



# Waiving Guidelines

## What do I need to do to be waived?

You need to have complied with the Act for a period of three consecutive reporting years, prior to applying for waiving. Please refer to the [Compliance Guidelines](#).

AND

You need to **demonstrate** that you have analysed your workplace to identify the equal opportunity issues for women relating to each employment matter, and taken all reasonably practicable measures to address each matter.

These [Employment Matters](#) are:

- ➔ Recruitment and Selection.
- ➔ Promotion, Transfer and Termination of Employment.
- ➔ Training and Development.
- ➔ Work Organisation.
- ➔ Conditions of Service.
- ➔ Arrangements for Dealing with Sex Based Harassment.
- ➔ Arrangements for Dealing with Pregnant and Potentially Pregnant Employees, and Employees who are Breast Feeding.



## How will waiving be assessed?

The waiving requirements in the Act provide flexibility by allowing organisations to explain to EOWA what actions are, and are not, reasonably practicable for their business to take, for example, given the nature of your industry or other circumstances.

It is up to you to decide on what is reasonably practicable for your organisation, given your individual circumstances and business context. You will then need to demonstrate this to EOWA.

We have developed a flexible assessment framework for waiving, based on two key requirements for you to consider. These requirements are designed to assist your organisation to:

- understand how EOWA will assess waiving and,
- successfully apply for waiving.

A suggested waiving application format is included on EOWA's website under "Waiving" sub menu "Waiving Application Package". However, use of this format is voluntary.

## What are the requirements for waiving?

There are two waiving requirements against which your application will be assessed:

### **Waiving Requirement 1**

The organisation has analysed its workplace to identify the issues for women relating to each employment matter.

### **Waiving Requirement 2**

The organisation has taken all reasonably practicable measures to address the issues for women in the workplace identified in each employment matter.



## Waiving Requirement 1

**The organisation has analysed its workplace to identify the issues for women relating to each employment matter.**

Your organisation could demonstrate it had met this requirement by providing information on:

1. How you identified the issues for women in your workplace, including how and with whom you undertook consultation.

For example, you could provide:

- human resource statistics (e.g. women's representation in different organisational areas or levels, retention rates, leave return rates, rates of accessing policies).
  - employee survey results.
  - focus group information.
  - interviews, including exit interviews.
  - issues raised in performance appraisal discussions.
  - information on meetings (e.g. employee meetings, women's network meetings).
  - any other approach which assisted you in identifying issues for women.
2. The issues you identified when you considered the seven Employment Matters.

If you would like some assistance in analysing your workplace to identify the issues for women relating to each employment matter, you could refer to our web site, specifically:

- [Employment Matter Guidelines](#)
- [Workplace Analysis Toolkit](#)
- [Sample Equal Opportunity Employee Opinion Survey](#)

At the end of this process, the organisation will have:

- thoroughly analysed its workplace to identify the issues for women relating to each employment matter and;
- listed the issues identified in each employment matter.

OR

After analysing their workplace against each employment matter, some organisations may find they have no issues for women under some of the employment matters. In this case, the analysis should clearly demonstrate this by providing information on how the organisation analysed the workplace to identify issues, including how it consulted with employees/employee representatives, with whom it consulted and what were the results.

## Waiving Requirement 2

**The organisation has taken all reasonably practicable measures to address the issues for women in your workplace identified in each employment matter.**

Your organisation could demonstrate this waiving requirement had been met by:

1. Briefly outlining the actions you have taken or are taking and explaining how these address or impact upon the issues which you identified in each employment matter. For example, you could:

- summarise the actions you have taken and discuss how these are addressing/have addressed the issues you identified.
- provide attachments of, or extracts from relevant documents (for example, policy statements) and explain how they are addressing/have addressed the issues.

You do not necessarily need to implement a different action to address each issue - some organisations find that strategically planning their actions enables them to implement one action or initiative to address a range of issues.

You are encouraged to consider the role managers in your organisation play in addressing the issues which you have identified through your analysis. You may find that their actions are critical in addressing the issues relating to each employment matter. You may wish to provide information on such management actions.

2. Providing information on the nature of your industry/business and how this impacts on the actions you have taken to address your issues. For example, the nature of your industry may mean that certain actions are not 'reasonably practicable' for you to do.

➤ **It is up to you to explain to EOWA what is and isn't reasonably practicable for you. Providing information about the nature of your industry/business may assist you in making this explanation.**

- For ideas on possible actions that may be taken to address the issues for women in your workplace identified in each employment matter, you could refer to our website, specifically the [Employment Matter Guidelines](#).




At the end of this process, the organisation will have demonstrated:

- it has taken all reasonably practicable measures to address the issues for women identified in each employment matter.
- measures taken are addressing/have addressed the issues identified.

In doing this, the organisation may need to explain why certain actions were not reasonably practicable to take to address the issues.

