



# Equal Opportunity Tasmania

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## Tasmanian Women's Strategy 2018-2020

Submission by the Anti-Discrimination Commissioner (Tas)

October 2017

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**Celebrating Difference  
Embracing Equality**

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## Introduction

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Thank you for providing me with an opportunity to contribute toward the development of the Tasmanian Women's Strategy 2018-2020.

The Tasmanian Women's Strategy is a critical policy document governing the Tasmanian Government's approach to addressing issues of importance to women and girls in Tasmania and I commend the Government for continuing to give these matters priority.

Whilst Tasmania has made good progress toward addressing gender equality in recent times, women and girls in this State still experience discrimination and inequality in many important areas of their lives.

Most recently the OECD, for example, has made the following observation in relation to progress toward gender equality goals across OECD countries:<sup>1</sup>

In the past five years, countries have made very little progress in reaching gender equality goals. Gender gaps persist in all areas of social and economic life and across countries, and the size of these gaps has often changed little. While young women in OECD countries now obtain more years of schooling than young men, on average, girls are much less likely to study in the lucrative science, technology, engineering and mathematics (STEM) fields. Women's labour force participating rates have moved closer to men's rates over the past few decades, but in every OECD country women are still less likely than men to engage in paid work. When women do work, they are more likely to work part-time, are less likely to advance to management, are more likely to face discrimination and earn less than men. The median full-time female worker earns almost 15% less than her male counterpart, on average across the OECD – a rate that has barely changed since 2010. Women also remain underrepresented in political and business leadership positions.

These outcomes illustrate the work that remains to be achieved.

The following sets out areas where I believe the Tasmanian Women's Strategy 2018-2020 could assist in making a difference.

Please contact me if you wish to discuss any matters further.



**Sarah Bolt**  
ANTI-DISCRIMINATION COMMISSIONER (TAS)

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<sup>1</sup> OECD, *The Pursuit of Gender Equality: An Uphill Battle* (OECD, Paris, 2017) p3.

## Legal and Policy Framework

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Australia has obligations to implement human rights standards in relation to women as set out in Conventions and related international instruments it has ratified. This includes legislative measures to protect women against discrimination and related conduct.

### Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The rights listed in CEDAW cover many aspects of women's lives, and relate to political participation, health, education, employment, housing, marriage, family relations and equality before the law.

Article 1 of CEDAW defines discrimination against women as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 3 requires all States that have signed CEDAW to take:

all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Appropriate measures may include amending existing laws, regulations, customs and practices which discriminate against women, and adopting gender-sensitive laws and policies. Under CEDAW, governments are also responsible for ensuring that individual citizens and private organisations do not discriminate against women.

### Anti-Discrimination Protections

The *Anti-Discrimination Act 1998* (Tas) (ADA) provides that it is unlawful to discriminate against a person on the basis of gender, pregnancy, breastfeeding, family responsibilities or parental status in certain specified areas of activity.<sup>2</sup> It also prohibits a person from engaging in conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of gender, pregnancy, breastfeeding, family responsibilities or parental status.<sup>3</sup>

Discrimination prohibited under the ADA includes both direct and indirect discrimination. Under section 14 of the ADA:

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<sup>2</sup> *Anti-Discrimination Act 1998* (Tas) s16 identifies protected attributes. Section 22 outlines relevant areas of activity.

<sup>3</sup> *Anti-Discrimination Act 1998* (Tas) s17(1)

- (2) Direct discrimination takes place if a person treats another person on the basis of any prescribed attribute, imputed prescribed attribute or a characteristic imputed to that attribute less favourably than a person without that attribute or characteristic.
- (3) For direct discrimination to take place, it is not necessary –
  - (a) that the prescribed attribute be the sole or dominant ground for the unfavourable treatment; or
  - (b) that the person who discriminates regards the treatment as unfavourable; or
  - (c) that the person who discriminates has any particular motive in discriminating.

Indirect discrimination is described in section 15 of the ADA:

- (1) Indirect discrimination takes place if a person imposes a condition, requirement or practice which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who –
  - (a) share, or are believed to share, a prescribed attribute; or
  - (b) share, or are believed to share, any of the characteristics imputed to that attribute more than a person who is not a member of that group.
- (2) For indirect discrimination to take place, it is not necessary that the person who discriminates is aware that the condition, requirement or practice disadvantages the group of people.

Similar provisions exist in the *Sex Discrimination Act 1984* (Cth)(SDA).<sup>4</sup>

## Protections against Prohibited Conduct and Sexual Harassment

Protections also exist under the ADA against prohibited conduct on the basis of gender.

