



**AUSTRALIAN
WOMEN
LAWYERS**

25 June 2014

Mr Martyn Hagan QC
Secretary General
Law Council of Australia
GPO Box 1989
Canberra ACT 2601
AUSTRALIA

Dear Mr Hagan

Australian Women Lawyers - Submission - LCA Response NARS Study

Please find enclosed the following submission on behalf of Australian Women Lawyers (AWL) in response to the Law Council of Australia's Response to the findings of the National Attrition and Re-engagement study (NARS).

As the peak national body that represents women lawyer Associations throughout Australia and the interests of female legal practitioners nationally, AWL congratulates the LCA on commissioning the study and supports the findings contained in the final NARS report and the recommendations outlined in the LCA's Response paper.

The findings of the Study underline what AWL has been saying for a long time, that there needs to be cultural change throughout the legal profession. Not only in terms of creating a culture that enables the majority of its practitioners, which are women, to participate fully and equally in the profession, but in recognising the importance of a culture that values and supports diversity.

As the peak organisation representing the interests of female legal practitioners nationally AWL looks forward to working in partnership with the constituent bodies of the LCA to achieve this outcome.

Yours sincerely,

Amy Challans
President

AWL Submission Law Council of Australia -National Attrition and Reengagement Study (NARS)

PURPOSE

Australian Women Lawyers (AWL) is pleased to make the following submission to the Law Council of Australia (LCA) in response to the national release of the National Attrition and Reengagement Study (NARS) and its Response paper.

AWL supports the findings and recommendations outlined in the NARS and the LCA Response and congratulates the LCA on commissioning the study.

DISCUSSION

The findings of NARS underline what AWL has been saying for a long time: that there needs to be cultural change throughout the legal profession.

AWL endorses the recommendations contained in the NARS report and the LCA Response as they require the profession to re-examine traditional practices relating to working hours, workplace arrangements, billable practices, recruitment and selection processes and leadership. In particular the findings and recommendations counteract traditional arguments that there is not scope in the profession to review existing practices and implement viable options related to achieving work life balance and increased work satisfaction for both men and women.

AWL supports the recommendations as they encourage the profession to approach the issues through a range of diverse range of approaches and not through a 'one size' fits all approach. In particular, the recommendations encourage the profession to adopt a range of initiatives to address the high rates of female attrition in the legal profession and barriers to women progressing within the profession rather than seeing the solution through a single approach.

In addition, AWL endorses the recommendations as they force the profession to ask why things are done the way they are. Are workplace practices being followed simply because things have always been done that way? Are the current practices achieving the best possible outcome? What practices and structures actually determine merit? What is culture? Why is it important? And how do we set a good one?

The findings of NARS reflect the experiences and concerns of our national membership and raise issues that AWL and its State and Territory Women Lawyer Associations have sought 'action on' by the profession for decades.

AWL advocates for widespread reform across the legal profession in Australia to change its culture and address the inherent and systemic bias which exists against female practitioners, preventing them from participating fully within the profession and equally accessing opportunities for advancement, promotion and recognition.

The recommendations contained in NARS are essential to address the high rates of female attrition in the legal profession and implement mechanisms to change the culture of the legal profession in recognising, valuing and supporting diversity in the profession, promoting and advancing women and enabling the legal sector to be competitive in the market place.

It is alarming that research conducted by AWL shows that in 2013 only 9.3% of women practised as senior counsel at the independent bar (64/808 people) and 33.53% of judicial positions in Australia were occupied by women (340/1014 people). It is also alarming that research conducted by the Australian in that same year shows only 19% of Barristers in Australia were female and 17.1% of equity partners in Australia's leading firms were women.

The aim of the research conducted by AWL in 2013 was to explore the advancement of women at the independent bar 50 years since the appointment of Dame Roma Mitchell as the nation's first female Queen's Counsel. Despite the exponential increase of women practising law since Dame Roma's appointment, the research conducted by AWL found that in the 50 years since her elevation, only 121 women Australia wide had been appointed silk.

This lack of advancement was reflected in follow up research conducted by AWL relating to female judicial appointments which showed that only 33.53% of judicial officers in Australia were women and that some jurisdictions had only appointed 3 female Supreme Court judges out of 20 positions.

It is unacceptable to AWL that these figures exist despite women constituting more than 60% of all law graduates since 2001, more female than male solicitors being admitted to practice in the last 12 years and female solicitors out numbering male solicitors for the first 10 years of practise¹.