OR

The organisation may have thoroughly analysed the workplace against each employment matter and not identified issues for women under some employment matters. If so, it would therefore not need to provide information on measures or actions taken under that employment matter but would need to have undertaken an analysis which could substantiate this claim.

 **A series of examples have been developed to show how organisations may choose to address issues identified in their analysis through a variety of actions. These examples relate to the Employment Matters and can be found at the end section of the guidelines.**

## How do I apply to be waived?

To be waived from reporting over the next one, two or three reporting periods, you must submit an application to be waived.

- EOWA will receive waiving applications this year up until 31 May. Applications can not be accepted after this date.
- An Application Coversheet and Organisational Details Cover Sheet are included on EOWA's website under "Waiving" sub menu "Waiving Application Package".
- A waiving application format designed to assist you meet the waiving requirements is also included on EOWA's website under Waiving the Waiving Application Package. However, use of this format is voluntary.

Organisations can choose to demonstrate that they have met the waiving requirements through either:

- Submitting an application;
- Inviting EOWA to visit their workplace.



Consistency in assessment will be provided regardless of which assessment approach your organisation chooses. This will be achieved by EOWA using the (previously outlined) waiving requirements when deciding whether an organisation has demonstrated that it has taken all reasonably practicable measures to address the issues for women in relation to the employment matters.

It is up to organisations to decide which assessment approach is most resource effective for them and which will enable them to effectively demonstrate that they have taken all reasonably practicable measures to address the equal opportunity issues they identified.

## 1. Application

You will need to submit your detailed written application by 31 May.

Using this option, you will **not** have to submit a Compliance Report as well for this reporting period.

**OR**

## 2. Voluntary Workplace Visit

Invite EOWA to assess your organisation for waiving through a workplace visit.

You can do this by submitting the Cover Sheet included under EOWA's website i.e. under "Waiving" sub menu "Waiving Application Package" or by ringing EOWA on (02) 9448 8500 to arrange

EOWA is keen to accommodate organisations' desire to reduce their paperwork obligations by choosing this option.

- To enable EOWA to best manage its resources, and to ensure that this option is available to as many employers as possible, you will **need to request your workplace visit by 31 March.**
- EOWA will conduct workplace visits between 1 January and 30th June each year. Fees for workplace visits will be \$450 (inclusive of GST) for corporate organisations and \$325 (inclusive of GST) for non-profit organisations. This fee can be offset by the employer against the internal cost of preparing a written waiving application.
- EOWA recognises that some organisations may experience difficulties in meeting the workplace visit fee structure. We have, therefore, included a Hardship Provision in the waiving fee structure. Organisations experiencing difficulties are encouraged to contact EOWA to discuss hardship circumstances and negotiate a fee that they are able to meet.



## Format for Voluntary Workplace Visits

The format will enable all organisations, regardless of whether they choose to demonstrate waiving requirements have been met through an application or a voluntary workplace visit, to:

- ➔ be assessed through a consistent, transparent assessment process.
- ➔ have an equivalent opportunity to demonstrate waiving requirements have been met.

The format for the workplace visits will be designed by EOWA, in consultation with the organisation, on a case-by-case basis. This will allow EOWA to be flexible and responsive to different organisational circumstances (e.g. organisational size, multi-site organisations, organisational structure, corporate structure etc). Consistency will be provided by ensuring that all organisations provide information on:

- ➔ General overview of key people management issues and business context.
- ➔ How each employment matter was analysed, including who was consulted.
- ➔ What equal opportunity issues for women were identified in each employment matter (i.e., issues or no issues)?
- ➔ Reasonably practicable actions taken to address the identified issues for women.
- ➔ How these reasonably practicable actions addressed the identified issues for women.
- ➔ Matters covered by the Waiving Checklist (refer EOWA Website “Waiving” sub menu “Waiving Checklist”)
- ➔ Organisations will be able to provide this information by choosing any, or a combination of any, of the following options:
  - conduct a presentation, perhaps one which senior management attend;
  - organise an informal meeting with the senior person responsible for the equal opportunity for women in the workplace program;
  - organise short meetings held with key senior managers;
  - organise a meeting with, or presentation by, the equal employment opportunity committee (or equivalent); and/or
  - invite various employees to meet EOWA adviser during the visit.

Workplace visits would be a maximum of one day in duration.

### **Please remember:**

- ➔ Applications for waiving must be received by 31 May. Your organisation will therefore need to have submitted a detailed waiving application by 31 May or organised a voluntary workplace visit by 31 March.



- If you choose not to submit a waiving application for this reporting year, a compliance report will need to be submitted by 31 May.

### **If your organisation is not successful when applying for waiving**

If your organisation is assessed as not meeting the new Act's waiving requirements, EOWA will work with you to assist you to submit any additional written information that you will require to meet the compliance requirements of the Act. EOWA can provide you with up to a two (2) week extension to submit this additional information.

