



24 November 2021

**Submission to the Consultation on Review of the Workplace Gender Equality Act 2012**

**From: The Australian Work + Family Policy Roundtable**

WGEA Review – Consultations  
Department of the Prime Minister and Cabinet  
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**The Work and Family Policy Roundtable (W+PR) is pleased to make a brief submission to the Consultation on the Review of the Workplace Gender Equality Act 2012.**

The W+PR is a network of 32 academics from 18 universities and research institutions with expertise on work, care and family policy. Its goal is to propose, comment upon, collect and disseminate research to inform good evidence-based public policy in Australia. Our membership and the policy principles that inform our work are set out in Appendix 1 to this submission. Gender equality including pay equity is a key Roundtable principle.

Our submission to the Consultation on Review of the Workplace Gender Equality Act 2012 is concerned with a number of key issues including data gathered from employers, the infrastructure to ensure progressive improvements towards gender equality against *all* gender equality indicators, an effective compliance regime and an extended scope of the Act. The rationale for our recommendations is briefly set out below.

**1. Data**

One major concern is the urgent and enhanced need for the collection of high-quality gender disaggregated data on key measures that will support workplace gender equality in Australia. As we noted in our December 2020 [Work + Care in a Gender Inclusive Recovery: A Bold Policy Agenda for a New Social Contract](#), and our [2019 Work, Care and Family Policy Election Benchmarks](#), up-to-date comprehensive intersectional data is essential for the development of an integrated and research-informed approach to building workplace gender equality for all. Data on the design and implementation of policies that support work-care reconciliation and the location of those accessing

such policies in the organisation is particularly critical. Research shows that gender equality is significantly enhanced by policies that treat all employees as ‘worker-carers’ (not just women) and deliver adequate paid time and support (Heilman 2017; Pocock and Charlesworth 2017). The gendered impact of the COVID-19 crisis on work and family care provides a stark reminder about the critical need for enhanced public and private investment in social care infrastructure and its role in driving workplace gender equality.

The W+FPR shares the concern expressed by the National Foundation of Australian Women about proposals in the WGEA submission to this review to remove legislative requirements for employers to provide specified workplace numbers. A case can be made for employers *also* providing employment profiles that reflect the way in which roles are organised in a particular workplace/industry. However providing specific numbers against the ANZSCO classifications for *all* employees including casual and part-time workers is crucial in understanding where action should be taken towards improvements against specific gender equality indicators.

In particular, while the focus of the Agency has been on reporting on gender representation in senior leadership, it is also important to analyse and report on the over representation of women in more junior positions and in ‘non-standard’ employment, such as those on casual and part-time contracts. Such data would provide some evidence to focus on progression and career advancement for women in these positions – action that is crucial to addressing gender equality more generally and the gender pay gap in particular.

## **2. Gender equality indicators and compliance**

Longstanding aspects of Australia’s gender equality reporting scheme (including the scope of its coverage and transparency of reported data) require review, as do the adequacy of changes introduced in 2012, when the requirement to report to the Workplace Gender Equality Agency (WGEA) against six detailed Gender Equality Indicators was established. However, what constitute specific minimum standards for these indicators are not set out in the Act but are determined by the relevant Minister. Currently rather than requirements to meet minimum standards across all gender equality areas, under the Act employers can choose the standards against which they report (Charlesworth & Macdonald 2015). Under the Victorian *Gender Equality Act 2020* employers are required to report against all 7 gender equality indicators.

We support the view of WGEA put in their submission to this review that all employers covered by the Act should have a policy and/or strategy in place to support each of the Gender Equality Indicators covered in the minimum standards and that all employers must be required to meet minimum standards for each of the Indicators. We support WGEA’s submission that the Agency should be funded to work with employers and progress minimum standards. We do not support the view that employers should be able to choose their own targets. This approach has not proven effective (Macdonald & Charlesworth 2018).

It is hardly surprising that Australia, along with the UK, was recently ranked lowest among six countries (Australia, France, South Africa, Spain, Sweden, UK) in a comparative analysis of gender pay gap reporting (GIWL, 2021). Australia’s low score reflected, among other factors, the absence of mandated action plans, lack of intersectional elements in reporting, and an overall low level of ambition (GIWL, 2021: 8).

