



# Review of the Workplace Gender Equality Act 2012

## Submission - [REDACTED]

To  
WGEA Review Team – Consultation  
Department of the Prime Minister and Cabinet  
PO Box 6500  
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From

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In response to the consultation questions [REDACTED] has responded and we thank you for the opportunity to contribute the Review of the Workplace *Gender Equality Act 2012* (the Workplace Gender Equality Act).

Yours Sincerely

[REDACTED]  
[REDACTED]  
[REDACTED]

OFFICIAL

## WGEA Review consultation questions – at a glance

1. Are the functions and powers of WGEA appropriate for promoting and improving gender equality in the workplace? How effective is WGEA in achieving its functions to promote and improve gender equality in the workplace including by enabling relevant employers to report on the gender equality indicators, developing benchmarks and reports, undertaking research, education, and leading practice programs, and contributing to the public discussion on gender equality?
2. What is your experience of what works to improve gender equality in your workplace? How do you currently engage with WGEA and use the reporting process and their resources to improve gender equality? What changes, if any, would you like to see in the areas of future focus for WGEA to further promote and improve gender equality over the next ten years?
3. Should the coverage of the Workplace Gender Equality Act be further changed? Specifically, should the definition of ‘relevant employer’ be expanded? If so, would additional considerations need to be factored in for new reporting employers?
4. Are the gender equality indicators (GEIs) in the Workplace Gender Equality Act, and the data collected with respect to the GEIs, appropriate to promote and improve gender equality? How could they be improved?
5. In addition to gender, should WGEA collect other data on diversity and inclusion criteria on a mandatory basis, to enable a more nuanced analysis of men and women’s experiences in the workplace? If yes, please specify criteria (e.g., cultural, and linguistic diversity, disability, age, location of primary workplace). If not, why not?
6. How could data be better collected and/or used by WGEA to promote and improve gender equality? Should there be some form of pay transparency – should remuneration data in some form be public?
7. Are there changes that could be made to the Workplace Gender Equality Act that would help reduce the regulatory burden on relevant employers while continuing to enable WGEA to promote and improve gender equality? Should other data sources, such as Single Touch Payroll data, be used by WGEA instead of employers providing the same data to two Government agencies?
8. Could the minimum standards be expanded to improve the way they drive practical gender equality outcomes in workplaces? What would employers need to do to implement these changes in their workplace? Should Minimum Standards apply to all reporting employers, not just those with 500 or more employees?
9. Are the compliance mechanisms in the Workplace Gender Equality Act, and consequences for non-compliance, effective to promote and improve gender equality? If not, how could they be improved?
10. Are there any other matters you want to comment on in relation to the Workplace Gender Equality Act and improving and promoting gender equality in the workplace in Australia?

### Consultation question

1. Are the functions and powers of WGEA appropriate for promoting and improving gender equality in the workplace? How effective is WGEA in achieving its functions to promote and improve gender equality in the workplace including by enabling relevant employers to report on the gender equality indicators, developing benchmarks and reports, undertaking research, education, and leading practice programs, and contributing to the public discussion on gender equality?

### Response

- The intent to promote and improve gender equality in workplaces through a varying range of different channels is unquestionably required if equity for women is to be achieved. It needs to be a core value of society.
- The function and power of WGEA needs to shift on the maturity model as many employers have now been contributing and have maintained compliance through the information, frameworks, knowledge sharing that compliance reporting has established.
- For those employers that have been active contributors on a continuous basis the ongoing reporting adds little value and is a routine, onerous compliance exercise. However, they must complete the report, otherwise they are at risk of being cited as non-compliant, which would result in them experiencing reputational risk even though that may contrast what progress they are making.
- Ministerial reporting enables macro level understanding. Compliance reporting can have a divergent effect unless there are actionable outcomes to remove and overcome the existing barriers
- Rather than publishing names of non-compliant businesses, hold them to account. Work more closely with those that are non-compliant and direct them to have actional plans to deliver. Should they not achieve then consideration should be given to impose financial penalties that will greater impact. Occupational Health & Safety have financial penalties for non-complying employers, gender equity needs to have the same approach.
- Consider extending the reporting period or reducing the data collection to lessen the burden on employers that are achieving within an acceptable range.
- Consider other ways to leverage the powers of WGEA to help make societal change. Everyday sexism is a social issue that exists beyond workplaces. WGEA should partner with other agencies and change agents to tackle sexism, discrimination, and abuse; raise awareness, and set stricter guidelines and penalties for advertising and media as an example. Another consideration would be to partner with the construction industry to drive much needed changes in culture and practices to retain and attract capable women.