Based on the findings of NARS and AWL's research it is clear that since the appointment of Dame Roma as Australia's first female Queen's Counsel, and Supreme Court Justice, that the profession has not adapted to the change in gender demographics in the legal profession. In particular, the profession has fostered a culture that excludes and puts barriers in the way to women's equal participation and progression in the practise of law.

AWL supports the recommendations outlined in the LCA Response that are aimed at addressing these issues in particular the recommendations aimed at 'improving and celebrating the visibility of women lawyers', 'raising awareness of ways to successfully achieve gender equity and diversity', 'providing guidance to lawyers to directly to support their own career progression', 'nurturing and promoting potential leaders' and 'addressing conscious and unconscious bias'.

For AWL one of the disturbing issues highlighted in the NARS findings was the inappropriate treatment of women in the profession with 1 in 2 women reporting having been bullied or intimidated in their current workplace. The study also highlights female practitioners' experiences of sexual harassment and discrimination with the findings showing:

- approximately 1 in 4 women (25%) experiencing discrimination due to their family or caring responsibilities
- fifty percent (50%) of women working part time being discriminated against due to their family responsibilities
- half of all women experiencing discrimination due to their gender (compared to one in ten men)
- 1 in 4 women experiencing sexual harassment in their workplace

These figures are unacceptable and AWL calls on the legal profession to take a leadership stance in stamping out discrimination, bullying or harassment. This includes adopting, promoting and reinforcing appropriate standards in its conduct rules and providing serious sanctions for any breaches.

AWL supports LCA's call for a zero tolerance approach to discriminatory and bullying behaviour. This must also include the creation of an environment where all members of the profession are empowered to speak out against these behaviours. AWL also calls for all organisations within the legal profession to adopt and adhere to clear anti-discriminatory values and behaviours. This includes recruiting and selecting staff against these values and behaviours and requiring staff to demonstrate their adherence to them as part of the performance management process.

To equip the profession's leaders to drive cultural change throughout the profession and lead by example AWL supports training programmes for practitioners that focus on the leadership, role modelling and workplace safety recommendations contained in NARS. As culture is driven from the top down, the attitudes and actions of the profession's leaders is essential as it directly impacts on the behaviour of others including inappropriate behaviour being promoted or not tolerated, the boys club mentality thriving or being outcast and the creation of an environment where it is safe or unsafe to challenge or speak out against poor behaviour.

It is imperative that the legal profession in Australia adapts to the changing demographics of the profession. Not only in terms of creating a culture that enables the majority of its practitioners which are women to participate fully and equally in the profession, but in recognising the broader impact on the profession if it doesn't value and support diversity. If it doesn't, the legal profession is at serious risk of not being able to attract and retain the best talent. This shift means recognising that different approaches are required for different people, different people have different needs and expectations and creating workplaces where the emphasis is placed on valuing difference as opposed to 'fitting in'.

In today's marketplace where the majority of practitioners graduate with double degrees that enable them to operate in multiple industries outside of the legal profession the legal industry faces serious competition for talent. This competition is increased with generational changes related to job satisfaction being driven by non-traditional factors such as work life balance and the opportunity to combine career and family. If the legal profession doesn't take note of these changes it will cease to be the industry of choice. Most notably it will cease to be the industry of choice for women, which constitute its majority.

RECOMMENDATION

It is the strong view of AWL that the LCA's constituent bodies are vital in driving cultural change throughout the legal profession and setting appropriate standards relating to the recognition and treatment of women. AWL supports the findings and recommendations outlined in the NARS report and encourages the LCA's constituent bodies to:

1. adopt the key recommendations outlined in the NARS report;
2. work in partnership with AWL and other State and Territory Women Lawyer Associations to accelerate work in this area
3. develop additional and targeted jurisdictional strategies to address retention, attrition and reengagement of female practitioners;
4. develop jurisdictional based strategic frameworks for the attraction, retention and reengagement of women in the profession; and
5. implement transparent timetables for the adoption of the above strategies and recommendations.



AMY CHALLANS
PRESIDENT
Australian Women Lawyers

**PP Juliet Behrens
PRESIDENT
WLA ACT**



**Natalia Wuth
PRESIDENT
WLAQ**



**Brenda Monaghan
PRESIDENT
NTWLA**

**Natasha Walls
PRESIDENT
WLANSW**



**Taruna Heunzenroeder
PRESIDENT
WLASA**

Women Lawyers' Association
South Australia Inc



**Bridget Rheinberger
PRESIDENT
TWL**



**Verity Shepherdson
CONVENOR
VWL**



**PP Diana Price
CONVENOR
WBA**



**Cathryn Greville
PRESIDENT
WLAWA**



ⁱ 2011 National Society Profile - Final Report - May 2012