

Ethics, Diversity Management and Employment Relations.

12th Women, Management and Employment Relations Conference
Macquarie Graduate School of Management

Address by Commissioner Irene Moss AO,
NSW Independent Commission Against Corruption.

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Thank you to Professor Davis and Professor Pratt for the invitation to speak to you today.

I note that this is the twelfth Women, Management and Employment Relations Conference, and many of the themes and issues have no doubt remained consistent through out that time.

Are we seeing any change though? I was interested to see the story in last Friday's Financial Review about women in law and accountancy firms. Now the firms actually stick their head up above the barricade when it comes to reporting the number of women admitted as partners and senior associates. Each July, you see the ads in the Financial Review, with the head and shoulders shots of the new partners – literally, a good snapshot of promotions in the big firms.

According, to the Financial Review story, 53 percent of senior associates appointed this year were women, consistent with the intake of graduate lawyers where women make up about 55 percent. Yet, only 22% of the partners admitted were women. Naturally, you would hope that the current cohort of senior associates will be fairly represented in future

partnerships, but it was pleasing to see the recognition that this required careful attention and management from the firms. Family friendly hours, a better mix of work, above average salaries and support from senior management were all cited as elements of the new approach to keeping women in the firm, and assisting their progress.

Notwithstanding the progress made, it is very tempting for women in leading positions, or women in high powered positions, to forget or neglect the existence or level of barriers. I would have to say my memory was jogged back to reality by an experience I had the first week I took up my role as ICAC Commissioner. If you forgive my indulgence, it was an episode I would sooner forget but it illustrates, I think, what can happen when a woman aspires to very senior posts and essentially becomes a “tall” (or should I say “short”) poppy.

I do not want to enter into the issues themselves, and I want to clearly state that I accept the umpire’s decision – that is, the decision of Parliament. The issue itself as far as I am concerned has been put to bed. It related to my idea of wearing two hats, Commissioner of the ICAC and Ombudsman. I might emphasise I was not seeking two salaries.

The Sydney Morning Herald’s reporting was instructive. I was reported in the following way: “The Ambish Commish”; and on another occasion, “The woman who wanted two jobs”. At the time, putting aside the issue of whether or not I or my proposal deserved censure, I thought the manner of reporting illustrated a subtle sexism. I wonder if a man would have copped those same descriptions, it being more acceptable, if not an admirable trait, for a man to be ambitious or, if you like to put it more negatively, “grasping”. For a woman in this day and age, it seemed to be totally undesirable and unacceptable.

To a great extent, and I am no martyr, women still face those subtle attitudes of discrimination. The more tangible barriers may have been lifted in our society, but what effect are the intangible barriers?

In light of the nature of my work it may seem incongruous, at first, to ask the Commissioner of ICAC to speak to a forum on EEO, anti-discrimination, affirmative action and diversity. Unless, of course, I am seen as somehow representative of those ideas in practice.

In terms of its functions and powers, the ICAC shares many features with traditional law enforcement agencies. I am in charge of an organisation with powers to do such things as set up telephone intercepts, install listening devices, conduct covert surveillance, perform controlled operations, and obtain warrants for searches, seizures and arrests. As you can imagine, many of the Commission's officers performing these functions have law enforcement backgrounds where, to my knowledge, they've not had a woman at the top of the organisation before. So my appointment has provided both them and myself with new challenges, which I, at least, am relishing. What I would like to offer from my perspective today, that may be of relevance, relates to the value of ethics and diversity in addressing issues of inequality and discrimination.

In New South Wales we've had anti-discrimination legislation for over twenty years. At the Federal level we've had racial discrimination legislation for twenty-five years now, and the Sex Discrimination Act since 1984, and affirmative action legislation since 1986. Nevertheless, there is a feeling emerging that the pace of change has slowed, and that the gains expected from those legislative initiatives have yet to be fully realised.

So what's the problem? Is all this legislation adequate? Is it sufficient? I would say that legislation was and is necessary but not sufficient to bring about greater participation of women in the workforce, particularly at management and board levels.

