

BRIEFING PAPER

GENDER DIVERSITY AND EQUALITY

THE **ESSENTIAL** MEMBERSHIP FOR
THE LEGAL PROFESSION

Prepared by the Law Society of Western Australia

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GENDER DIVERSITY AND EQUALITY

Issue

The extent which gender bias continues to exist in the law and administration of justice in Western Australia.

Background

In the early 1990s, the then Chief Justice of Western Australia, Chief Justice Malcolm, established a Gender Bias Taskforce. The Taskforce delivered a report in 1994 which suggested numerous ways to enhance women's participation and promotion in the legal profession in Western Australia and to combat gender bias in the law ("1994 Report").

Women Lawyers WA conducted a 20th anniversary Review of the 1994 Report:

- Reviewing the extent to which the recommendations made in the 1994 Report have been implemented;
- To the extent that any recommendations in the Report have not been implemented, investigating and making recommendations in relation to whether, and if so how, those recommendations may now be implemented;
- Investigating the extent to which gender bias continues to exist in the law and the administration of justice in Western Australia, and making recommendations for its elimination; and
- Consulting with such government agencies, organisations, groups or persons as is appropriate.
- The 20th anniversary Review focused on:
 - Women's access to justice and court environment
 - Career paths for women in the legal profession
 - Appointment of judiciary
 - Aboriginal & Torres Strait Islander women and girls and the law
 - Victims of crime
 - Restraining orders

- Education: law making; civil laws which discriminate
- Criminal laws which discriminate against women
- Punishment of women

The 20th anniversary Review produced 197 recommendations aimed at Government, organisations (firms) and societies/associations to enhance women's participation in the legal profession, justice system and community more broadly, and to combat discrimination in the law.

Policy Position

Law Council of Australia

In a [media release](#) dated 8 March 2016, the Law Council of Australia outlined the following 2016 developments:

- The Diversity and Equality Charter, drafted in May 2015, was adopted by the full complement of Law Societies and Bar Associations from across the country as well as by a swathe of law firms, barristers' chambers, and individuals.
- A National Equitable Briefing Policy was developed to achieve a nationally consistent approach towards bringing about cultural and attitudinal change with respect to gender briefing practices.
- A central information hub is being rolled out as a platform for resources, policies, guidelines, and practical examples regarding parental leave, return to work and flexible work practices.
- Law Societies and Bar Associations from across the country have been developing their own individual action plans.

The Law Council of Australia supports measures to promote inclusion and diversity within the legal profession and has created a Diversity and Equality Charter that promotes the respect and inclusion of all legal professionals, regardless of sex, sexuality, disability, age, race, ethnicity, religion and culture

Law Society of Western Australia

In 2015 the Executive established a Working Group to consider the recommendations in the Women Lawyers of Western Australia 20th Anniversary Review Report.

The Working Group considered the recommendations in the 20th Anniversary Review Report and in particular the recommendations in Chapter 2 recommending action by the Law Society of Western Australia and prepared a Directions Paper for approval by the Council with respect to action to be undertaken by the Law Society of Western Australia.

In June 2015 Past President, Matthew Keogh, reported that Chapter 2 (Career paths for women in the legal profession) of the 20th Anniversary Review contained 18 recommendations directed towards the Law Society. Of these, a number of them have either been implemented or are in action, and the Law Society has convened a working group to develop initiatives in response to the outstanding recommendations as well as to support the profession in meeting the recommendations made for it.

It is the policy of the Law Society of Western Australia that a lawyer in Western Australia should not discriminate against any practitioner by reason of arbitrary or prejudicial factors such as colour, race, ethnic or national origins, sexual orientation, marital status, physical impairment or religious beliefs.¹ The Law Society is committed to gender

equality across the legal profession (see the [media release](#) dated 1 April 2016, the Law Society reaffirms its commitment to gender equality across the legal profession.

In a [media release](#) dated 24 February 2016, the Law Society sees the promotion of gender equality across the legal profession, including in our State's Judiciary, as an important part of its commitment to the Law Council of Australia's Diversity and Equality Charter, which commits the legal profession to the promotion of equality, diversity, respect and inclusion regardless of gender, ethnicity, sexuality or any other arbitrary feature.

Funding implications

N/A

NOTES

1. Law Society Equality of Opportunity Model Briefing Policy.

Policy Position

The Law Society of Western Australia:

- Reaffirms its adoption of the National Equitable Briefing Policy on 24 May 2016; and
- Implements (where possible) the recommendations made in the 20th Anniversary Review Report and its strategic campaign to promote gender diversity within the legal profession.



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