employment opportunity (EEO) for women? It argues for expansion of the coverage of the Equal Opportunity for Women in the Workplace (EOWW) Act to include all people and to eliminate as much related legislation as possible, because legislation becomes increasingly fragmented, inflexible, dysfunctional and costly over time. If this were done, the Objects of a new Australian Equal Opportunity in the Workplace (EOW) Act might logically be:

- Promote the principle that employment should be dealt with on the basis of merit
- Promote the elimination of discrimination, both direct and indirect, and the provision of equal employment opportunity in relation to employment matters among employers; and
- Foster workplace consultation between employers on issues concerning equal opportunity in relation to employment.

The Issues Paper states the current EOW Agency is an Australian Government statutory authority and that the Director reports to the Minister for the Status of Women. If the EOWW Act were changed to an EOW Act, with all related legislation repealed or consolidated within it, the EOW Agency Director would most logically report to the Deputy Prime Minister. The current Minister for the Status of Women, Tanya Plibersek, should still have plenty to do in housing, which ideally is addressed as the foundation of civilization and all other construction.

One assumes the EOW would liaise closely with the Office of Work and Family within the Department of Prime Minister and Cabinet, which aims to ensure that the formulation of policies aimed at striking the right balance between paid work and family life occurs at the highest level and is central to all policy decisions. The issues paper points out that because women make up the majority of primary carers of children, paid work and family policy have a significant impact on equal employment opportunity for women.

I am currently working on the related submission to address the treatment of the family home in finance and insurance markets and by government. This looms large in trading and related investment and taxation interests and is also at the heart of the most common relationships between the sexes - babies. I therefore hope you will support the open letter to the relevant Minister below, which is followed by my first submission to your inquiry.

Yours truly, Carol O'Donnell, The Zorro of Policy,  
St James Court, 10/11 Rosebank St., Glebe, Sydney 2037.

**FULL MAINTENANCE SMALL BUSINESS PROPOSAL:  
AN OPEN LETTER TO MR BORGER, NSW MINISTER FOR HOUSING,  
MINISTER FOR WESTERN SYDNEY AND MINISTER ASSISTING THE  
MINISTER FOR TRANSPORT**

Dear Mr Borger

Please could you advise me on how best to pursue the small business proposal outlined below, which presumably crosses the portfolios of other ministers in this local area, such as Tanya Plibersek and Verity Firth, as well as the City of Sydney Council.

Australians must now debate how productive capacity and related financial support should be designed and directed over time to achieve a variety of broadly agreed social, environmental and economic goals as effectively as possible. Housing and its financing underpin most personal, market and related government action. Ideally, all investors should understand what is done with their money for best results. I have no idea what production my money achieves. I only know it is invested with UniSuper which has recently lost lots of it extremely fast. UniSuper listed property trades went backwards over recent investment periods but their direct property investment gained money over the same time.

Because I am retired and live in Glebe, I now want some of my money to be invested better in the following **'Full Maintenance'** small business proposal so that I can see what it achieves, in order to protect it. Can your office advise how best to pursue this plan? If not, please suggest who can.

- 1. Conduct an audit to determine the capacity, adequacy and condition of publicly funded housing in the Sydney City Council Region, commencing with uninhabited housing stock**
- 2. Undertake repairs using a suitably open system of prioritization and funding**
- 3. Manage the business on a suitable non profit basis**
- 4. Report on the results using the Standard Business Reporting Model which the Council of Australian Governments (COAG) communiqué (July 2008) indicated should be implemented by 2010. (Productivity Commission (PC) 2009, p. 351)**

The City of Sydney Sustainable Sydney 2030 Plan includes introduction of locally generated energy using various low-carbon energy generation technologies such as co-generation, tri-generation and renewables. In the longer term, some fuel for this network will be sourced from local waste. The NSW Auditor General's 2008 Report on Recycling and Reuse of Waste, including commercial, industrial, construction and demolition waste, by the NSW Public Sector and its contractors therefore requires renewed consideration in related urban and rural contexts. The business model ideally should take account of this.