### Consultation question

2. What is your experience of what works to improve gender equality in your workplace? How do you currently engage with WGEA and use the reporting process and their resources to improve gender equality? What changes, if any, would you like to see in the areas of future focus for WGEA to further promote and improve gender equality over the next ten years?

### Response

- Measures and metrics are necessary to identify and track progress, it holds senior leadership to account for what is happening in their business and the industries they work within.
- Important to conduct annual gender pay reviews, interrogate to understand if there are any areas of the business that experience barriers, understand what they are and enact solutions to remove those barriers
- Using talent and succession planning to identify future leaders and work on engagement and retention

- Education sessions and sharing real-life experiences and stories. Giving voice to those that experience inequality are powerful mechanisms.
- Developing leaders and holding them to account. Having uncomfortable conversations and consequences for not making equitable decisions with remuneration reviews, promotions, and recruitment practices for new hires.

#### WGEA – Future

- Consider the classifications and grouping of as currently too broad and do not adequately reflect industries and job levels for large corporates with diverse and complex roles and structures. The results are inaccurate and therefore it does not provide relevant information for industry or job type for comparison purposes. Many people have been known to quote industry gender pay gap data from WGEA reporting, but it is not a true reflection. With the data being retrospective, it is not a key element to reconfigure thinking and actions to progress the achievement of equality.
- Representation comparisons assumes that women and men equally have aspirations to become senior leaders. There are women that are completely satisfied and engaged who hold mid-level positions. What is important for them is inclusion and having a contributing voice. Similarly, there are many women who choose to stay at home and thrive on caring for their families. We need to acknowledge these different choices and provide support in different avenues.
- Have greater focus on societal norms, views, and opinions to help shape discussions and decisions.
- Work at the foundational level to shift the dial by partnering with schools and organisations to nurture, educate and shape thinking of the future workforce. Influencing thinking of those that will be entering the workforce and help to eradicate practices that have stemmed from decades of traditional thinking and expectations of gender roles.
- Be advocate for changes to policies such as increasing and improving parental leave for men. Influence behavioural norms to encourage men to take longer period of parental leave shift their fear of their careers and income being impacted and enable their partners to be equal contributors without guilt. Have a circular lens that addresses a family unit of parent, carer, and child – regardless of the parental gender.
- Provide support to enable women to remain in their career and not be income and superannuation deficient as their choices are limited. For single parents this can be done through provision of affordable childcare, flexible working arrangements to commence with.

#### Consultation question

3. Should the coverage of the Workplace Gender Equality Act be further changed? Specifically, should the definition of 'relevant employer' be expanded? If so, would additional considerations need to be factored in for new reporting employers?

#### Response

- Currently the data draws in from a broad range of employers.
- Tier 1 companies are captured and compared against smaller businesses. The data captured is too variable to provide reliable benchmarking that is useful to employers to positively address gender pay gaps in their industries.
- Identifying and assigning industry and categories is not granular enough and skews the reported results.

- ANZSIC (Industry Codes)
  - The options are limited forcing a decision to assign a near match in some instances.
  - The comparative group ranges are not like for like they capture small, medium, and large employers.
  - It also assumes that all Companies fit neatly into one industry type, where large corporates often fall into various categories. This either means the data is skewed or Companies doing multiple reports which is onerous.
- ANZSCO (Classification of Occupations)
  - These selections are limited and do not compare roles based on size, scope, breadth, complexity, and responsibility.
  - Example: Senior Manager in a Human Resource function versus a senior manager in a smaller organisation. The roles differ based on size and scope however for WGEA purposes, they would be in the same comparative group.
    - Under the WGEA criterion they both fit into a 'Senior Manager'. They are assigned into the higher category as they are only one level down from the CEO in structure.
    - The complexity of their roles will be very different, and the remuneration structure will be decided accordingly based on the number of direct reports, accountabilities, responsibilities, breadth, and complexity of decisions etc. It's not like for like. The salary can be circa \$80K to \$250+ K, and when averaged, does not provide reliable data to drive change.
- The narrative that a manager is a manager regardless of who they work for needs to change. Such statements are not considering methodologies of role design, structures, breadth, and depth of roles.
- It's not helpful to determine at a granular level where the issues sit within what specific industry, employers, and role requirements.
- If the reporting system were based on a stratified structure of the contributing employers, that is - small, medium, large or Tier 1, Tier 2, Tier 3, within specific industries the results produce more effective benchmarks to drive changes where needed.
- Having access to data based on more granular detail would assist
  - Businesses and companies to benchmark and track against like for like within industry
  - Provide data that is more reliable and encourage more confident conversations if they are seeking equality in their roles.
- For those employers that fall into the requirement for reporting for the first time, the frameworks, support, and resources available through WGEA are highly valuable. It enables them to establish robust metrics and reporting.
  - It took one employee approximately 4 months of almost full time, focused work to get the report ready for submission. Whilst we understand that this was partially due to technical issues because of a system change, it usually takes about 3 months to prepare the data given the complexity of our organisation. Every minute spent on reporting, takes us away from implementing change initiatives.
  - The templates are so sensitive that it requires multiple reworks, these need to be updated and more user friendly.
  - For employers that are non-compliant due to varying reasons, WGEA can provide valuable consultation in assisting them to review, assess and identify specific actions that they can take to improve their position on gender equity.

