

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005**

---

**Submitter:** Virginia Jay

**Organisation:** Victorian Women Lawyers

**Address:** c/- Minter Ellison Lawyers, 525 Collins Street, VIC 3000

**Phone:** 8608 2045 (w)

**Fax:** 8608 1047

**Email:** [virginia.jay@minterellison.com](mailto:virginia.jay@minterellison.com)

---

## **Victorian Women Lawyers**

Victorian Women Lawyers ('VWL') is an association formed in 1996 as an initiative of female solicitors in Victoria and has over 430 members. Its objectives include the advancement of women in the legal profession, promoting law reform and understanding and supporting women's legal and human rights. It also operates as a network for information exchange, social interaction and continuing education and reform within the legal profession and the broader community.

### **Summary of the submission**

It is considered that the effect of the *Higher Education Support Amendment (Abolition of Compulsory Up-front Student Fees) Bill 2005* (the 'Bill') in prohibiting universities from levying non-academic services and amenities fees from students ('NASAF') will have a deleterious impact on the provision of services to students in Australian universities. It is also considered that the Bill will adversely affect student representation and participation in decision-making processes on matters which directly affect students. It is submitted that these detrimental effects will have a disproportionately adverse impact on women as a sub-group within the university community. This is because, similar to other sub-groups in the university community, there are various issues of particular significance for female students for which specific services and focussed representation is required, and which are unlikely to continue to be provided if the Bill is passed.

The current ability of universities to levy NASAF from students to fund services for the benefit of students is crucial to the ongoing provision of those services. The nature of most services funded by NASAF as rights advisory and not-for-profit mean that the commercial imperative is absent. It is therefore unrealistic to assume that free-market forces will result in adequate provision of services. Further, many services are subsidised where specific needs are identified (for example, representation of students in discipline hearings) in order that they may be offered on a lower than commercial cost basis. The proposition that competitive market forces will lead to more efficient provision of services to students on a user-pays basis fails to recognise the non cost recovery welfare basis underpinning the majority of services likely to suffer most as a result of the Bill. The economic premise on which the Bill is based paints an inaccurate picture of customers consuming services on a pick and choose basis rather than students availing themselves of support and representation.

Where the relevant services are, for the most part, rights-based and/or are without profit motive, the levying of NASAF from each member of the university student community to fund services for the benefit of all members of the community who do use or may potentially use a service, rests squarely on the principles of equitable access and support for all members of the community. That is, as equal members of the student community each student contributes to and enjoys the benefits of an egalitarian, socially inclusive community. Without cross-subsidisation of various services utilised predominantly by women (such as child care and sexual assault services) women, and particularly women in more vulnerable circumstances such as single mothers, will be subject to disadvantage in accessing the benefits of higher education. The same argument applies to services specific to other sub-groups such as disabled students, international students and students of varying sexual orientation.

It is not submitted that students should be compelled to join student organisations: it is understood from the submission of the Australian Vice Chancellors' Committee to the Senate inquiry into a similar bill in 1999 that all member universities provide students with a choice of

whether or not to belong to any of their student organisations.<sup>1</sup> However, it is submitted that a comprehensive range of services should be available to all students and that students should be represented in decision-making forums within universities on matters affecting them. It is further submitted that students acting collectively through organised independent democratic associations are best placed to make key decisions in these regards. That is not to say that student organisations should not be required to account for their expenditure and, where necessary, demonstrate that a particular item is of direct benefit for students in their capacity as students.

Consequently, VWL opposes the Bill in its present form and submits that it should be amended to reflect the relevant provisions in the *Tertiary Education Act 1993* (Vic) whereby Victorian universities may levy NASAF; where student services and representation are funded by NASAF and are provided predominantly via independent student organisations which are required to account for their expenditure; where membership of the student organisation is optional; and where all students have equal access to services offered by the student organisation on campus and benefit equally from representation of their interests in decision-making processes within the university by elected student representatives.

### **Structure of submission**

In recognition of the Committee's terms of reference, the submission will examine the likely effects of the Bill on the provision of student services with a focus on the impact on services which are particularly relevant to the experience of women in higher education. It will examine the likely effects of the Bill on student representation and participation in decision-making forums and processes within universities, and the significance of this on policy development and administrative processes in areas of particular significance to women. In analysing the likely effects of the Bill, reference will be made to the experience in Western Australia and Victoria following the introduction of legislation which restricted the ability of universities to levy non-academic fees.

