

# Championing women and putting the I in IR

BY LAURA MACINTYRE

LEADING INDUSTRIAL relations lawyers turned their minds to the issues facing women seeking advancement in the profession at a seminar hosted by Clayton Utz and the Women Lawyers Association of New South Wales on Thursday 28 August.

The hypothetical discussion “Help! My Daughter wants to be a Workplace Relations Lawyer!” was hosted by Clayton Utz Senior Associate Join Millen Lo, and raised some troubling questions about the experiences of women in the profession.

Two key themes arose from the discussion: the first is the ongoing challenge of integrating flexible work practices into the traditional law firm structure, particularly for females with family caring responsibilities.

The second half of the discussion raised the controversial issue of inherent gender bias in terms of the allocation of files between male and female lawyers practising in industrial relations.

Panellists included Kate Eastman, Barrister, St James Hall Chambers, Kylie Nomchong, Barrister, Denham Chambers, and Tony Farley, Executive Director, Catholic Commission for Employment Relations. The three panellists applied their adversarial legal minds to the problem, before reverting to a pragmatic and non-legalistic analysis of each of the issues raised.

The first hypothetical outlined circumstances where senior female lawyer “Jenny” has been sidelined on a major client transaction following a period of maternity leave and a request to take up part-time working hours.

The first panellist to respond, Eastman, cautioned her client, Jenny, to think carefully before pursuing such an action against a large law firm, particularly in relation to the time, cost and her professional reputation.

Eastman outlined a convincing argument for her hypothetical client, but in question time admitted that she would personally advise her client to think carefully about taking such a non-flexible approach to her demands for a two-day working week. She warned that this approach could leave her in an unsatisfactory situation if she later sought to change the arrangement, and could result in her working more hours to maintain her position with the client without financial reward.

Barrister Kylie Nomchong highlighted the longevity of a legal career as a counterpoint to the expectations of rapid career advancement by the current generation of lawyers.

“What is the urgency of this particular matter that you are prepared to turn your life into a whirling dervish so that you can work two days a week?

“Is this part of work so important that it is going to make your personal life very difficult?” Nomchong asked her hypothetical client.



“You don’t have to achieve everything in your first three years of practice. This is a woman on the move, you’ve probably got another 45 years in practice and another 45 projects she can work on in that time.”

Farley was appointed the devil’s advocate for the evening, emphasising the paramount interests of clients and describing the interests of clients and employees as competing obligations.

In his own management experience, Farley said, lawyers were no longer “bound to the office” due to the flexibility offered by the internet and portable communications devices.

He reported that five lawyers at the Catholic Commission for Employment Relations had recently returned from maternity leave – with one female lawyer arranging a one-day-a-week working agreement. He said this was a workable solution given the emphasis on family at the commission, but that such an arrangement could only work in consultation with the client, with ongoing management of the arrangement and appropriate back-up and monitoring by employers.

Towards the end of the discussion, Eastman raised the spectre of “pink” and “blue” files, suggesting that promotions based on merit may be affected by the unequal distribution of files between young female and male lawyers. This raised the ire of several of the young female lawyers in attendance, and it was evident that this issue continues to hit a nerve among both female and male lawyers practising in corporate firms.

*Flexible work practices are discussed further in this week’s opinion piece by Christine Melis, Victorian Women Lawyers Convenor on page 16.*