### Consultation question

4. Are the gender equality indicators (GEIs) in the Workplace Gender Equality Act, and the data collected with respect to the GEIs, appropriate to promote and improve gender equality? How could they be improved?

### Response

- **GEI 1 – gender composition of the workforce**
  - This is relevant, and should accommodate non-binary options
- **GEI 2 – gender composition of governing bodies of relevant employers**
  - This is important to monitor
- **GEI 3 – equal remuneration between women and men (Note: the CEO is excluded from reporting remuneration)**
  - This is the most challenging area. Many employers have the right intention and commitment and have made it a strategic focus to reach equality. However, they are trying to correct decades of inequality and some industries are further behind others. In some instances, it would require major cuts to the male workforce and drastic fiscal changes to correct the gaps with urgency. Offsetting one inequality by creating another inequality is a contestable expectation. Achieving gender equality must remain a key strategic focus to close the gap with solutions that offset, without plunging into chaos and deepening the issues of not employing women particularly of childbearing age.
  - Annual remunerations reviews are critical to review and redistribute allocated budgets purposefully. Consideration needs to be given to the distribution process as not no impose discriminatory decisions for males that are key and capable performers in the organisation.
  - Attraction and engagement of new appointments can be key areas of change. Ensuring that Recruiters are educated and confident to identify capability. Have balanced interview panels and making decisions based on capability not bias.
- **GEI 4 – availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities**
  - This remains an important issue to target. Some organisations have policy that is based on specific needs, which may inadvertently create a gender inequality. Often when it comes to flexible work and caring responsibilities, men experience the most disadvantage. WGEA should continue to influence equal access.
  - Driving and influencing policy, practices and employment terms & conditions tackles the issues at the core. The Fair Work Commission and NES touch the surface of these areas and flexibility and caring needs remain a core issue. However, this must be implemented with caution as it has the risk of regression by employers that will avoid employing people that are in the demography of commencing or continuing to expand their families with children either through birth, adoption, or care responsibilities.
  - WGEA should influence a NES change to replace primary care with equal care
  - Universal childcare support is essential to support families particularly those in mid to lower income brackets, single parents, those that do not have access to extended family support

systems and for those grand-carers that find themselves in an unplanned second wave of childcaring.

- **GEI 5 – consultation with employees on issues concerning gender equality in the workplace**
  - Gaining employee feedback and insight to their experiences is important, however unless you take action as a result, the exercise is pointless. Currently WGEA do not ask if action has been taken.
  - Employers need to understand the demography of their workforces and interrogate that to understand with clarity where they need to make change. In some instances, targeted specific groups for feedback are more appropriate than asking all employees as macro data, can sometime 'normalise' the data.
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- **GEI 6 – sex-based harassment and discrimination.**
  - Reporting is important and must not bear consequences for those reporting. Sex-based harassment and discrimination needs to be eliminated and requires strong leaders both in private industry and government.

### Consultation question

5. In addition to gender, should WGEA collect other data on diversity and inclusion criteria on a mandatory basis, to enable a more nuanced analysis of men and women's experiences in the workplace? If yes, please specify criteria (e.g., cultural, and linguistic diversity, disability, age, location of primary workplace). If not, why not?