A separate report for Australia (Glennie et al, 2021) underlined the limited requirements under Australian legislation to act to address gender pay gaps and to provide transparent data at an organisational level. It recommended the publication of organisational level gender pay gaps, the adoption of outcomes-focused minimum standards and the exclusion of non-compliant

organisations from government procurement, contracting and financial assistance (Glennie et al, 2021: 38-41).

The Work+Family Policy Roundtable supports these recommendations and argues for a fit-for-purpose compliance regime that will drive progress towards gender equality. The compliance action available to the Commissioner for Gender Equality in Victoria under the Victorian Gender Equality Act provides a useful template for such compliance to ensure that the entities covered by the Act meet their obligations. Details of the progressive compliance action the Commissioner can take are set out here: <https://www.genderequalitycommission.vic.gov.au/compliance-gender-equality-act-2020>

### **3. *Extend the scope of the Act to additional employers and employees***

A strong national workplace gender equality reporting system needs to include as many employers as possible. The Consultation paper estimates that the Act currently covers around 40% of Australian employees (Australian Government, Department of Prime Minister and Cabinet, 2021: 5). Since the establishment of the reporting regime under the Equal Opportunity for Women in the Workplace Act 1986, coverage has been limited to non-public sector employers with 100 or more employees. However the Respect@Work National Report (Australian Human Rights Commission [AHRC], 2020) has recommended that the Act be amended to include all public sector organisations under the reporting regime and that these expanded reporting obligations be supported with additional funding for WGEA (AHRC, 2020: Recommendation 43). The Australian Government has indicated that it will respond to this recommendation (Australian Government, Attorney General's Department, 2021: 17). However, even if the Australian government enacts this recommendation, this will not overcome the problem of the exclusion of state and territory public sector organisations or address the size threshold.

A more inclusive approach would not only bring a higher proportion of employees under arrangements where gender equality is monitored. Doing so would also contribute greatly to the capacity to understand, analyse and track gender pay inequality over time. The current limitation to non-public sector employers with 100 or more employees produces a non-representative dataset that provides only a partial understanding and estimates of gender equality. Although it would not be practically feasible to be fully inclusive of all employers, a lower employer size threshold (such as employers with 50 or more employees as under the Victorian Gender Equality Act) and encouragement of state and territory governments to engage with the scheme would significantly increase benefits to employees and the utility of the data collected. Extending the scope of the Act to include organisations that deliver public services on behalf of government would also be valuable.

### **4. *Conclusion***

While it is important to extend the scope of mandatory reporting, we note that the organisation focus of the WGEA legislation forms only one component of a regulatory system that will address gender equality, including pay equity. Comprehensive industry and sector regulation, through the Fair Work Act 2009, is also required to systematically advance and monitor gender equality, through wage setting and employment standards that address job security, decent work, and gendered inequalities in the sharing of work and care. Within the Fair Work Act, the objective of equal remuneration requires support through legislative measures capable of addressing gendered inequalities in the valuation of work in federal awards and enterprise agreements.

In addition to our recommendations, the Work + Family Policy Roundtable also endorses the recommendations made in the submission by the National Federation of Australian Women.

We commend this submission to the Committee on behalf of Roundtable members and would be happy to provide further evidence or respond to queries as required.



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## References

- Australian Government, Attorney General's Department (2021) *A Roadmap for Respect: Preventing and Addressing Sexual Harassment in Australian Workplaces*. Available at: <https://www.ag.gov.au/rights-and-protections/publications/roadmap-for-respect>
- Australian Government, Department of Prime Minister and Cabinet (2021) *Review of the Workplace Gender Equality Act 2012: Consultation paper, October 2021*. Available at: <https://www.pmc.gov.au/workplace-gender-equality-review-consultation>
- Australian Human Rights Commission (AHRC) (2020) *Respect@Work: Sexual Harassment National Inquiry Report*. Australian Human Rights Commission, Sydney. Available at: <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020>
- Charlesworth, S. and Macdonald, F. (2015) Australia's gender pay equity legislation: how new, how different, what prospects?. *Cambridge Journal of Economics*, 39(2), 421-440.
- Glennie, M., von Reibnitz, A., William, J., Curtis, S. and Bordia, S. (2021) *Gender pay gap reporting in Australia: time for an upgrade*. The Australian National University, Canberra.
- Global Institute for Women's Leadership (GIWL) (2021) *Bridging the gap? An analysis of gender pay gap reporting in six countries*. King's College London, UK; The Australian National University, Canberra.
- Heilman, B., Levton, R., van der Gaag, N., Hassink, A. and Barker, G. (2017) *State of the World's Fathers: Time for Action*. Washington, DC: Promundo, Sonke Gender Justice, Save the Children, and MenEngage Alliance.
- Macdonald, F., & Charlesworth, S. (2018). Failing to live up to the promise: The politics of equal pay in 'new' workplace and industrial relations institutions. *Australian Journal of Political Science*, 53(4), 446-462.
- Pocock, B., and Charlesworth, S. (2017). Multilevel work–family interventions: Creating good-quality employment over the life course. *Work and Occupations*, 44(1), 23-46.