In its Annual Review of Regulatory Burdens on Business: Social and Infrastructure Services, the PC (2009) concluded that the problem for smaller contractors and businesses

tendering for work in remote indigenous communities appears to be the ‘bundling up’ of construction work across a number of communities into a single contract which exceeds the National Code of Practice for the Construction Industry threshold on federally funded works (\$5 m) and the Federal Safety Accreditation threshold on federally funded works (\$3m). This disadvantages smaller contractors who cannot bid for the work. Such financially based discrimination seems likely to be a problem across Australia, which slows housing service to communities and adds greatly to construction overhead costs.

The above small business proposal is suggested as a non-profit model because the non-profit structure appears most protective against the animal spirits of the market, as expressed in the recent global economic boom and crash. This was led in US housing and other construction, accelerated by many mortgage related financial and insurance services, and also reflected in greatly accelerated executive remuneration which now seems impossible to reduce to more realistic levels. This problem could repeat itself if not fixed.

In an article entitled ‘Keep politics out of emissions solution’ in the Australian Financial Review (AFR, 5.5.09, p. 63) Greig Gailey, the President of the Business Council of Australia, states in regard to the Australian carbon pollution reduction scheme (CPRS):

Business and the community want an emissions trading scheme that contributes to the reduction of global greenhouse emissions in a manner that does not cause unnecessary disruptions.....A successful Australian CPRS will provide an example to many other nations. To provide that example, we must find the right economics, and we must find it together.

The ‘right economics’ requires that the finance and insurance sector is designed to serve greener and more affordable production, rather than increasing its returns by expanding and offloading production risks onto as many other communities as possible until the next financial crash. The best way forward to achieve waste reduction and greener development is through generally improved management to achieve these aims and through related and more open management of industry superannuation and others funds.

The proposed full maintenance proposal is ideally a tiny piece of a much larger picture. The comparative performance of Australian industry super funds suggests their non-profit investment approach, which is currently embryonic, is on the right track. Industry superannuation funds are ideally designed further as non profit, cost-cutting vehicles which can increasingly outperform the opposition and produce a greener society through more open, stable, well designed investments to achieve government, industry and community goals. Such investments are ideally also planned openly and coordinated with other government, industry or community programs to achieve other social and environmental goals through triple bottom line accounting.

Please tell me if your office can help me progress this proposal for housing maintenance and, if not, who can. I am available on 9660 8716 and look forward to your contact.

Yours truly, Carol O’Donnell, St James Court, 10/11 Rosebank St., Glebe, Sydney 2037.

## **SUBMISSION TO THE REVIEW OF THE EQUAL OPPORTUNITY FOR WOMEN IN THE WORKPLACE ACT (1999)**

This submission responds to the Issues Paper of the Review of the Equal Opportunity for Women in the Workplace Act (1999) and answers the following question (1.4):

**Q. What regulatory role should government play to achieve equal employment opportunity (EEO) for women?**

**A. Expand the coverage of the Equal Opportunity for Women in the Workplace (EOWW) Act to include all people and eliminate as much related legislation as possible, because legislation becomes increasingly fragmented, inflexible, dysfunctional and costly over time.**

**A. Provide supporting education and research for more sustainable development and related triple bottom line accounting – which is economic, social and environmental - as discussed below and in attachments.**

Now is the time to introduce education for sustainable development, related greener jobs and higher performance organization, to support the above approach to legislation. Also see the websites [www.triplebottomline.com.au](http://www.triplebottomline.com.au) or [www.Carolodonnell.com.au](http://www.Carolodonnell.com.au) to find out more about the broadly recommended policy, education and research direction.

The report of the Health and Medical Research Strategic Review (1997) stated that Australia should develop a focus on the prioritised creation and assessments of interventions and policy. Adopting definitions from the World Health Organisation, the review indicated the national research effort should take three forms. Fundamental research should generate knowledge about problems of scientific significance. Strategic research should generate knowledge about specific health needs and problems. Research for development and evaluation should create and assess products, interventions and instruments of policy that seek to improve on existing options. All administration is ideally conducted as research. Action research is discussed in this context later.