### **Effect of the Bill on provision of student services**

Due to the special nature of the majority of services offered by student organisations which are subsidised either in full or part by NASAF, most student advisory services are likely to be dramatically reduced or to cease altogether if the Bill is passed in its present form. These include rights advisory services on legal matters, welfare advice, housing and accommodation assistance, job placement and career advice services, advice on timetable and teaching matters, administrative issues, assessment appeals and grievances, psychological counselling, financial counselling and emergency student loans. Low-cost medical and dental services, second-hand bookshops and low cost stationary stores are also likely to be drastically affected.

Of particular concern to female students, is the likely reduction in funding to services offering advice on matters of specific relevance to women such as unplanned pregnancy, contraception, eating disorders, sexual assault, sexual harassment and gender-based discrimination. Further, funding to women-specific student representative bodies is likely to be drastically reduced as occurred in Western Australia in 1996 (following the enactment in 1994 of legislation similar to the Bill, and after the withdrawal of funding from the Commonwealth government in 1996 which had operated to neutralise the effect of the legislation) at Murdoch University and University of Western Australia, or completely abolished as occurred at Curtin University around the same

---

<sup>1</sup> Submission No. 89 to the Senate Employment, Workplace Relations, Small Business and Education Committee Inquiry into the *Higher Education Legislation Amendment Bill 1999*, Australian Vice Chancellors' Committee, p 5, cited in the Minority Report by Opposition Members of the Committee at [1.6]

time.<sup>2</sup> These women-specific representative bodies provide and maintain women-only spaces on campus, produce resources in the form of handbooks and support service referral guides on matters of particular concern to women, foster social and communication networks for women and conduct campaigns to raise awareness and/or secure additional funding in relation to issues of significance to women, for example, securing additional funding to provide women's self-defence courses and increasing security measures on campus after dark. Funding for the provision and maintenance of parenting rooms where parents, most commonly mothers, can change nappies, heat up bottles and nurse their children is also likely to be reduced as occurred in Western Australia where, by 1999, Edith Cowan University ceased providing a parenting room and a women's room and Curtin University ceased providing a women's room.<sup>3</sup>

An extremely important issue for female students given the statistical over-representation of women as primary care givers and sole parents is the likely reduction in subsidisation of on-campus child care services. At the University of Melbourne, child care services receive \$200,000 funding per annum from NASAF levied by the university. At Monash University, the Monash Student Association child care centre offers subsidised childcare places to 42 student families and receives \$100,000 per annum sourced out of NASAF, which centre will close down if it does not continue to receive that amount. At Deakin University, funding is provided to maintain places for children of students at the on-campus commercial child care centre for the duration of the 13 week break between November and February. If this funding is reduced as a result of the Bill being passed many of the children in respect of whom the funding is received, will lose their place at the centre. The Deputy Director of the Centre indicated that while this is not a problem for the centre as it can attract full fee paying commercial clients, it poses a significant issue for student parents, many of whom chose to study at Deakin University because of the availability of reduced cost, on-campus child care. Because women as a group are shown to be more debt averse, this negative impact on the availability of affordable on-campus child care may act to deter low income women (in particular single mothers) from undertaking higher education studies.<sup>4</sup>

The Bill is also likely to adversely affect women's social inclusion in the university community in their ability to access lower-cost subsidised clubs and activities, short courses and orientation and induction activities and services. The adverse effect of the reduction in these services is likely to be worse for women from economically disadvantaged backgrounds whose connection to university life is already likely to be compromised by the necessity to take on one or more jobs to fund their studies. Similarly, the absence of such services and through them the opportunity to connect with others is likely to have an alienating effect on women from minority racial groups in their integration into campus student life.

### **Effect of the bill on student representation and participation in decision-making**

Representation of women's interests in decision-making forums within universities have historically been, and continue to be, essential in highlighting systemic issues and inequalities pertaining to women in the higher education sector and in encouraging policy development in areas relevant to female students. A pertinent example of this is the presence of a female undergraduate student representative and a female postgraduate student representative from the Melbourne University Student Union and Postgraduate Association on the Child Care Advisory

---

<sup>2</sup> 'Women's rights are not voluntary!' National Union of Students Publication, 22 April 2005. Note that Curtin University Student Guild re-established its Women's Department in 2003.

<sup>3</sup> Hastings G 'VSU Legislation Experiences in WA, Victoria and Federally' NUS Research Paper, 2004

<sup>4</sup> Callender C 'Attitudes to Debt' commissioned by Universities UK and the Higher Education Funding Council for England, Centre for Higher Education, Research and Information – Open University, 2003. The report stated at p 2 that 'Prospective students with tolerant attitudes towards debt were one and a quarter times more likely to go to university than those who were debt averse, all other things being equal'. At p 3 the report included single parents and women in the list of five most debt averse groups within society.