## Appendix 1

### Australian Work + Family Policy Roundtable Members

- Dr Elizabeth Adamson, UNSW
- Prof Siobhan Austen, Curtin University
- Prof Marian Baird, University of Sydney
- Dr Dina Bowman, Brotherhood of St Laurence / University of Melbourne
- Adjunct Dr Michelle Brady, University of Melbourne
- Associate Professor Wendy Boyd, Southern Cross University
- Emeritus Prof Deborah Brennan, UNSW
- Emeritus Prof Bettina Cass, University of NSW
- Prof Sara Charlesworth, RMIT (co-convenor)
- Prof Kay Cook, Swinburne University
- Dr Amanda Cooklin, La Trobe University
- Prof Rae Cooper, The University of Sydney
- A/Prof Natasha Cortis, UNSW
- Adjunct Prof Eva Cox, Jumbunna Indigenous House of Learning (UTS)
- Prof Lyn Craig, University of Melbourne
- A/Prof Marianne Fenech, University of Sydney
- Emeritus Prof Suzanne Franzway, University of South Australia
- Prof Beth Goldblatt, UTS
- A/Prof Myra Hamilton, University of Sydney
- Alexandra Heron, University of Sydney
- A/Prof Elizabeth Hill, University of Sydney (co-convenor)
- Professor Therese Jefferson, Curtin University
- Dr Fiona Macdonald, RMIT
- Prof Paula McDonald, Queensland University of Technology
- Dr Jill Murray, University of Melbourne
- Prof Alison Preston, University of Western Australia
- A/Prof Leah Ruppner, University of Melbourne
- A/Prof Belinda Smith, University of Sydney
- A/Prof Meg Smith, Western Sydney University
- Prof Miranda Stewart, University of Melbourne
- Prof Lyndall Strazdins, Australian National University
- Emeritus Prof Gillian Whitehouse, University of Queensland

## **W+FPR Policy Principles**

The aim of the Australian Work + Family Policy Roundtable is to propose, comment upon, collect and disseminate relevant policy research in order to inform good, evidence-based public policy in Australia.

The Roundtable believes work, care and family policy proposals should be guided by sound policy principles which:

- Recognise that good management of the work-life interface is a key characteristic of good labour law and social policy;
- Adopt a life-cycle approach to facilitating effective work-family interaction;
- Support both women and men to be paid workers and to share unpaid work and care;
- Protect the well-being of children, people with disabilities and frail older people who require care;
- Promote social justice and the fair distribution of social risk;
- Ensure gender equality, including pay equity;
- Treat individuals fairly, regardless of their household circumstances;
- Ensure sustainable workplaces and workers (e.g. through 'do-able', quality jobs and appropriate staffing levels);
- Ensure predictable hours, earnings and job security;
- Ensure flexible working rights are available in practice, not just in policy, to all workers through effective regulation, education and enforcement;
- Facilitate employee voice and influence over work arrangements;
- Recognise and support the ongoing need for income support where earnings capacities are limited by care responsibilities or other social contributions;
- Recognise the particular cultural and social needs of groups who have been excluded and discriminated against, such as Indigenous peoples and newly arrived migrants and refugees, who may require diverse responses to participate effectively; and
- Adopt policy and action based on rigorous, independent evidence.

Informed by these principles, the W+FPR will advance public debate and policy initiatives that promote a secure and living wage for workers; reasonable work hours and working time; appropriate and adequate leave provisions; quality care services; a fair tax and benefits regime and other measures that assist workers and carers to better combine these two spheres of essential human activity.