# **Women in Leadership Summit**

## **Women in leadership and the role of affirmative measures**

## **28 February 2024**

### Acknowledgement

I wish to pay my deep respect to the Jagera and Turrbal people.

Before I start, I would like to reflect briefly on the tragedy of what I call ‘The Great Lost Opportunity’ – the rejection of the Voice to Parliament constitutional amendment. As a young lawyer in the 1990s, I had an insider’s view of just how powerful a legislated, electorally mandated, First Nations representative body could be. Whatever its shortcomings (perceived or otherwise), ATSIC held great promise as a transformational platform for the next generation of First Nations’ women leaders. I can’t imagine how painful the referendum result was for one of Australia’s greatest leaders, the inaugural ATSIC Chair, Dr Lowitja O’Donoghue, who sadly passed away recently.

Thank you for extending me the honour of speaking at the Women in Leadership Summit today.

With the retirement of a number of high-profile women from senior leadership positions, we are coming into a new chapter for women in leadership in Queensland. I have been fortunate to work closely with two of those women over the last decade or so and would like to acknowledge the outstanding contributions of both the Attorney-General, Yvette D’Ath, and Police Commissioner, Katarina Carroll.

### Affirmative measures have a place

The thesis I want to put to you today is that affirmative measures – or you may be more familiar with the term ‘affirmative action’ – still have an important role to play in achieving gender equity in Queensland. Used wisely, affirmative measures have the capacity to accelerate progressive change, equalise the benefit of formal and informal organisational systems, and can, of themselves, amount to acts of inclusion.

I will be drawing on the review of diversity and inclusion in the Queensland Police Service that my Commission was engaged to undertake, focusing on recruitment and retention practices. This review implements one of the recommendations of the Independent Commission of Inquiry into QPS responses to domestic and family violence undertaken by Her Honour Judge Deborah Richards. That inquiry made findings of great concern about the prevalence of racism and sexism in the Queensland Police Service.

I will also highlight what I see as some of the challenges to achieving gender equity in Queensland, including resistance and backlash, and discuss potential strategies to tackle them.

### CEDAW and ‘special measures’

In 1979 the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) was adopted by the United Nations General Assembly. Article 4 states that:

temporary special measures aimed at accelerating de facto equality between men and women, shall not be considered discrimination…

Our domestic discrimination laws at Commonwealth and State levels have implemented CEDAW by framing affirmative measures as exceptions to discrimination. However, other jurisdictions – most notably Victoria – have in more recent times recognised that affirmative measures should not be seen as exceptions to discriminatory conduct, but rather as positivemeasures to promote equality.

### Recruitment quotas in the QPS

As we will see from what happened after former Police Commissioner Ian Stewart attempted to introduce a 50/50 male/female entry quota into the Queensland Police Academy, the apparent lack of community-wide appreciation of the lawfulness of affirmative measures can have serious consequences.

In late 2015, at a time when just 26% of sworn officers within Commissioner Stewart’s service were women, he decided to provide a direction that 50% of entrants into the police academy should be female.

In the years that followed Commissioner Stewart’s direction, the QPS increased the number of female recruits from just below 23% in 2015, to 46% in 2016, and achieved parity by 2017. Looking at those stunning results one would imagine that this gender equity strategy would have been heralded as an outstanding success.

### Investigation Arista

However, just 2 years later a complaint from QPS staff to the Queensland Crime and Corruption Commission triggered the 2-year Investigation Arista, which concluded:

The CCC investigation revealed ample evidence to support the conclusion that, during the period December 2015 to around October 2018, the QPS engaged in **discriminatory recruitment practices** to achieve the 50% female recruitment target.

After the strategy was abandoned, unsurprisingly, the number of female recruits rapidly returned to pre-2016 levels.

How could a gender equity program that was successfully increasing the number of women admitted to the police academy go so wrong and lead to such a damaging, albeit misconceived, finding?

Regrettably, it appears that the CCC reached this conclusion without considering whether Commissioner Stewart’s strategy constituted an equal opportunity measure, explicitly protected from allegations of discrimination, by section 105 of Queensland’s *Anti-Discrimination Act*. In fact, under the heading Relevant Legislative Provisions, the Investigation Arista report referred to several sections of the *Anti-Discrimination Act*, but inexplicably, failed to make any mention of the most relevant provisions that deal with equal opportunity measures.

The failure of the Investigation Arista report to assess the alleged corrupt conduct of QPS recruitment staff in the context of affirmative action law was terribly damaging and, sadly, I have real fears that the episode has discouraged other agencies from pursuing affirmative action of their own.

### Challenges to achieving equity

The totality of the response to the gender equity recruitment strategy by the Queensland Police Service and the CCC was, in my view, a clear example of the first major challenge to achieving gender equality, namely resistance and backlash*.*

Research shows that any effort to effect organisational change, especially socially progressive change, will encounter resistance in some form.

The challenge for change-makers is not to attempt to silence or suppress resistance and backlash, but rather to harness it, and respond to it effectively.

