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## Women Make their Mark

### Recent permanent appointments to three Western Australian public sector agencies have boosted the proportion of women at the top management level.

Women formed just twenty per cent of the Senior Executive Service in June 2001, and only twelve per cent of chief executive officers (management tier 1).

However, in the first half of 2002 the WA public sector has seen Deirdre O'Donnell appointed to the role of State Government Ombudsman; Lyn Auld become the new Electoral Commissioner; and Cheryl Gwilliam take on the role of Director-General in the Department of Local Government and Regional Development.

Jody Broun, Acting Director of Equal Opportunity in Public Employment, said she expected to find that these three new appointments would be influential in improving the representation of women in senior management positions in the WA public sector when her Office completes analysis of 2002 yearly reporting data.

Ms Broun noted, "Although the gap was narrowing, in 2001 Western Australia had the second-lowest representation of women in the SES of all Australian States and Territories."

"I am also pleased to see that these appointments have been made without a great deal of fanfare about the fact that women are taking on CEO roles", added Ms Broun. "This shows that, as a culture, we are beginning to accept that women can and should be welcomed at all levels of organisations. Female senior management should not be viewed as tokenism or a novelty."

Women have been the successful applicants in other senior management positions throughout the sector as well.

Improving the diversity and equity of the public sector is important for the WA government. The *Equity and Diversity Plan for the Public Sector Workforce 2001 – 2005* includes a priority of improving the distribution of women at higher levels, particularly in management positions.

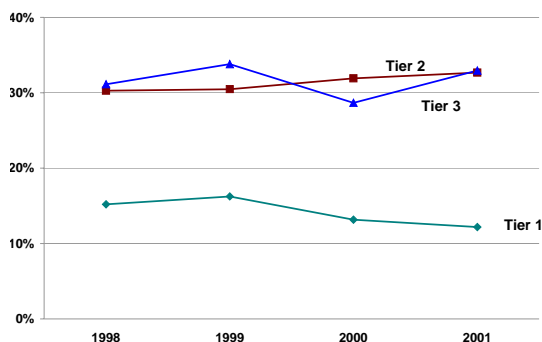
As part of the Equity and Diversity Plan, the Premier recently launched the new strategy on *Executive and Management Recruitment - Encouraging Women Applicants*. Agencies are encouraged to utilise the information in the strategy to improve their Equity Index for women. The key message in the booklet is that agencies need to look at how they are recruiting at the management level to ensure women are included in the applicant pool and are not disadvantaged by the selection process or criteria. A similar strategy is being developed for Indigenous people and will be released in the near future.

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## Women in Management Tiers

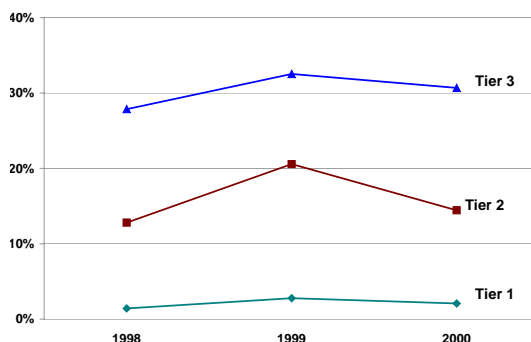
While 2002 data is not yet available, the proportion of women in public sector Tier 1 positions (CEOs) has been declining over the last few years to 2001. However the representation of women in Tier 2 (managers reporting to the CEO) has been increasing. Women at Tier 3 (including managers reporting to Tier 2) have fluctuated but shown improvement in 2001.

### Women in Management Tiers, Public Sector, 1998 - 2001



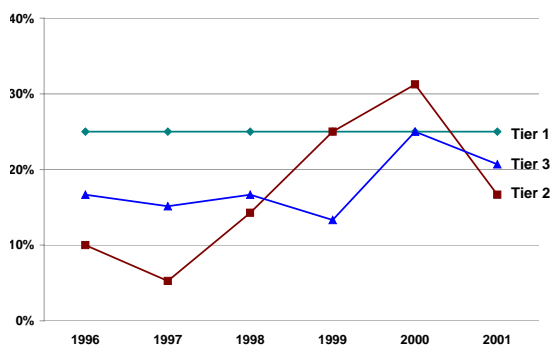
Local government management tiers have shown an increase to 1999 and a slight decrease in 2000. Further data will be needed to determine longer term trends.

