



President's statement

Gender pay equity research — Stage 1 report published

Justice Hatcher, President

Sydney, 15 November 2023

[1] On 3 February 2023, I issued a [Statement](#) announcing that, as a result of the amendments made by the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (SJBPA Act), the Commission intended to engage in a research project on occupational segregation and gender undervaluation that would expand on the issues raised in the former President's [Statement](#) of 4 November 2022.

[2] In the *Annual Wage Review 2022-23 decision*,¹ the Expert Panel expressed the view that, because of the SJBPA Act amendments, any issues of unequal remuneration for work of equal or comparable value or gender undervaluation relating to modern award minimum wage rates could no longer be left to be dealt with on an application-by-application basis, but should now be dealt with in the annual wage review process or in other Commission-initiated proceedings between reviews.² The Panel identified two potential issues in this respect³ and said:

[137] The issues we have identified are obviously too broad and complex to be resolved within the limited timeframe of this Review, and their resolution will require a body of research to support it. As foreshadowed in the President's statement of 3 February 2023 in relation to expert panels for pay equity and the Care and Community Sector, the Commission is undertaking a research project to identify occupations and industries in which there is gender pay inequity and potential undervaluation of work and qualifications. This research will inform future Reviews. The research will take place in two stages. Stage 1 of the research project will soon commence. It involves an evidence-based process to identify occupations and industries in which gender-based occupational segregation is prevalent, including at the classification level if possible. This stage is expected to identify:

- the modern awards that cover those occupations and industries;
- whether employees in those occupations and industries are predominantly award-reliant or receive above-award rates of pay by virtue of enterprise agreements or other wage arrangements;
- any common characteristics of employment in the relevant occupations and industries (including whether employment is insecure due to the prevalence of casual and/or non-ongoing employment); and
- whether employees within particular modern award classifications are more likely to receive award rates of pay than those classified at other levels within the same award.

[138] A final report on that stage is expected by September of this year. Stage 2 of the research will build on the above expected findings by reporting on the extent to which the

¹ [2023] FWCFB 3500.

² *Ibid* at [120].

³ *Ibid* at [121]-[136].

gender-segregated occupations, industries and classifications (including undergraduate classifications) identified in Stage 1 have associated indicia that suggest they may also be subject to gender undervaluation.

[139] Once this research project has been completed and the research reports have been published, Commission proceedings will be initiated to consider and, if necessary, address the outcomes of the research project. Depending upon the timing, this may occur as part of or in association with the 2023-24 Review.

[3] In a [Statement](#) issued on 2 August 2023, I confirmed that stage 1 of the research project would be undertaken by the Social Policy Research Centre at the University of New South Wales and a final report would be published in late October 2023.

[4] I have now received the stage 1 report: Cortis, N., Naidoo, Y., Wong, M. and Bradbury, B. (2023). *Gender-based Occupational Segregation: A National Data Profile*. Sydney: UNSW Social Policy Research Centre. The report will be published on the [Gender Pay Equity Research](#) page of the Commission's website along with this statement.

[5] The report sets out that it:

...examines current patterns of segregation in Australia. Specifically, it identifies priority occupations and industries affected by high levels of feminisation, where undervaluation and pay equity issues are most likely to occur. It does so using a data-driven approach, analysing detailed information about occupations and industries which are highly feminised, based on the Australian Bureau of Statistics (ABS) 2021 Census of Population and Housing (Census) and the 2021 Survey of Employee Earnings and Hours (EEH). The analysis provides unprecedented granularity. It identifies highly feminised occupational units within segregated industry classes and provides information about their workforce characteristics. Insofar as data allow, it also provides an indication of pay levels and pay setting arrangements which characterise highly feminised occupations.

[6] The report identifies 144 detailed occupational classifications of any size which were over 60% female, and together employed nearly 4.7 million workers. However, it focuses on a subset of 29 priority occupations which met three criteria, in that they were:

- large (containing over 10,000 people)
- very highly feminised (over 80% female) and
- located within feminised industry classes (over 60% female).

[7] Together, these large, highly feminised occupations in feminised industries employ over 1.1 million workers, constituting over 9% of the workforce.

[8] The report suggests that there are 13 modern awards used to set pay in the 29 large, highly feminised occupations that were identified within feminised industries. Listed according to the size of the occupations to which they primarily relate, the relevant awards are (with the highly feminised occupations in brackets):

- *Nurses Award 2020* (Midwives, Registered Nurses, Enrolled and Mothercraft Nurses, Nurse Managers)

- *Educational Services (Teachers) Award 2020* (Early Childhood (Pre-Primary School) Teachers; Primary School Teachers)
- *Children’s Services Award 2010* (Child Carers)
- *Health Professionals and Support Services Award 2020* (Dental Assistants, Receptionists in Hospitals and General Practice, Medical Technicians, Psychologists)
- *Educational Services (Schools) General Staff Award 2020* (Education Aides)
- *Hair and Beauty Industry Award 2020* (Hairdressers and Beauty Therapists)
- *General Retail Industry Award 2020* (Clothing Retail Sales Assistants and Retail Managers)
- *Aged Care Award 2010* (Nursing Support and Personal Care Workers; Aged and Disabled Carers)
- *Social, Community, Home Care and Disability Services Industry Award 2010* (Aged and Disabled Carers)
- *Pharmacy Industry Award 2020* (Pharmacy Sales Assistants)
- *Legal Services Award 2020* (Conveyancers and Legal Executives)
- *Animal Care and Veterinary Services Award 2020* (Veterinary Nurses)
- *Aboriginal and Torres Strait Islander Health Workers and Practitioners and Aboriginal Community Controlled Health Award 2020* (Dental Assistants).

[9] The report does highlight some of the limitations of the available data and we will consider these limitations in future proceedings.

[10] Stage 2 of the Commission’s research project will be informed by the data profile in the Stage 1 report and will examine the extent to which the above modern awards covering the occupations and industries identified in the profile as being highly feminised (except the *Aged Care Award 2010*, which is currently the subject of separate work value proceedings) may have associated indicia that suggest they may be subject to gender undervaluation. The timing and the final scope of this project will be notified in due course.

[11] Consistent with the *Annual Wage Review 2022-23 decision* (extracted above), the Stage 1 report and, dependent on timing, the Stage 2 report, will be considered in the Annual Wage Review 2023-24.

PRESIDENT