Committee which provides advice and makes recommendations to the University Council on policy matters relating to child care at the university.

Another area requiring focussed representation and advocacy to promote women's interests is the continued under-representation of women in the traditionally male-dominated areas of engineering, science and technology at both undergraduate and postgraduate level. In 2002, 26 per cent of information technology students and 20 per cent of engineering and related technology students in undergraduate courses nationally were women.<sup>5</sup> In a 2003 report commissioned by the University of Melbourne Postgraduate Association into female postgraduate students in male-dominated areas, it was concluded that these women 'still experience considerable harassment and discrimination and are not accessing services for assistance ... Students seem reluctant to approach sexual harassment and discrimination advisers for help. There is a fear that to do so will result in victimisation and backlash'. The report recommended running targeted information sessions on sexual harassment and discrimination issues in male-dominated departments, further expanding career mentoring schemes for women in male-dominated areas, academic supervisor training dealing with gender specific issues and implementing student representatives as contact people in male-dominated areas in relation to equal opportunity issues.<sup>6</sup>

Students' ability to participate fully in decision-making processes of the university in terms of contributing input which is the result of strategic processes to identify and understand what are the issues affecting students, is vitally enhanced where students' contribution is made through an organised and cohesive student representative organisation. That funding is required to maintain an effective autonomous and independent student organisation and the benefit of that in representing students' interests was recognised by the Australian Competition and Consumer Commission in its decision to permit James Cook University to require students to pay a fee to fund student services and representation provided via the campus student association.<sup>7</sup>

The likely diminution of students' participation and representation in decision-making forums is likely to have flow-on effects in terms of reducing political debate and activity within universities, in circumstances where universities have historically fostered and encouraged political expression (on all sides of the political spectrum) by young people (particularly so in the case of law students) on matters of social import. The value of active social debate and discourse within universities was commented on by the former Chief Justice, Sir Gerard Brennan where he expressed the view in relation to the similar bill in 1999 that it would 'emasculate the liberality of university education and quell the dissent that has been so often and so usefully a burr under the saddle of authority'.<sup>8</sup>

## **Recommendation**

VWL opposes the Bill in its present form. It urges the Government to adopt a more moderate stance similar to that currently in place in Victoria pursuant the *Tertiary Education Act 1993* (Vic). Under that Act, compulsory membership of an organisation of students is prohibited

---

<sup>5</sup> 'Students 2002: Selected Higher Education Statistics' Commonwealth of Australia 2002: Table 21 'All students by level of course, broad field of education and gender' DEST excerpted in Carrington K, Pratt A 'How far have we come? Gender disparities in the Australian Higher Education System', Australian Government Current Issues Brief No. 31 2002-03, Social Policy Group, 16 June 2003

<sup>6</sup> Pham H 'Postgraduate women studying in male dominated areas: exploratory survey and interviews report' UMPA 2003

<sup>7</sup> 'ACCC allows JCU to continue enrolment policy' Australian Competition and Consumer Commission News Release, ACCC website, 30 April 2003

<sup>8</sup> Sir Gerard Brennan, 'Vitality under threat' *The Australian*, 24 March 1999 quoted in the Minority Report by Opposition Members of the Senate Employment, Workplace Relations, Small Business and Education Committee Inquiry into the *Higher Education Legislation Amendment Bill 1999* at [1.13]

however universities may levy NASAF on the condition that the monies are spent on providing facilities, services or activities of direct benefit to students at the university.<sup>9</sup> The interpretation of what a university regards as a 'facility, service or activity of direct benefit to students' has been left to individual universities to decide in conjunction with student representative organisations. That universities and students themselves are best placed to decide how to provide essential services for students is self-evident.

VWL supports the requirement in place in Victoria on student organisations to account to their university as a condition of accessing funds from NASAF levied by the university.<sup>10</sup> This, along with the democratic election process in which all students may participate, operates to ensure accountability of expenditure of funds by those organisations. In this way students are not required to be a member of the student organisation on campus if that is something to which they object, but they continue to receive the benefit of a broad range of services and representation of their interests in matters affecting them. If the Bill is passed in its present form, and unless universities are able to replace from their existing budget the funds lost as a result of the prohibition on levying NASAF, it is anticipated that many services of particular significance to women and other sub-groups within the university community will disappear. Representation of students' interests in matters affecting them in university life is also likely to be negatively impacted upon. It is submitted that the Bill in its present form will lead to a significant downgrading of the social, cultural and physical infrastructure of university communities and adversely impact on students' engagement and integration in campus life.

## **Victorian Women Lawyers**

---

<sup>9</sup> Section 12F (1)

<sup>10</sup> Section 12F (2)