Section 17(1) provides:

- (1) A person must not engage in any conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of an attribute referred to in section 16(e)...(ea), (eb), (fa),(g),(h),(i) or (j) in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated

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<sup>4</sup> The *Sex Discrimination Act 1984* (Cth) prohibits discrimination on the basis of sex, pregnancy, potential pregnancy, marital/relationship status, family responsibilities or breastfeeding. Except for family responsibilities where only direct discrimination is prohibited, both direct and indirect discrimination are prohibited on these grounds.

that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

Section 17(2) prohibits sexual harassment defined in section 17(3) to mean:

- (3) Sexual harassment takes place if a person –
- a) Subjects another person to an unsolicited act of physical contact of a sexual nature; or
  - b) Makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person; or
  - c) Makes an unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence; or
  - d) Makes an unwelcome gesture, action or comment of a sexual nature; or
  - e) Engages in conduct of a sexual nature in relation to another person that is offensive to that person –

In circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

## Exceptions under discrimination law

In addition to a range of general exceptions under the ADA<sup>5</sup> exceptions relating to gender apply in certain circumstances. Section 27(1) provides that a person may discriminate against another person on the grounds of gender –

- a) in a religious institution, if it is required by the doctrines of the religion of the institution; or
- b) in education, if it is for the purpose of enrolment in one-gender schools or hostels; or
- c) In employment, if it is for the purpose of residential care of persons under the age of 18 years; or
- d) In employment, if it is based on a genuine occupational qualification or requirement in relation to a particular position; or

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<sup>5</sup> General exceptions include discriminatory actions taken to comply with Commonwealth or State laws or the outcomes of a court or Tribunal process. It also includes actions that are taken for the purpose of carrying out a scheme for the benefit of a group which is disadvantaged or has a special need because of a prescribed attribute or to implement a program, plan or arrangement designed to promote equal opportunity for those groups. See sections 23-26 of the ADA.

- e) In accommodation, if it is shared accommodation for less than 5 adult persons; or
- f) In the provision or use of facilities, if those facilities are reasonably required for use by persons of one gender only.

The ADA also provides a person may discriminate against another person on the grounds of gender in respect to the membership of a club if the membership of the club is available only to persons of one gender<sup>6</sup> or on the grounds of gender in respect of the use of any benefit provided by a club if –<sup>7</sup>

- a) It is not practicable for the benefit to be used simultaneously or to the same extent by both men and women; and
- b) The benefit is provided –
  - (i) For the use of men and women separately from each other; or
  - (ii) To men and women in a fair and reasonable proportion.

It is also lawful to discriminate against another person on the ground of family responsibilities, parental status, pregnancy, breastfeeding, marital status or relationship status if the person requires special services and facilities the supply of which would impose unjustifiable hardship<sup>8</sup> or in competitive sporting activity by restricting participation to persons of one gender of 12 years of age or more.<sup>9</sup> Discrimination in the provision of insurance and superannuation are also permitted in limited circumstances where this is prescribed in Commonwealth law or where actuarial evidence can be provided.<sup>10</sup>

## Intersectional Discrimination

Discrimination can occur based on a number of compounding characteristics. As individuals cannot be reduced to single characteristics such as gender, age, race, class, ability, or sexuality, it is important when encouraging gender equality to do so from an intersectional perspective. Discrimination experienced on the basis of more than one ground or attribute can be both qualitatively and quantitatively different from the sum of discrimination on each of these grounds.

An intersectional approach recognises the multiple identities that an individual may possess as well as how those characteristics relate to power and access to resources at both the micro and

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<sup>6</sup> *Anti-Discrimination Act 1998* (Tas) s27(3)

<sup>7</sup> *Anti-Discrimination Act 1998* (Tas) s27(2)

<sup>8</sup> *Anti-Discrimination Act 1998* (Tas) s28

<sup>9</sup> *Anti-Discrimination Act 1998* (Tas) s29

<sup>10</sup> *Anti-Discrimination Act 1998* (Tas) s30

macro levels. Women with disability, Aboriginal women, older women, LGBTIQ women, women from CALD backgrounds, and women living in regional and remote communities face distinct challenges on top of being women in the labour market and workforce. It is important that strategies to promote gender equality also take into account the diversity of women within the Tasmanian community.

A clear purpose of anti-discrimination law is to challenge the effects of prejudice and prejudicial views of people because of their identity. Prejudice is different and manifests differently depending on identity (and on the life experience of the person perceiving that identity). The prejudice experienced in Australia by a Sudanese man will be quite different from the prejudice experienced by a Sudanese woman. Presumptions made about the capacity of a man with a physical disability to do a particular job may be quite different from the presumptions made about the capacity of a woman with the same disability. This means that not only is the discrimination experienced likely to be different, but potentially the effect of that discrimination is also likely to be different. Both need to be effectively addressed.