### **A HIGHER QUALITY AND MORE COST EFFECTIVE LEGISLATIVE DIRECTION AND RELATED SUPPORT FOR HUMAN RIGHTS, HEALTH AND SUSTAINABLE DEVELOPMENT ARE NECESSARY**

Australian trade increasingly occurs in a world where the traditional family roles and expectations about work may dominate regionally or nationally. In recognition of the need for more internationally consistent, flexible, scientific and sensible approaches to problem solving and to legal cost reduction, it would be helpful if Australia came into line with progressive international trends in the European Union, Britain and the United States (US). These are discussed below and come from pages 22 and 23 of the Issues Paper for the Review of the Equal Opportunity for Women in the Workplace Act (1999).

**An obvious way to achieve this aim appears to be to expand coverage of the Equal Opportunity for Women in the Workplace (EOWW) Act to include all people, with the elimination of as much related legislation as possible, because legislation otherwise becomes increasingly fragmented, inflexible, stupid and costly over time.**

**If this were done, the Objects of a new Australian Equal Opportunity in the Workplace (EOW) Act might logically be:**

- **Promote the principle that employment should be dealt with on the basis of merit**
- **Promote the elimination of discrimination, both direct and indirect, and the provision of equal employment opportunity in relation to employment matters among employers; and**
- **Foster workplace consultation between employers on issues concerning equal opportunity in relation to employment.**

**The Issues Paper states that the current EOW Agency is an Australian Government statutory authority and that the Director reports to the Minister for the Status of Women. If the EOWW Act were changed to an EOW Act and all related legislation repealed or consolidated within it, the EOW Agency Director would most logically report to the Deputy Prime Minister. (Tanya Plibersek will still have lots to do in housing, which is the foundation of civilization and all other construction.)**

The European Union (EU) supports the principle of EEO with Article 6(1) of the Treaty on European Union which states ‘the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms...principles which are common to Member States. In 2000 Member States adopted two Directives – the Racial Equality Directive and the Employment Equality Directive. According to both directives the burden of proof must shift to the person accused of discrimination once the person bringing the complaint has established facts from which it has been presumed that there has been discrimination. It is then up to the person accused to prove that they did not act in a discriminatory way. Furthermore, the EU has directed that national governments designate or set up a body or bodies to specifically aid people suffering discrimination to pursue their complaints. The organization and role varies according to the country.

In 2009 the United Kingdom’s Equality Bill was published which aims to simplify Britain’s anti-discrimination legislation by replacing the nine major pieces of legislation and around 1000 other measures with a single Act. It is intended that the Bill will strengthen Britain’s equality law by introducing a new public sector duty to consider reducing socio-economic inequalities and putting an expanded equality duty on public bodies which in addition to covering gender, will also explicitly apply to pregnancy and maternity. The Bill also includes a ban on secrecy clauses in public sector pay.

In the US the national Equal Employment Opportunity Commission (EEOC) has responsibility for the national, annual reporting system covering private and public employers, unions and apprentice committees. These organizations must file an annual

EEO survey identifying the number of employees, union members, and apprentices by job category, race, sex and national origin. All employers with more than 100 employees or federal contracts of \$50,000 or more must comply with this reporting requirement.

### **Supporting Education and Communication Development:**

Many nations are currently aiming to develop high performance workplaces. Their characteristics, according to the United Kingdom Department of Trade and Industry (UK DTI 2002; 9) are high levels of adaptability, flexibility and involvement by employees and employers. High performance workplaces are achieved by a variety of means, including:

- initiatives to offer employees greater incentives
- investment in skills
- improving the working environment

High performance workplaces are built on the simple insight that individuals are more likely to give of their best if they feel valued and are given the opportunity to contribute their ideas; and that people who are well prepared for change can help to introduce it and thereby help to secure employment within the business (DTI 2002; 11).

In an attempt to promote high performance workplaces, the U.K. sought to implement the European Community Directive on informing and consulting employees in 2005. The Directive established a right to new minimum standards for workforce communication and involvement in firms employing over fifty people. The Directive came into force in 2002 and gives employees in the undertakings or establishments covered the right to information and consultation about the business in which they work and its prospects, with particular emphasis on the prospects for employment. The practical arrangements are to be defined and implemented in accordance with national law and industrial relations practice.