I think the affirmative action reporting requirements indicate some of the problems in bringing about greater participation of women in the workforce, particularly at senior management. For those employers with a genuine commitment to non-discrimination and equal opportunity, affirmative action legislation is probably unnecessary. For those employers lacking such commitment, legislation is perhaps insufficient. Many of those

employers who fail year after year to report in accordance with the Act probably derive some perverse delight in being singled out. After all, I hear them musing, isn't any publicity good publicity? Won't this be good for a laugh with the other boys?

As you will be aware the Commonwealth affirmative action legislation has been changed to provide a focus on achieving "equal opportunity for women in the workforce". Will this make a difference? I don't know. But it certainly can't hurt to change the approach of the legislation for those people who when they hear "affirmative action" hear "quota" but don't hear "qualified". It also can't hurt to emphasise equality of opportunity to those people who fail to see that "equal opportunity" required "equalising of opportunity".

But we need more than legislation. For there to be long term gains, we can't simply rely on imposed solutions and enforced compliance. There has to be a genuine commitment to principles of equal opportunity and diversity. This can only come about with a change in attitudes, and an appreciation that there are real gains to come from putting these principles into practice. For those employers who find comfort in their settled ways we need to encourage responsible risk taking. We need to see more than lip service to legislation.

Now, it may seem unlikely that an oversight body is encouraging organisations to take risks. However, I want to put an end to the perception that oversight bodies stifle innovation and creativity.

Previously as Ombudsman, and now as Commissioner, I have had one message for public sector managers. These bodies are not given public money to do the jobs of public sector managers. Nor are we paid to get in the way of good practice. I cannot emphasise this enough. Oversight bodies are not given public money to frustrate and impede good public administration. We are given public money to ensure that public services are provided fairly, honestly, and efficiently.

There can be costs from excessive risk taking by public sector agencies. But we cannot afford to allow innovation, creativity, and energy to be stifled by agencies thinking that the safest course is to do what an oversight body would want.

There needs to be an element of risk taking when it comes to appointing women to senior management and boards. Justice Paddy Bergin was making this point in an article in the New South Wales Law Society Journal earlier this year¹. She noted that despite women making up 42% of the Australian workforce, we hold only three percent of the top management positions. This was in comparison to the United States where women held 11% of management positions of Fortune 500 companies.

She attributed the difference to American companies failing to implement affirmative action facing potential exclusion from government work, which I suppose would concentrate the mind quite wonderfully. However, it was also said to be the result of companies giving greater regard to management literature about the value of diversity and taking “more risks with ‘hirings going beyond the safe bounds of the boys’ network”.

Now we know that risk is not beyond the capability of corporate decision makers. After all, not long ago, venture capital was practically being given away to anyone with a dot com in their name, and a Powerpoint presentation in their laptop. While not all of the e-commerce ventures were successful, there are lessons to be learnt from them. One of these lessons was that it was possible to break the traditional management mould, and take a punt on ideas, innovation and energy; and that successful managers don't come pre-packaged and off a template. One hopes that these lessons will encourage greater diversity in hiring, promotion and staff development: that hiring and promoting women as senior managers is not so far fetched an idea after you've been handing out millions of dollars to kids with computers.

¹ P A Bergin. (2000) 38 (4) LSJ 56 “Of Glass Ceilings and doors: women on statutory boards” in Law Society Journal. May 2000.

New thinking in management relations has tried to build on this notion of responsible risk taking. The new buzz-word in management circles is “diversity management”, meaning greater integration of employees from diverse backgrounds into informal networks as well as formal corporate structures. This style of management offers benefits to employers and employees alike. Employees particularly benefit from access to networking and mentoring opportunities, which often mean the difference in accessing opportunities for promotion to senior management levels.

Diversity management also offer benefits because it reflects a genuine commitment to better management practice, rather than being simply imposed by legislation or compliance regimes. Business needs to be persuaded that diversity brings results. Fortunately, this is relatively easy to do.