## Complaints

The number of complaints on the grounds of gender-related attributes (gender, family responsibilities, parental status, pregnancy, marital status and/or breastfeeding) lodged with the Tasmanian Anti-Discrimination Commissioner provide an indication of progress toward gender equality.

It is important, however, to understand the limitation of using complaints data as a benchmark for gauging implementation of State obligations under the Tasmanian Women’s Strategy. The number of complaints received by EoT is not necessarily indicative of levels of discrimination within the Tasmanian community. A reduction in the number of complaints may, for example, result from reduced awareness of rights and mechanisms for redress. At the same time improved understanding of avenues for the protection of rights (through training, for example) may lead to a significant increase in the number of complaints lodged.

There are many complex reasons why people are reluctant to submit a formal complaint. On the whole, for example, males are statistically more likely than females to make a formal complaint. In 2016-17, for example, of the 153 individuals who registered a complaint with EOT, 91 (59.4%) were male and 61 (39.8%) were female. Nevertheless the level of discrimination complaint provides some understanding of progress toward gender equality within the Tasmanian community and we support their continued use as key indicators of progress toward this objective.

## Discrimination Complaints

In 2016-17 EOT received 40 complaints in which discrimination on the grounds of a gender-related attribute was identified (Table 1). Proportionally, however, the number of complaints in which gender-related discrimination has alleged to have occurred has declined in recent years from 39.8% in 2013-14 to 27.2% in 2016-17.

**Table 1: Complaints of discrimination by gender-related attribute**

Attribute identified	2013-14	Alleged in % of complaints	2014-15	Alleged in % of complaints	2015-16	Alleged in % of complaints	2016-17	Alleged in % of complaints
<b>Total complaints</b>	<b>181</b>		<b>142</b>		<b>150</b>		<b>147</b>	
<b>Total complaints alleging discrimination</b>	<b>175</b>		<b>141</b>		<b>139</b>		<b>137</b>	
Gender	24	13.3%	18	12.7%	22	14.7%	15	10.2%
Family responsibilities	21	11.6%	11	7.7%	8	5.3%	13	8.8%
Parental status	11	6.1%	4	2.8%	4	2.7%	8	5.4%
Pregnancy	7	3.9%	3	2.1%	2	1.3%	1	0.7%
Marital status	9	5.0%	14	9.9%	5	3.3%	2	1.4%
Breastfeeding	0	0.0%	1	0.7%	1	0.7%	1	0.7%
<b>Total complaints alleging discrimination on one or more of these grounds</b>	<b>72</b>	<b>39.8%</b>	<b>51</b>	<b>35.9%</b>	<b>42</b>	<b>28.0%</b>	<b>40</b>	<b>27.2%</b>

## Case Study

C was successful in securing a trade assistant/labouring position with an industrial production company. She was asked to provide a photograph to the company prior to her commencing work. The following day she was told that the company didn't think it was a great idea having a female in a predominantly male workshop and the offer of employment was withdrawn.

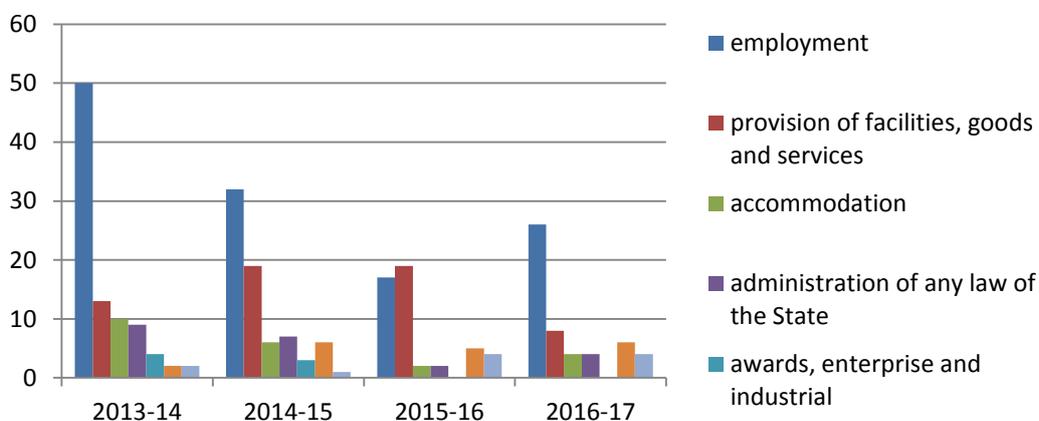
Other than for complaints of incitement to hatred, for discrimination and related conduct to be unlawful in Tasmania it must occur by or against a person engaged in or undertaking an activity in connection with specified areas of activity. This includes employment, education and training, the provision of facilities, goods and services, accommodation and the membership and activities of clubs.