To assist implementation of the above direction consider the attached submission on the consultative development of e-learning and related partnerships to promote high performance workplaces in businesses which have an interest in the Redfern/Waterloo area of Sydney, or which are associated with community television in New South Wales. It was sponsored by the Sydney Institute of TAFE and School of Behavioural and Community Health Sciences, Sydney University in 2004. A related research proposal (attached) sought preliminary identification of community e-learning needs and trial of early education products to support community development projects related to implementation of the Redfern-Waterloo Partnership Project. Neither was funded.

In his 1973 masterpiece entitled *Economics and the Public Purpose*, JK Galbraith differentiated between national economic tendencies towards monopoly control on one hand, and an increasingly competitive economic periphery on the other. He argued that a planned approach to spending taxpayers' funds in the competitive economic sector is more cost-efficient than spending it in ways which serve the interests of the existing planning system because the latter are largely spent on higher-salaried members of the technostructure and also go in profits. (As the legal discourse is pre-scientific in its basic assumptions, lawyers cannot be regarded as part of Galbraith's technostructure. Nevertheless, they rule in courts and their sympathetic bureaucracies at enormous and dysfunctional cost.)

See the attached article entitled ‘A healthier approach to justice and environment development in Australian communities and beyond’, which was printed in Public Administration Today (2006). This article shows that health and related environment development are at the centre of a new international governance paradigm which also raises risk management to new importance. Implementation of this paradigm requires broad administrative reform in Australia and beyond to meet the evidentiary requirements of scientific and quality management. Recommendations for the development of alternative dispute resolution (ADR) systems are made in this context. Supporting education and research into the comparative role and effectiveness of ADR and courts are also required. Action research is addressed in this context later.

**In an ideal world, open TV or radio broadcasting with written lectures supported by appropriate slides or overheads and videocassettes, might be translated into the foreign language most relevant for work, or could assist any student to learn English. Education could be delivered at the workplace or through partnerships with community-based supervisors, or on television or radio. Appropriate and transparent forms of assessment and certification should also be considered.**

Australia can improve its position in the top five exporters of education services by designing open curriculum and related research better in cooperation with all relevant communities and using many methods. A decade ago the President of the National Tertiary Education Union (NTEU) pointed out that although information technology promotes a ‘borderless world’, less than 2% of the global population was connected. She called for a focus on bridging the divide. Educational TV and related computer and other skills development are obvious methods of achieving this. For example, a study of Chinese people over sixty found 46% of those in rural households were illiterate but 87% had TV at home. Many Australians may also welcome educational TV to improve their employment prospects. Government support through an Australian apprenticeship or traineeship may also be available. See the attached submission to the Australian Health Ministers Advisory Council on a national registration and accreditation scheme for a discussion of the recommended direction and related problems in the health professions.

The Council of Australian Governments (COAG) first called for national standards for health and environment protection, related occupations and supporting education in 1990. In 2008 COAG is still seeking a single national registration and accreditation scheme for health professionals, to be developed by 2010. History suggests that unless communities break the multiple academic, teaching and related professional and bureaucratic strangleholds on this proposed development, by inviting current or past teachers and suitably qualified others to contribute immediately to relevant nationally open health curriculum, the COAG goals are unlikely to be achieved for centuries, if ever. (Should everyone in the health industry adopt the Code of Professional Conduct for Nurses in Australia as theirs? If not, why not?)

The current discussion on the sports anti-siphoning regime, whereby free-to-air television broadcasters are given preferential access to the rights to broadcast major sporting events, is of significant concern to many people within and beyond the subscription television

industry. In the Productivity Commission (PC) Annual Review of Regulatory Burdens on Business: Social and Infrastructure Services (2009), the Commission considers that this preferential access imposes an unnecessary burden on the subscription television industry which should be addressed by substantially reducing the anti-siphoning list.

The Commission also argues that local content rules for regional radio broadcasters are unnecessarily burdensome because they are inflexible and entail excessive reporting requirements. Accordingly the PC recommends the local content rules should be revised to make them more flexible and to reduce the reporting requirements without undermining the objectives of maintaining the local content of radio station's services. The PC sees the anti-siphoning list as anti-competitive. However, the most competitive way forward seems not to be to reduce or abolish the anti-siphoning list, but to make sports available for broadcast on all channels along with education designed to use local content of many kinds sensibly.