Enhanced diversity is said to bring about benefits in skills acquisition, marketing, innovation, problem solving and system flexibility, because diversifying your workforce increases your access to different ideas, skills, and even markets.² Just to take one example out of the literature, one firm was said to have saved \$US 1.5 million in recruitment and training costs over 5 years by letting new mothers phase in their return to work. The saving was obtained through increasing the retention rate for skilled women from 20% to 80%. Other studies have shown greater investment returns in those companies given awards for managing diversity than those sued for discrimination.

I’ve talked on other occasions of the glass wall effect: where women in management seem to be permanently on display and highly visible. There’s an added pressure there: you just know that if you slip or make a mistake, your gender is going to be an issue, or make it an issue, in a way that would never happen with a male executive. Now there’s no use bemoaning this fact, but it is something we are going to have to confront and deal with. Good diversity management potentially addresses this by emphasising diversity over difference, and making those differences less distinctive. Diversity management

² The commentary on diversity management is drawn from Gilbert, Stead & Ivancevich (1999) “Diversity Management: A New Organizational Paradigm” in Journal of Business Ethics. Volume 21. No. 1. August 1999.

should result in a more supportive working environment, meaning an environment where mistakes can be made and learnt from without it being seen as a reflection on your gender.

Because diversity management is about flexibility; because it doesn't rely on rules and regulations, it needs to be informed by other principles. I would argue that ethics and values would be a useful place to start.

I have been in the public sector for over 20 years now. Starting as a Complaints Officer with the NSW Anti Discrimination Board, then Race Discrimination Commissioner with the Commonwealth Human Rights and Equal Opportunity Commission, then a magistrate – briefly – before being appointed Ombudsman, and now, ICAC Commissioner.

I was thinking about what connected these positions. These positions have all dealt with questions and disputes that when you boil them down, just become basic questions of right and wrong. Sure, we dress them up in the language of law and management. But when it comes right down to it, we have set up structures to deal with discrimination, maladministration and corruption because they involve wrong-doing.

And I also realised that they also involved looking at dysfunction in one way or another. More recently, it has involved looking at dysfunction within organisations, but overall, they've been trouble-shooting positions, dealing with grievances from those who have been let down or disadvantaged by the system. I'm not suggesting that these organisations were totally dysfunctional. Rather, evidence of discrimination, maladministration and corruption clearly indicates at least some dysfunction within organisations.

More often than not, most of these issues will or can be picked up by managers, and dealt with appropriately. As I have said, bodies such as the ICAC should not assume responsibility for managing the agencies they oversee.

However, there will be instances where we need to recommend changes in response to poor behaviour, practice or systems. To be able to have confidence in letting managers manage, particularly in dealing with corruption, we need to be confident that the organisation has a culture capable of allowing necessary change to occur. Managing this change for an organisation requires a culture that permits and encourages necessary reform. Such a culture requires a commitment to ethical conduct, and fairness and integrity.

How do you create a corporate environment that encourages innovation and risk taking without inviting trouble? I would argue that this is possible by establishing an ethical environment. An organisation that is prepared to take responsible risks in a transparent manner has little to fear. I also believe that an ethical environment can help to inform and underpin the management of employment relations. Ethics, values and integrity are the underpinnings of our work, and they have a lot to do with fairness in employment. After all, discrimination in selection and employment can hardly be considered ethical.

It is possible for an organisation such as the ICAC, which deals with integrity in the public sector, to see values and ethics as the be-all and end-all of management and administration. But as easy as it might be for us to overstate the significance, it is very easy for managers to understate and underplay the importance of an ethical environment.

I am also conscious of the fact that many of you are from the private sector, and might feel that ethics is one of those warm and fuzzy issues, applicable only to the public sector. Or that corruption is a problem for companies wanting to do business overseas. If I make one point today it's that ethics is relevant to your business, and good for your business.