Employment and the provision of facilities, goods and services are consistently identified as the highest areas of activity in relationship to gender-based discrimination complaints.

**Table 2: Area of activity identified or alleged in gender-related discrimination complaints**

Area of Activity	2013-14	2014-15	2015-16	2016-17
employment	50	32	17	26
provision of facilities, goods and services	13	19	19	8
accommodation	10	6	2	4
administration of any law of the State	9	7	2	4
awards, enterprise and industrial	4	3	0	0
education & training	2	6	5	6
membership and activities of clubs	2	1	4	4

**Area of activity identified or alleged in gender-related discrimination complaints**



### Case Study

M lodged a complaint with EOT in which she alleged that she was unable to progress in her employment because her manager would not let her operate a bulldozer. Despite this M sees less experienced employees who are male progressing and she is unable to do so.

### Case Study

W was employed in a health services position. She was told by management that she must do a Certificate 3 training course. This would involve her working early and late shifts. W advised her employer that could not work early or late shifts due to her family responsibilities and as a result her employment was terminated.

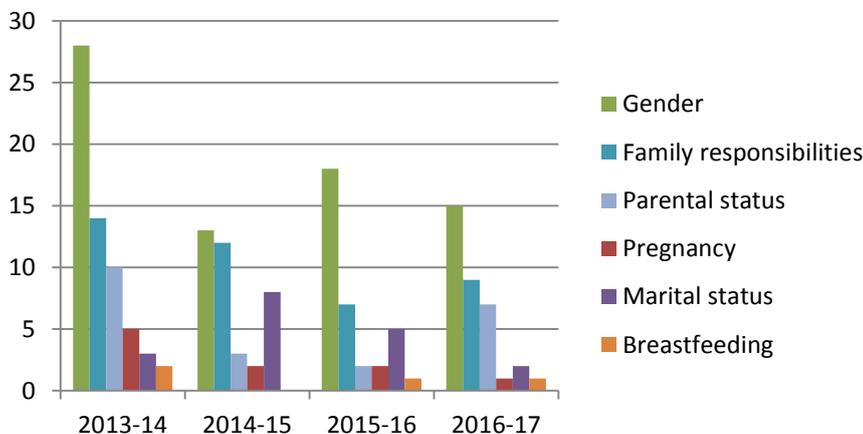
### Case Study

C was employed as a chef in a local establishment. Before taking maternity leave she worked morning and afternoon shifts. After she returned to work she requested that she be given afternoon shifts for a few months as she was breastfeeding and was unable to maintain a regular sleeping pattern. When she received her roster, she was required to work morning shifts. Her request to change the roster was refused despite the fact that there were several other chefs employed in the business.

## Offensive conduct complaints

Section 17 of the ADA prohibits certain offensive conduct, including sexual harassment. Section 17(1) prohibits behavior that offends, humiliates, intimidates, insults or ridicules another person on the basis a range of attributes, including gender-related attributes. In 2016-17, a total of 35 offensive conduct complaints were received in which one or more gender-based attribute was identified.

**Gender-based offensive conduct complaints**



**Table 3: Gender-based offensive conduct complaints**

Attribute identified	2013-14	Alleged in % of complaints	2014-15	Alleged in % of complaints	2015-16	Alleged in % of complaints	2016-17	Alleged in % of complaints
<b>Total complaints</b>	<b>181</b>		<b>142</b>		<b>150</b>		<b>147</b>	
Gender	28	15.5%	13	9.2%	18	12.0%	15	10.2%
Family responsibilities	14	7.7%	12	8.5%	7	4.7%	9	6.1%
Parental status	10	5.5%	3	2.1%	2	1.3%	7	4.8%
Pregnancy	5	2.8%	2	1.4%	2	1.3%	1	0.7%
Marital status	3	1.7%	8	5.6%	5	3.3%	2	1.4%
Breastfeeding	2	1.1%	0	0.0%	1	0.7%	1	0.7%
<b>Total no. of offensive conduct complaints in which one or more gender-based attribute identified</b>	<b>62</b>		<b>38</b>		<b>35</b>		<b>35</b>	

## Case Study

Y alleged discrimination and conduct that is offensive, humiliating, intimidating, insulting and/or ridiculing on the basis of gender and sexual harassment in employment. She indicated in her complaint that a colleague made sexual comments to her in front of other colleagues, leant over her desk, and put a sign on her motorbike with the words 'Danger Female Driver'. She was also told that as she was in an administrative position she was there to serve male tradesmen and only women are suitable for working in an office.