*EOWA has the capacity to revoke waivers through provisions outlined in section 33(3) of The Acts' Interpretation Act 1901.*



## Waiving Requirement Examples relating to the Employment Matters

Examples provided below show how organisations may choose to address the issues relating to the seven employment matters identified in their analysis with a variety of actions. While organisations must decide for themselves what actions they believe are or aren't 'reasonably practicable' based on their individual circumstances, they need to be confident that they can explain their reasons to EOWA to support these decisions.

### 1. Recruitment and Selection

#### Example 1

##### *Analysis:*

Graduate recruitment data is reviewed in conjunction with university graduate data. Figures show that the percentage of women graduating from university and applying for jobs/being short-listed for interview at the organisation are roughly equal. However, substantially fewer women than men are appointed to graduate positions.

##### *Possible Issue:*

Women are unable to be successfully recruited into the organisation due to entry-level barriers.

##### *Possible Actions:*

- Conducted an organisational review of selection process to remove any bias.
- Conducted management training to improve interviewing skills.
- Where possible, include women on selection panels.

##### *How has the issue been addressed?*

New recruitment data reveals a moderate increase in female graduate recruits, with greater increases anticipated as managers continue to be more skilled in effectively recruiting diverse talent.

#### Example 2

##### *Analysis*

A manufacturing company reviews its workplace profile and finds the vast majority of trades people are men. Recruitments conducted over the past year show very few women have applied for trade positions and only men have been employed in trade positions.

##### *Possible Issue*

Few women are being recruited into trades roles.

##### *Possible Actions*



- During the reporting year, the organisation was downsizing – a trend which is expected to continue. No trades people left the organisation during this period and no trades people were hired. No actions were therefore taken to address the issue that few women were employed in trades positions.

*How has the issue been addressed?*

Not relevant – no actions were taken due to the company not recruiting in trade positions.

## 2. Promotion, Transfer and Termination of Employment

### Example 1

*Analysis:*

A male dominated organisation reviews employee data and finds that women are employed mainly in below management administrative and support positions.

A follow up employee survey also reveals that such women are considerably less likely than men to believe career opportunities are available to them.

*Possible Issue:*

- Few women are employed in professional and managerial roles.
- Female employees may not have equal opportunities for promotion.

*Possible Actions:*

- Internal opportunities are to be made available to all employees by being advertised widely.
- New actions are taken to increase the number of women in managerial and professional roles including:
  - the establishment of a pool of high potential women
  - development plans for all employees
  - succession planning (inclusive of women) to be built into career development plans
  - job rotations and reliefs in non-traditional areas of business.
- Managers are held accountable for developing women as well as men.

*How has the issue been addressed?*

High potential women are identified for critical positions.

Significant numbers of women are now involved in career development.

Some key women have been identified for consideration of management positions.



## 3. Training and Development

### Example 1

#### *Analysis:*

Women are employed in large numbers in all management areas and across all job types.

A review of training expenditure shows that both female and male employees have accessed regular training as detailed in their career development plans.

Consultation via an employee survey and follow up focus groups with a cross section of female managers reveals that women are satisfied with their training and development opportunities.

#### *Possible Issue:*

- None identified, despite a thorough analysis.

#### *Possible Actions:*

- Managers continue to work on career development plans in consultation with their employees.
- No other specific actions required.

#### *How has the issue been addressed?*

No issue to address.

### Example 2

#### *Analysis*

A not-for-profit female-dominated organisation reviews its workplace profile and identifies that 80% of employees are employed on a casual basis.

It conducts a training audit and finds that the majority of career development training is being provided for the permanent workforce (mainly men) who account for only 20% of total employees.

Training for casual employees, and therefore women, is widely limited to entry-level induction training for their present jobs.

Although staff numbers are stable, organisation has high turnover.

#### *Possible Issue*

- Lack of career or other training may be preventing some women from moving into the more senior roles which are dominated by men.
- High turnover of staff with associated high replacement costs.

#### *Possible Actions*

- Despite limitations on career opportunities due to the small size of the organisation, a goal is established to provide opportunities for women to move into management positions.



- Organisation identifies possible internal 'on-the-job' career development opportunities (e.g. job rotation, special project assignments etc) which employees are interested in and the organisation can offer.
- Women are prompted to voluntarily identify their career aspirations during their performance appraisal.
- Training and development is to be based on career aspirations and readiness in addition to training for their current job.

*How has the issue been addressed?*

Anticipated increases in women represented at top management.

Reduced turnover resulting from higher staff morale.

## 4. Work Organisation

### Example

*Analysis:*

Exit interview data reveals that a significant number of women are resigning because they are unable to access flexible work options. This is further supported by discussions with employees who state that the opportunity to work in a flexible way, especially job sharing and working from home, was minimal.