### Women in Management Tiers, Local Government, 1998 - 2000



In public universities, the representation of women in management tiers has declined recently for Tiers 2 and 3. However the long term trend is showing increased representation of women in university management. Note that there are only four universities and the numbers in Tier 1 and Tier 2 are quite small. This can lead to quite large fluctuations with a change in a small number of people.

### Women in Management Tiers, Public Universities, 1996 - 2001



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## Director's Comment

Being new to the position of the Director I thought I should introduce myself to you. I have worked for the past seven and a half years in the Department of Housing & Works as Executive Director of Aboriginal Housing and Infrastructure and prior to that in the Aboriginal Affairs Planning Authority. I view the opportunity to act in this position as an exciting and challenging change and look forward to working with you to improve equity and diversity in public employment. Consistent with the previous Director, I will continue to work in partnership with agencies, key stakeholders and the CEO Diversity Forum to achieve these improvements.

The EEO Diversity forum was held on the 6 August. Guest speakers included Errol D'Rozario from the Department of Education, and Dudley Corbett and Dawn Harrison from DEAFinite Employment Services. A large group attended these informative sessions and the feedback was very positive.

Over the next month we will be concentrating on completing the annual report to the Premier and collating the latest equity and diversity data to analyse achievements against established objectives. Annual reports back to larger agencies will also be completed. These reports will identify your agency's progress over the past 12 months and provide comparisons to other similar agencies and the public sector as a whole.

The schedule of agencies that will be receiving reviews from the OEE0 in 2002/2003 has been finalised and agencies due for review will be contacted shortly by OEE0 consultants. The review process is a service offered by the OEE0 and should be considered as a vital tool in assisting agencies meet EDP objectives.

Jody Broun  
A/Director of Equal Opportunity in Public Employment

## Training in *Conducting EEO & Diversity Reviews*

The Office of EEO is offering its two-day training course, *Conducting EEO and Diversity Reviews* on **11 - 12 September** this year. The course will assist you to achieve your agency's EDP objectives. It will also provide participants with the skills necessary to review their organisation's capacity to use workforce diversity to its strategic advantage.

It will show you how to:

- Conduct a comprehensive internal review
- Run focus groups
- Analyse qualitative and quantitative data
- Triangulate and benchmark information, and
- Develop profiles on customers, workforce and management.

The course fee of \$550 (incl GST) includes a comprehensive, step-by-step Review Guide and a follow up consultancy service. This represents excellent value for your training dollar. Alternatively, the Review Guide can be purchased as a separate item for \$220 (incl GST).

For further information, contact Janine Clissa (ph 9214 6633 or email [clissaj@opssc.wa.gov.au](mailto:clissaj@opssc.wa.gov.au) ).

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## Reconciliation Successes at City of Fremantle

While the Fremantle City Council had been involved in the celebration of Aboriginal culture for several years, in 1998 it resolved to develop a formal Reconciliation Policy.

**It wanted to identify places in the City of Fremantle where tangible recognition of the prior ownership of the Fremantle area by Aboriginal people could take place.**

The Council consulted extensively with the Fremantle Indigenous Australian community to determine the hopes, aspirations, feelings and issues of importance to local Aboriginal people.

### A Statement of Commitment

In May 1999, a Statement of Commitment to Reconciliation was adopted and the Reconciliation Taskforce agreed to hold meetings with Nyoongah leaders and others in drafting the City of Fremantle Reconciliation Policy and Strategy.

The Indigenous community was asked to suggest who they thought should become involved and who could speak on their behalf. The Reconciliation Reference Group was then formed and met throughout 1999. It has worked on a number of issues including guiding the development of the Policy.

In September 1999, Council employed an Aboriginal Liaison Officer to assist the Reference Group. Further consultation occurred with numerous Indigenous organisations, agencies, groups and individuals to confirm and identify further issues concerning the Indigenous community in and around Fremantle.

This work provided the Reference Group with the major themes of culture; employment; education; families; health; housing; land, custodianship and native title; seniors/elders; tourism and youth. In January 2000, working groups were established on these issues.

### A Formal Policy

Members of the Reconciliation Reference Group, the community, relevant agencies and council staff worked together to develop a policy statement, objectives and strategies for each theme area. This resulted in the first draft of the policy which was then sent to approximately 100 people for comment. The overall response from the community was positive and valuable feedback was received. The document was adopted by Council in September 2000.