## Sexual Harassment

Under section 17(1) of the ADA sexual harassment takes place if a person:

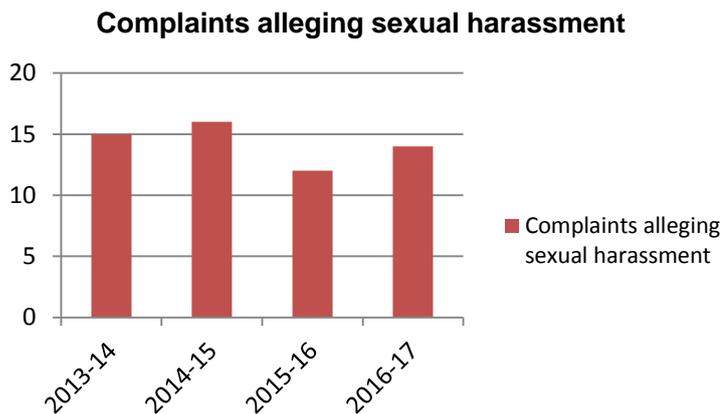
- a) Subjects another person to an unsolicited act of physical contact of a sexual nature; or
- b) Makes an unwelcome sexual advance or an unwelcome request for sexual favours to another person; or
- c) Makes an unwelcome remark or statement with a sexual connotation to another person or about another person in that person's presence; or
- d) Makes any unwelcome gesture, action or comment of a sexual nature; or
- e) Engages in conduct of a sexual nature in relation to another person that is offensive to that person

In circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated, intimidated, insulted or ridiculed.

In 2016-17 EOT received 33 enquiries related to alleged sexual harassment and received 14 complaints.

**Table 4: Complaints of sexual harassment 2013-14 to 2016-17**

	2013-14	2014-15	2015-16	2016-17
<b>Total complaints</b>	<b>181</b>	<b>142</b>	<b>150</b>	<b>147</b>
Complaints alleging sexual harassment	15	16	12	14
<b>Alleged in % of complaints</b>	<b>8.3%</b>	<b>11.3%</b>	<b>8.0%</b>	<b>9.5%</b>



### Case Study

J complained of discrimination on the basis of gender and sexual harassment. Whilst working in a hotel she was alleged subject to comments by a manager such as ‘sex sells’ and was told that she ‘has what it takes’ to work in the front bar. Whilst working in the bar she was subject to unwelcome comments and was physically harassed. Management refused to address her concerns and she resigned from the position.

## Gender equality priorities

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It is proposed that the new Women's Strategy focus on four priority areas for action:

- 1) Economic empowerment
- 2) Leadership and participation
- 3) Health and wellbeing
- 4) Safety

EOT is supportive of the prioritisation of these areas.

The following sets out the views of EOT on these areas of action for the Tasmanian Women's Strategy 2018-2020.

We also identify other areas where we consider that the Strategy could usefully provide a driver for change within the Tasmanian community.

We note in this context that the current federal Sex Discrimination Commissioner, Kate Jenkins, undertook a national listening tour in 2016 at the commencement of her appointment.<sup>11</sup> The purpose of the listening tour was to hear women's stories and identify issues that are currently of concern to women and to learn about Australia's progress toward gender equality. The Commissioner has identified a number of areas that could usefully be reflected in the revised Strategy.

### Economic empowerment

Action to address factors that impede the economic empowerment of women is crucial to attaining gender equality.

Responsibility in this area lies within all sectors of the community and at both State and Federal government levels. It requires concerted effort to address a range of issues including reducing barriers to female employment; changing cultural assumptions about responsibility for care and other unpaid work and associated gender stereotypes and ensuring that women are provided with the services and supports they require as they age and are faced with the legacy of gender-based employment patterns.

One of the most significant findings published in the *Women and Girls Report 2016 Factsheets* is that 90 per cent of Australian women will have inadequate savings to fund their retirement by the time they exit the labour force. Further, on average, women will be expected to spend more time in retirement than men (24.2 years for women, 19.3 years for men).

This was an issue that we raised in our submission on the development of the 2013-18 Tasmanian Women's Plan and one that we consider should be given continued focus in the new

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<sup>11</sup> Kate Jenkins, *A Conversation in Gender Equality* (Australian Human Rights Commission, March 2017)

Strategy. Our particular concern is the challenges for women arising from the demographic changes in the Tasmanian population in coming decades.

It is clear from the evidence available that the implications of an ageing Tasmanian population will be both significant and gendered.

There is a large gap between the superannuation savings of Australian men and women. Because the current superannuation system is linked to paid work, it overwhelmingly disadvantages women who are more likely to move in and out of paid work to care for family members.

Women continue to earn less than men and are more likely to be engaged in casual and part-time work, which are also contributing factors to the gender gap in retirement savings. In addition, they are more likely to depart the workforce earlier than men.