In the Netherlands, researchers analysed an attempt to introduce gender and race quotas in the Dutch Police Force. They argue that resistance to affirmative interventions can be productive because they provide an opportunity to expose and probe the true nature of the 3 values usually invoked by those who resist equity measures, namely:

quality, fairness, and transparency.

1. Quality / merit

One of the most common forms of opposition to equity interventions in a policing context is the view that women appointed to roles are *less* *qualified* than men. The resistant group usually casts doubt on the merit of female police officers appointed through quota systems, yet does not acknowledge that the existing system may, in itself, be unfair.

Reframing a discussion about this value might then lead to the question:

Would greater diversity be achieved if entry requirements were more closely aligned with the genuine occupational requirements of a modern day police officer; for example if communication, negotiation, and de-escalation skills were more highly valued?

It’s also worth noting here that resistance to gender equity strategies often come from women or culturally diverse candidates themselves, who want to be seen to be appointed to positions based on their personal qualities rather than their gender or race.

1. Fairness

Closely related to the values of quality and merit, the value of fairness typically gives rise to claims of ‘reverse discrimination’. This sense of unfairness is felt most acutely by men who feel they have earned their place next in line, and that there are diminishing career opportunities for them.

This form of backlash was reflected in the Arista report which referred to QPS staff discussing ‘frightening projections’ of ‘how few (Caucasian) males would be appointed in future intakes’.

Drawing out an alternative construction of the fairness justification could be achieved by asking the question:

Is it fair if the existing entry requirements – for example cognitive tests –indirectly discriminate against women and culturally diverse candidates?

1. Transparency

And lastly, arguments about affirmative measures being at odds with traditional recruiting procedures demonstrate the importance for designers of affirmative action programs to establish properly authorised and transparent recruitment processes.

In both the Dutch and Queensland Police examples, it was the unconventional way in which procedures were used to fill female quotas that ultimately attracted criticism and undermined the strategy’s legitimacy in the eyes of the resistors.

But consideration of transparency is not complete without questioning the transparency of the status quo. In the police community, social capital typically operates to benefit men at the expense of women and culturally diverse candidates who are less able to call upon informal networks for information and support.

### QPS review | phases

So, what are the lessons we can take forward as the Queensland Human Rights Commission and the Queensland Police Service undertake their collaborative and systemic task of reviewing QPS diversity and inclusion practices?

To give it the best chance of sustained success, the Review is being conducted in 3 phases over 4 years.

* The first phase, which we commenced last year, involves information gathering and most importantly, deep consultation with existing and former police. It will conclude towards the end of this year with a detailed report, including recommendations, that we hope will take into account both the organisational context and operational demands that police face in their difficult roles every day.
* The next 2 years of the process will focus on implementation by the QPS with input and guidance from the external Advisory Panel co-chaired by myself and the Police Commissioner.
* The final phase of the Review will be an evaluation of implementation to be conducted by the Commission in the fourth year.

It is an ambitious and significant project and I want to commend the Senior Leadership Team of the QPS (all 200 of them), who the Review Team Leader, Jane Vasey, and I met with last week, for their level of interest and engagement.

The 4-year timeline has allowed the Commission to invest in research and engage with relevant subject experts, including Professor Michelle Tuckey whose field covers the psychosocial aspects of work and addressing bullying as an organisational issue, about how best to introduce enduring and effective changes to improve diversity and inclusion.

To conclude, I will summarise some of the things we have learned so far.

### Lessons in achieving equity

Firstly, increasing diversity alone will not necessarily produce organisational benefits, such as, in the case of police, improved responses to domestic violence. Instead, diverse employees and their experiences must be effectively integrated into an organisation to achieve increased organisational performance.

Secondly, the architects of affirmative measures must anticipate, plan for, and harness the inevitable resistance and backlash. By acknowledging and systematically engaging in genuine discussion about quality, fairness, and transparency, resistors are left with little to undermine change.

Thirdly, a strong focus on creating an inclusive environment is needed before seeking to increase workforce diversity. Recruiting people from outside a dominant group without first ensuring inclusive organisational infrastructure is in place, is dangerous and risks the health and safety of recruits.

Fourthly, to cement organisational change, the measures must be attuned to the various organisational sub-systems that affect individual behaviour, including the formal arrangements, informal social patterns, workforce characteristics, and physical settings.

Fifthly, depending on your starting point, creating a diverse and inclusive environment requires the organisation to create a new way of being. As Frederick Miller and Judith Katz have noted, it may

involve new styles of leadership, mindsets engagement, problem solving and strategic planning. It requires new organizational structures, policies, practices, behaviours, values, goals and accountabilities – in short, a complete systemic culture change.

Finally, incorporating co-design into the methodology can accelerate inclusion and offers other benefits, such as distributing opportunities for leadership, utilising staff expertise, bringing together multiple perspectives, identifying needs, building relationships, and generating ownership of outcomes.

If we successfully prioritise inclusion, diversity might just take care of itself.

Thank you.