Health and education are primary drivers of productivity but the poor invariably rank lowest in both. In Australia, lack of commitment to managing health risks at the enterprise level, and lack of effective communication and data gathering on the performance of service providers have been identified as major causes of injury, dispute and cost. Teaching better skills and related risk management principles in vocational education and all related communities can centrally address this. The National Expert Advisory Group on Safety and Quality in Australian Health Care recommended that health ministers lead the way in promoting a safety and quality enhancement ethos. All students could benefit from learning at work and from community-based supervisors and/ or TV or a computer at home. Ideally the individual's vocational pursuits are coordinated with a regional management focus on attaining sustainable development, especially in poorer communities.

### **Supporting Research**

The above direction is consistent with the review of the Australian aid program (1997) which called for a national, planned program of spending aimed at poverty reduction through sustainable development with a central focus on the health of the poor. The education funding measures included in *Backing Australia's Future*, the Commonwealth statement delivered by the Minister for Education, Science and Training in late 2003, provide both a regional loading and an enabling loading to support the education of disadvantaged people. There was also increased money for nurse and teacher education. The development of vocational education should more generally be a means of ensuring that socially dysfunctional, market driven or bureaucratic rigidities are reduced wherever they primarily appear to narrow the market for education, reward comparatively poor performance, and increase social inequality further.

In the 1940s the psychologist Kurt Lewin constructed a theory of action research which described it as proceeding in a spiral of steps, each composed of planning, action and evaluation of the results of action. Ideally this is seen as a collective, emancipatory practice. Lewin argued that to understand and change social practices, social scientists have to include relevant community based practitioners in all phases of inquiry (Kemmis and McTaggart 1990: 8). Hart and Bond (1995: 37) state that action research is problem-focused and involves activity in which education, consultation, monitoring and outcome

evaluation are all necessary. The need for community involvement in all health policy development and administration is also acknowledged in Australian health promotion goals (Commonwealth Department of Community Services and Health 1994: 10).

The action research process is consistent with risk management, which all Australian employers are required to undertake in consultation with workers who are provided with education and training, as a result of the provisions in state occupational health and safety acts. Risk management is often carried out best by a multi-disciplinary team. It is an iterative process aiming at continuous work improvement. Managers must establish the environmental context of work and consultatively identify related risks in order to analyse and treat them effectively. Systems for communication, monitoring and evaluation are vital to the process. A generic risk management approach is outlined in the performance standard (AS/NZS 4360 1999) which has been adopted by Australian and British national health services. The approach is consistent with requirements of quality and environment management outlined in relevant international standards, and also with health promotion (Wass 1994), quality management (Johnson 1997) and program or project management (Wilenski 1982: 111). Rubin's Dictionary of Insurance Terms (1991: 360) describes risk management consistently, as a process to minimize the adverse effect of a possible financial loss by identifying potential sources of loss, measuring financial consequences of the loss occurring, and using controls to minimize losses or their financial consequences.

Practical education for action research is vital to support policy and community development, business administration and service provision. Like risk management, it may also provide a process for coordinating diverse perspectives in support of triple bottom line reporting, such as that currently used in New Zealand's Community Gardens Project run by Christchurch City Council. This is necessary to ensure that social, environmental and economic concerns are all valued in the pursuit of sustainability. Movement towards more open and effective data management and accounting is important to prevent injury and improve rehabilitation. It facilitates identification and control of risks and comparative service outcomes and also assists avoidance of disputes, cost-shifting, and corruption of the kind discussed in many Australian inquiries

Associate Professor Lin Yuan undertook computer based research in the Faculty of Health Sciences at Sydney University to assist development of international education for action research. She generously made freely available not only her current research materials, but also English reports and notes surrounding the ongoing participatory rapid appraisal research being conducted by Sichuan University in partnership with Tibetan, Miao and Yi ethnic minority communities in Sichuan province. This research had the support not only of those communities directly involved, but also of local government authorities, the China National Committee on Aging, HelpAged International and the European Union. Chairman Mao tried to get the recommended research approach through for years when he said that everybody should learn and everybody should teach. It is anti-feudal and pro-democratic. Let us lead construction. (God knows we need it.)

Yours truly, Carol O'Donnell, St James Court, 10/11 Rosebank St., Glebe, Sydney