Women also tend to suffer greater income loss than men in the wake of divorce or separation. Not only are single women more likely to end up as the main carers of children after divorce or separation, they have much lower rates of home ownership when they do. As a result single older women are among the fastest-growing group of homeless people in Australia.

The cumulative impacts of economic disadvantage for women compound over a lifetime.

Not only is there a need to address the drivers of low retirement savings for women there is also a need to carefully plan services to address the disadvantage that results and for those plans to take into account the increasing number of single households headed by elderly women living in poverty as a result of the current legacy of discrimination in terms of pay equity, home ownership and superannuation holdings.

We consider this must be a priority for the proposed Strategy.

Women's experience of economic disadvantage is multi-faceted. It commences with gender norms which place women in may lower paying 'service' industries, continues with lower work place attachment due higher burdens associated with caring responsibilities, is challenged by the economic costs of childcare and is reinforced by the existence of barriers to women progressing in to leadership positions.

All of these issues impact of the status of women in our community and it is the continuing legacy of this economic disadvantage that is largely responsible for Australia's worsening performance in terms of gender equality. In 2016 Australia dropped from a rank of 15 in the global gender gap index to 46 in 2016, largely because of a dramatic decline in economic participation and opportunity.<sup>12</sup> In reality, women in Australia are going backwards in terms of key economic indicators.

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<sup>12</sup> World Economic Forum, *The Global Gender Gap Report* (2016) p90-91

A core and unavoidable issue is the impact on women of changing workforce patterns. Whilst Tasmania has benefited from improved economic performance in recent years, the reduction in unemployment rate has not resulted in a significant increase in full-time employment. In August 2017, for example, of the estimated increase of 600 persons employed over the previous month only 100 gained full-time positions, with the remaining increase of 500 persons accounted for by part-time employment.<sup>13</sup>

Tasmania's reliance on tourism and hospitality as a leading driver of economic growth also means that many of the new jobs in Tasmania are part-time. Figures cited by the Australia Institute for example, indicate that the State has a much higher proportion of part-time jobs (37.7% in August 2017) than the rest of the nation (31.6% nationally).<sup>14</sup> As a consequence there is a much higher underemployment rate in Tasmania (12.3%) than nationally (9.1%).

Tasmania's higher share of part-time employment has a significant impact, particularly on women. Survey results published by the Australia Institute, for example, indicated that 79% of women who did not have a full-time job in Tasmania wanted one.<sup>15</sup>

In addition to working fewer hours in paid employment, women are also more likely to work in lower paid occupations and to take unpaid leave to care for others.

Whilst the increased availability of part-time work may act as a driver to get more women into the workforce, the structures and policy approaches aimed at protecting women are often not as strong at that level. Many of the solutions to promoting gender equality (paid parental leave, flexible working arrangement etc) are often based on full time and secure employment models. Many women in casual or part-time work remain poorly protected and often small and medium sized businesses or those in rural or remote areas have additional challenges when seeking to offer flexible working arrangements.

The economic gender gap is even more pronounced for women experiencing intersectional discrimination, including women from culturally and linguistically diverse backgrounds and women with disability.

Action to address the persistent gender wage gap and the impact that having children and undertaking unpaid caring responsibilities have on women across their lifetime must continue to be a focus of the Tasmanian Women's Strategy 2018-2020. This should include action at both State and federal levels to:

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<sup>13</sup> Department of Treasury and Finance *Labour Force (ABS Cat. No. 6202.0)*

<sup>14</sup> Australia Institute, *Tasmanian Jobs* (Sept 2017) p2

<sup>15</sup> Australia Institute, *Tasmanian Jobs* (Sept 2017) p3

- Review and where necessary address (through for example credits or top ups) the impact on superannuation outcomes for women engaging in part time work or who exit the workforce to undertake unpaid caring responsibilities.
- Addressing the pay discrepancies between those employed in female-dominated industries and the broader workforce.
- Continue to address gender segregation in the workforce including doing more to challenge the gendered nature of positions particularly within areas of the public sector where there is significant gender imbalance eg, Corrections.
- Ensuring that women in so-called 'caring industries' or women-dominated work (eg, childcare, aged care) are appropriately remunerated for their work.
- Promoting a more equal sharing of caring responsibilities, including though normalising part-time work for male employees and facilitating the greater uptake of paternity leave following the birth of children.
- Examine and help develop innovative solutions to enable small and medium-sized businesses to provide more options for flexible working arrangements particularly for women working in part-time and casual positions.

## Leadership and Participation

Action to promote women in leadership positions was a significant strategy arising from the current Tasmanian Women's Plan. Actions such as those arising from the Women on Boards strategy, the State Service Diversity and Inclusion Framework and the commitment by all Agency Heads to improve gender diversity at the level of Senior Executives are critical in this regard and we are supportive of their continued inclusion in the revised Strategy.