The ICAC has a very limited role with respect to the private sector, and therefore, we don't do much research on private sector issues. Therefore, it is interesting to note the results of a recent KPMG survey of private and public sector agencies in Canada³. They

³ *KPMG Ethics Survey 2000: Managing for Ethical Practice*. KPMG Canada. 2000.

were asked what management issues had brought about significant problems, which was defined to include lawsuits, adverse media coverage and the like.

About one third of agencies said that they had these problems arising from fraud and theft, discrimination or sexual harassment.

About one quarter said conflicts of interest. Sixteen percent said they came about from breaches of information security. Twelve percent said they had problems from governance issues and privacy breaches.

Now, these results are interesting when you realise that less than ten percent had experienced problems arising from anti-competitive practices and around 5 percent had product safety issues. The issues that were giving these agencies the most grief were the ones that could be most easily addressed by looking at the ethics and values of the organisation.

Employment policy and practice is a useful litmus test for looking at issues of fairness and integrity. It is the one area that affects everyone in an organisation. When we look at corruption risks, these will often be related to the type of work you do, the level of decision making you're at, or the degree of discretion you have. However, when it comes to employment policy, everyone's affected. Recruitment, promotions, training and development, rewards and sanctions: these cut across the whole organisation and affect everyone. So if there is dysfunction in the management of employment relations, then this is going to have an impact throughout your organisation.

Research has shown that the ethical standards of an organisation impact upon the efficiency of that organisation, and the quality of work. They affect staff job satisfaction, staff commitment to the organisation, as well as turnover in, and levels of stress experienced by, staff. In short, the research findings support the argument that good ethics are good business.

The dynamics of the group that constitutes an agency's work force are important in relation to the ethical quality of decisions made within the organisation. In general, the prospects of an individual employee acting ethically in the work place are likely to be related more to aspects of the organisation, especially organisational culture, than to the attributes and standards of the given individual. A person who is generally ethical in their dealings with other people may nonetheless behave unethically in their work if their organisation has an unethical culture.

An unethical work force will tend to perpetuate itself as those with ethical standards that are in conflict with the standards of the organisation tend to leave the organisation. Conversely, an ethical work force will tend to cause those with unethical standards to leave and thus the good ethical standards of the organisation will be maintained.

Unethical practices result in loss of public confidence and tarnished reputations. According to research we did with New South Wales public sector managers, a reputation for dishonesty (which is frequently associated with a reputation for inefficiency) long outlives the unethical practices that gave rise to such reputation.

Research also suggests that a poor ethical culture in an organisation can contribute to stressed employees. The features of a poor ethical work place culture that create stress include an environment in which distrust is prevalent; appointments, promotions and rewards are not based on merit; and management and communication is poor.

On the other hand, research and our own investigative and corruption prevention work demonstrate that an ethical culture tends to produce an enhanced reputation, higher morale, less staff turnover, and reduced stress.

In a way, an organisational culture that does not encourage ethics and integrity creates its own form of discrimination, where people who do not share the values of the culture are either shut out of career opportunities and professional development, or simply leave the organisation. The culture then becomes reinforced, entrenched and self perpetuating.

Our work and research shows that the ethical tone of an impacts upon efficiency and effectiveness, appropriate decision making, employee commitment and retention of valuable staff. All of these factors, if favourable, are likely to produce a satisfactory “bottom line”.

Recruitment and employment relations is one of the areas where you can have the widest impact both across the organisation, and with the people who express interest in employment. It is here that your organisational culture is on show to the whole organisation and to many beyond it. It’s a perfect opportunity to practice what is being preached, and ensures that not only the right person gets the right job, but that the right rewards go to the right people.

Honesty, integrity and probity are all products and manifestations of an ethical culture in a department or agency. Ethical values also inform and underpin diversity management, which requires fairness and transparency to be successful. These shifts in culture require organisations to change, which is not always easy. However, in combination, ethics and diversity management are good business and good for business. I hope that together they will significantly advance our efforts towards equity and equal opportunity.