*Possible Issue:*

Job sharing and home-based work policies are not widely available for use. This has led to high female employee turnover and productivity loss caused by low employee morale.

*Possible Actions:*

- Consultation between managers and both female and male employees to gain a greater understanding of employee working and flexibility requirements.
- Employee education on how to put forward a job share and home based work proposal.
- Managers are to give appropriate due consideration to requests for job sharing and home based work arrangements. Managers are to substantiate during their performance review why job share arrangements haven't been made when appropriate.
- Managers are trained on how to implement flexible working arrangements and how to successfully manage a flexible workforce.

*How has the issue been addressed?*

Reduction in turnover for female employees.

Increase in morale and productivity following consultation and practical implementation of flexible working arrangements.



## 5. Conditions of Service

### Example 1

#### *Analysis:*

An organisational review of remuneration reveals pay inequity as women do not have access to bonus and reward schemes because of their concentration in customer service and support roles.

Few women are employed in the higher paid sales roles which have access to bonuses when they achieve sales targets.

#### *Possible Issue:*

Low morale, high turnover and low productivity amongst critical customer service and support employees possibly caused by remuneration system.

#### *Possible Actions:*

- ➔ Managers are to work with their female employees to create career development plans and opportunities in less traditional roles which offer remuneration incentives.
- ➔ Remuneration system for customer service and support employees is reviewed with a view to implementing a reward and recognition program the following year, when the workplace agreement is being reviewed.
- ➔ Managers will be trained on how to implement this program.

#### *How has the issue been addressed?*

Immediate increase in morale following introduction of reward and recognition program and career development plans.

Productivity benefits anticipated as managers implement program.

### Example 2

#### *Analysis:*

A retail organisation reviews the use of leave, including sick leave and annual leave. It finds that the one-day sick leave absences are high and continue to increase.

Anecdotal evidence and focus group discussions indicate employees with family responsibilities are accessing sick leave to enable them to balance work and family commitments. Morale appears to be low, with many employees believing there is limited flexibility available to balance their work and family needs.

#### *Possible Issue:*

Perception of limited workplace flexibility resulting in high absenteeism and low morale and productivity.

#### *Possible Actions:*



- Reviewed current internal leave policies to identify practices which limited employees' ability to balance work and family commitments.
- Reviewed what other organisations in the industry were doing to reduce absenteeism and build morale through implementing flexible workplace practices.
- Introduced a family leave policy where employees are entitled to access their sick leave to attend to illness in the family.
- Introduced a new annual leave policy where staff can access annual leave in one day blocks to enable staff to attend, for example, school-related functions and other family commitments.
- Managers, supervisors and team leaders required to communicate and support policy changes with all staff.

*How has the issue been addressed?*

- Immediate improvement in staff morale following the introduction of policies.
- Reduced staff sick leave.
- Staff utilisation of 'family leave' and 'one day annual leave' policies which can now be planned for and managed in a way that has minimal cost implications.

## 6. Sex Based Harassment

### Example

*Analysis:*

IT security checks reveal that many employees are accessing inappropriate materials including pornography on the internet and that staff have not been receiving regular training and/or reminders of the firm's Harassment policy.

*Possible Issue:*

Potential sex based harassment.

*Possible Actions:*

- Reviewed harassment policy to include IT concerns.
- Communicate revised harassment policy in employee newsletter, on organisation's intranet and at team meetings
- Arranged Harassment training for all staff who had not been retrained during the last two years
- Code of conduct to be developed and signed by all employees with internet access.
- Managers' performance appraisals to include an assessment of how seriously they take complaints seriously and how they address these complaints.

*How has the issue been addressed?*

No formal internet harassment complaints made.

Informal issues resolved satisfactorily.



All staff retrained.

## 7. Arrangements for dealing with pregnant and potentially pregnant employees and employees who are breastfeeding.

### Example

#### *Analysis:*

A review of turnover rates reveals that despite 80% of women returning from maternity leave, almost 50% resign within 12 months.

#### *Possible Issue:*

High turnover from women with family responsibilities.

#### *Possible Actions:*

- Support for breastfeeding mothers via new policy allowing for breaks in workday for mothers to express breast milk or go to their childcare provider to feed their baby at low business activity times of the day

- Provision of a private, clean and lockable space to express breast milk.

Introduction of a range of flexible work options that provide women with flexibility.

- Managers to have a discussion with their employees prior to their starting maternity leave and just before returning to work to discuss their needs.

- Managers to be educated on how to use flexible work policies to balance individual and business needs.

- Chief Executive Officer to publicly encourage managers to work with employees to develop flexible work options which work for employees and the business.

#### *How has the issue been addressed?*

Higher maternity leave return rates resulting in retention of valuable skills.

Expected retention of employees as organisational loyalty and morale has improved.