One of the key findings of the Workplace Gender Equality Agency's *Gender Equity Insights 2017: Inside Australia's Gender Pay Gap* report released recently was that gender pay gaps are lower in organisations with greater female representation among management:<sup>16</sup>

Organisations with balanced representation of women in executive leadership roles have pay gaps half the size of those with the least representation of women in leadership. Moreover, organisations that improved the gender balance of their executive leadership teams between 2015 and 2016 also saw the biggest decline in their organisation-wide gender pay gaps.

Effort in the State Government sector, however, could be usefully extended to encourage greater progress in promoting women's leadership across government, industry and community sectors.

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<sup>16</sup> Workplace Gender Equality Agency, *Gender Equity Insights 2017: Inside Australia's Gender Pay Gap* (WGEA, bankwest & Curtin University, 2017) p6.

We have previously raised the option of the State Government facilitating the establishment of a network similar to that established nationally by the 'Male Champions of Change' process to model good practice and encourage movement toward improving gender equality in the broader community. This could be based around a network of Tasmania's employers across a range of sectors and representing both urban and rural communities.

Other factors that act as barriers to women progressing into decision-making and leadership positions should also be examined, including the operation of unconscious bias in both employment and board selection processes.

## Health and Wellbeing

It is critically important that women and girls have access to appropriate health care at different stages in their lives.

Whilst the *Women and Girls Report 2016 Factsheets* report a slightly higher percentage of women than men reporting their health as excellent to very good, there is some evidence to suggest that health-related concerns impact differently on men and women as they age.

The OECD, for example, reports on the difference between life expectancy and *healthy* life expectancy and finds that although women benefit from longer lives with a life expectancy significantly longer than that for men, *healthy* life expectancy is almost identical.<sup>17</sup> Among the OECD's findings were that in 2014, across the OECD women's life expectancy at the age of 65 was 21.3 years – significantly higher than men's at 17.8 years. But healthy life expectancy at age 65 was almost identical at 9.4 years for women and 9.2 years for men.<sup>18</sup>

As a consequence women are much more likely than men to rely on long term care and related services as they age. This finding has significant implications for Tasmania as our population ages.

As the OECD reports:<sup>19</sup>

Although women typically live longer than men, the extra years of life are often lived in poor health. Women are more likely to be disabled when they are of working age, which can limit labour market opportunities, and they are more likely to rely on long-term care services at the end of their lives. Monitoring and improving the quality of long-term care is crucial to the wellbeing of many older women.

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<sup>17</sup> OECD, *The Pursuit of Gender Equality: An Uphill Battle* (OECD, Paris 2017) p262.

<sup>18</sup> *ibid*

<sup>19</sup> *ibid* p261.

This gender disparity in health needs requires further evaluation in the Tasmanian context. As does the impact on health of other personal characteristics such as cultural and linguistic diversity and the impact of higher rates of women with profound or severe disability in older age cohorts.

With regard to the latter group, a primary concern is to ensure that Tasmanians who transition from the National Disability Insurance Scheme to mainstream health and community services as they reach the age at which they are no longer eligible for NDIS supports are not disadvantaged.

We have also previously raised the issue of homelessness as a critical issue for women in Tasmania.

As statistics in the *Women and Girls Report 2016 Factsheets* highlight, women are disproportionately more likely to seek access to specialist homelessness services, often as lone parents with children and in many cases as a consequence of relationship or family breakdown, sexual abuse or family violence.

## Safety

The safety of women and girls in Tasmania is a key barometer of progress toward gender equality. Unfortunately, however, too many Tasmanian women continue to experience violence and abuse. Nationally more than one woman a week is killed by a current or former partner; over half of hospitalised assaults against women and girls are perpetrated by spouses or domestic partners<sup>20</sup> and 2 in 5 Australian women have experienced violence since they turned 15.<sup>21</sup>

Whilst the work being undertaken to implement the *Safe Homes, Safe Families: Tasmania's Family Violence Action Plan 2015-2020* is well recognised as model for addressing incidents of family violence, we have recently raised issues about the capacity of the program as it is currently scoped (violence between intimate partners) to deal with the diverse forms of family violence present within the Tasmanian community.

Domestic violence legislation in a range of other jurisdictions defines domestic violence in a way that captures violence occurring between intimate partners, relatives, family members, carers and children and, in some cases, between people who are dating but not living together.

There is a need to consider broadening the focus of Tasmanian law to also capture these forms of violence under the *Safe Homes, Safe Families* framework and to adapt response services accordingly.