### Key Strategies

The Council identified numerous important strategies to implement the policy. Some key strategies in the area of employment included:

- A target to increase Aboriginal employment at the City of Fremantle from 0.9% in June 1999 to 4.0% in June 2003 and to increase the representation of Aboriginal people in higher level positions.
- Investigation of funding to recruit an Aboriginal specific worker at Community Legal and Advocacy Centre to assist people accessing support services.

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## Reconciliation Successes at Fremantle (cont'd)

### Important Outcomes Achieved

A series of outcomes have been achieved to date. These include:

- featuring Aboriginal culture in Fremantle's annual festival
- a number of local culturally-appropriate artworks
- Reconciliation Week and NAIDOC Week celebrations
- the identification of a possible site for a cultural centre and inclusion of this as an initiative on Council's 5 year plan.
- the proportion of Indigenous people working at the City of Fremantle rose to 2.2% in June 2001.

Protocols are also currently being developed with regard to native title issues.

This initiative illustrates the important link between high quality service to a diverse community and having staff from diverse backgrounds who can facilitate and support good consultation and service delivery.

For further information, please contact Barbara Powell, Manager Cultural and Community Services, City of Fremantle on 9432 9999.

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## Impairment not an 'Employment Risk'

### *Goyal v Airflite Pty Ltd*

The Equal Opportunity Tribunal of Western Australia found that Airflite Pty Ltd discriminated against a job applicant because a pre-employment medical examination found the Complainant to be an 'employment risk'. The Tribunal found the claim for discrimination on the ground of impairment in the area of employment to be substantiated.

Airflite Pty Ltd sells and maintains aircraft and had a vacancy for the position of Aircraft Handler, of which the Complainant applied. The Complainant disclosed to the interviewer that he had previously injured his right hand and with this, the interviewer referred the Complainant for a pre-employment medical examination.

The pre-employment medical practitioner found six health/fitness "concerns"; although only four were listed as reasons the Complainant could not perform the work. The EO Tribunal found three of the six to be of substance:

- That the Complainant was not 'work hardened';
- That the Complainant's lung function was at the lower limits of normal and;
- That the Complainant's blood pressure was at the lower limits of normal.

The issue of eyesight was not regarded as significant. A specialist rejected the medical practitioner's suggestion that restricted spinal movement and some back pain and weakness in abdominal musculature would make it impossible for the Complainant to work in and around the narrow confines of the aircraft. Incidentally, at interview the Complainant carried out a number of tasks without difficulty.

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## Impairment not an 'Employment Risk' (cont'd)

The Tribunal considered that the above did not render the Complainant incapable of performing the duties of an Aircraft Handler. The Tribunal also found that Airflite's approach to EEO law was fundamentally wrong because the focus of the medical was to assess the overall risk of employing the Complainant from an injury perspective. Airflite did not assess whether any impairments prevented the Complainant from carrying out the position requirements.

In delivering its determination, the Tribunal considered this case to be of particular seriousness warranting a significant award of damages. In finding Airflite to have discriminated against the applicant, damages amounting to \$12,000 (\$10,000 for general damages and \$2,000 for loss of income) by way of compensation were awarded to the Complainant.

### Implications for Employers

This case highlights the implications for employers that to rely upon one method of assessment, in this instance (a pre-employment medical) without making an overall balanced evaluation of an applicant's ability to meet the requirements of the job could prove costly.

It shows that employers cannot refuse to employ people solely because they have a disability which may result in an increased risk of injury.

Regardless of whether the applicant has a pre-existing injury or disability, employers should assess applicants on their ability to 'do the job' – and in some instances the employer should seek alternative working arrangements and make some adaptations to the job itself in order to accommodate the special needs of the successful applicant.

Failure to genuinely explore other options could leave the employer open to claims of discrimination in cases where applicants have a pre-existing injury or a disability.

Further, the Tribunal found that the employer had offered the Complainant employment only to retract the offer of employment.

The implications for employers is that to retract an offer of employment may, in some circumstances prove to be unjust. As such, this may possibly lead the employer to be subjected to allegations of claims of discrimination and/or breach of contract law. When an offer of employment is made, such offers should be carried out unless the employer can (within legal boundaries) prove otherwise.

Employers must ensure that existing employees and/or contractors, who are given the responsibility/contracted to recruit, select and appoint current and potential employees are aware of the employer's legal responsibility in relation to the *Equal Opportunity Act 1984*.

Adapted from Goyal v Airflite Pty Ltd. ET/2002-00010, 17/4/02

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