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<sup>20</sup> Australian Institute of Health and Welfare 'Domestic Violence leading cause of hospitalised assault among girls and women (media release, 19 April 2017)

<sup>21</sup> Australian Institute of Health and Welfare, *The Health of Australia's Females* (web report available at <https://www.aihw.gov.au/reports/men-women/female-health/contents/lifestyle-risk-factors> accessed 12 October 2017)

As outlined by the Sex Discrimination Commissioner in her *A Conversation in Gender Equality* report, women who experience intersectional inequality due to characteristics such as disability, sexual orientation or age often experience higher rates of violence or face additional barriers to seeking help and support. She cites the following in support of this view:<sup>22</sup>

- Research shows that women with disability are 40% more likely than women without disabilities to be victims of domestic violence. More than 70% of women with disabilities have been victims of violent sexual encounters at some time in their lives and are subjected to such violence by a greater number of perpetrators. Their experiences of violence continue over a longer period of time, and more severe injuries result from the violence.
- Older women are significantly more likely than older men to be victims of abuse. The sexual assault of women over 65 occurs in a wide range of contexts and they can face violence from partners, family members and service providers on whom they may rely on for general care.
- Experiences of violence against women with diverse sexual orientations, trans and gender diverse women and intersex women, can be compounded by the lack of inclusive services.
- The impact of cultural values and immigration status on women from migrant and refugee backgrounds can enhance the complexities of family and domestic violence.

There is also a need to implement and promote a broader range of remedies to address newer forms of violence and harassment, including so-called 'revenge porn' and a broad-range of behaviours that amount to online harassment and abuse.

Of particular importance to EOT is the issue of elder abuse. Elder abuse is broadly used to encompass the physical, emotional, sexual or financial abuse or neglect of an older person by another person in a position of trust. Whilst the risk of elder abuse crosses gender boundaries, women are often at greater risk not only because of their increased number in older age brackets, but often because abuse is intergenerational, with sons being perpetrators to a greater extent than daughters or may represent a continuation of previously established patterns of family violence.

Abuse and neglect is also prevalent in aged care settings where it may be perpetrated by paid staff, other residents, family members or friends and/or external service providers.

Whilst some safeguarding frameworks have been established for federally-funded aged care services, the complaints mechanisms relevant for this purpose are not available beyond those in receipt of federally funded services; appear limited in their capacity to promote a zero tolerance approach to elder abuse and neglect; and have limited capacity to address underlying drivers of abusive behaviour such as ageism.

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<sup>22</sup> Kate Jenkins, *A Conversation in Gender Equality* (Australian Human Rights Commission, March 2017) p16.

Increasing concern about the vulnerability of older persons has resulted in several recent inquiries and reports, including one conducted by the Australian Law Reform Commission (ALRC) which released its findings in May 2017.<sup>23</sup>

Among other recommendations made by the ALRC was the need for state and territory governments to enact adult safeguarding laws to provide adult safeguarding agencies (including Guardianship and Public Advocacy services) the authority to make investigate where they have reasonable grounds to suspect that a person is at risk of abuse or neglect.<sup>24</sup>

EOT will be working with a range of Agencies over the coming period to identify areas where our response to these issues could be strengthened.

Given the significant impact that elder abuse has on older women we consider this should be an issues that is also reflected in the Tasmanian Women's Strategy.

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<sup>23</sup> Australian Law Reform Commission, Elder Abuse – A National Legal Response (ALRC Report 131, 2017)

<sup>24</sup> See recommendations 14-1 to 14-8.

## Other areas of action

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There are a number of other areas of action we consider could usefully be included in the Women's Strategy

### Negative Attitudes and Everyday Sexism

The persistence of negative attitudes and everyday sexism is an issue that is highlighted by the Sex Discrimination Commissioner in her *A Conversation in Gender Equality Report*.<sup>25</sup>

In doing so she highlighted the concern that many women have about the continued adoption and promotion of negative gender stereotypes and the 'everyday' sexism that arises as a result. The Commissioner pointed to the Our Watch 'Change the Stories' framework which 'points to substantial evidence that higher levels of violence against women are commonly associated with low levels of gender equality in both public life and personal relationships' and the substantial impact that negative gender stereotyping is having on girls within our community.

Much more is required in this area. Statistics provided by the White Ribbon organisation suggests that only 1 in 6 men surveyed in Victoria said they would say or do something in response to a sexist joke about a woman.

Shifting the cultural perceptions of women as weak, emotional, dependent, submissive, homemakers, sexual objects remains relevant today as ever.

Addressing both conscious and unconscious biases against women in a way that challenges these gender stereotypes is critical and requires ongoing attention.

EOT continues to offer training on gender discrimination. This must, however, be underpinned by robust discrimination laws which continue to view negative attitudes and sexism as a form of prohibited conduct.

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<sup>25</sup> Kate Jenkins, *A Conversation in Gender Equality* (Australian Human Rights Commission, March 2017) p 34.