### Response

- The current process is onerous without expanding their requirement and expectations of employers to be collection agencies.
- WGEA could utilise other government collection agencies such as the ABS to source data on diversity and inclusion. They have a cross section of data that could contribute to wider analysis of the Australian Workforce. Not all employers have sophisticated data collection systems to gather even cross-sectional information.
- Diversity data such as disability, LGBTQ status, CALD is not easy to capture. Employees are often reluctant to share that information, so unless it is made mandatory by Government, data will be limited. Also, it is often not relevant. For example, as person may have a disability, but unless they experience a barrier, they may have not need to disclose.
- When the reports are made public and contain very broad, generic information it enables misuse, which can be more damaging than helpful to the issue.
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### Consultation question

6. How could data be better collected and/or used by WGEA to promote and improve gender equality? Should there be some form of pay transparency – should remuneration data in some form be public?

### Response

- As previously commented the current process of collection is onerous for employers. The process of having to convert parttime to fulltime equivalent based on WGEA methodology need to be reviewed as it doesn't always represent the true position.
- Placing remuneration data in the public arena does serve to address the issues at hand. By reporting at a macro level, it does not provide accurate data, nor provide solutions for employers that are wanting to make to shifts. It has the potential to increase unrest and discord amongst employees and union bodies as the reports are not providing a true picture. It can assist to achieve improvements in some instances however that is not deep enough. Whilst is required with Annual Reporting for listed companies it could contravene an employee's choice to retain privacy.
- WGEA could more positively impact if they worked in collaboration with employers and more closely with those that are not progressing. Employers that are confidentially making progress should not be subjected to or penalised because of other employers that in their infancy or not supportive of equality.
- Publicly reporting gender pay gap can pose a legal risk to global organisations. Some countries have laws against like-for-like pay gap (measured using different criteria and metrics to WGEA). If a Company is forced to disclose a WGEA determined pay gap that is not a true reflection, legal action may be taken in another country.

### Consultation question

7. Are there changes that could be made to the Workplace Gender Equality Act that would help reduce the regulatory burden on relevant employers while continuing to enable WGEA to promote and improve gender equality? Should other data sources, such as Single Touch Payroll data, be used by WGEA instead of employers providing the same data to two Government agencies?

### Response

- Reducing the burden of data collection would be welcomed however there would need to be confidence in the methodologies used to interpret, analyse, and report data collected through channels such as Single Touch Payroll.
- Reviews of how conversions from part time to fulltime equivalent are made, what formulas are used and what is captured.
- Reporting periods would be better aligned to financial year calendars,
- The data collected and reported is retrospective and does have value for any predictive analysis to assist employers on where they need to make budgetary adjustments.



**Consultation question**

8. Could the minimum standards be expanded to improve the way they drive practical gender equality outcomes in workplaces? What would employers need to do to implement these changes in their workplace? Should Minimum Standards apply to all reporting employers, not just those with 500 or more employees?

**Response**

- Greater consideration needs to be given to implementing standards with a broad brush, smaller employers may be quickly pushed into financial distress that could result in a negative outcome for women retaining roles or progressing in their careers. Such a decision would require considerable planning to transition.

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**Consultation question**

9. Are the compliance mechanisms in the Workplace Gender Equality Act, and consequences for non-compliance, effective to promote and improve gender equality? If not, how could they be improved?

**Response**

- The only consequence that appears to exist is being listed as non-compliant and potential being name by the Minister responsible this is not an effective method to improve gender equality.
- Earlier suggestion is to require non-compliant employers to provide an actional plan that they would be held accountable for. If they continue to be non-compliant for two consecutive reporting periods, then financial penalties are then applied.
- To reach equality and normalise the mindset requires major shifts and continued education and support.
- Public shaming has short term impact with little consequences for those employers that do not recognise the inequity of their decisions and practices and the impact on society.

**Would you like to comment on any other issue?****Consultation question**

10. Are there any other matters you want to comment on in relation to the Workplace Gender Equality Act and improving and promoting gender equality in the workplace in Australia?

**Attachment A**

- reviewing compliance, minimum standards and actions relating to non-compliance with the Workplace Gender Equality Act; and



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## Appendices

# Review of the Workplace Gender Equality Act 2012

## Consultation paper, October 2021

The Australian Government announced in the *Women's Budget Statement 2021-22* a targeted review (the Review) of the *Workplace Gender Equality Act 2012* (the Workplace Gender Equality Act).

### Terms of reference

The Review is considering if the Workplace Gender Equality Agency (WGEA) has appropriate powers, tools, and levers to achieve the objectives of the Workplace Gender Equality Act, including to promote and improve gender equality in Australian workplaces, support employers to remove barriers to the full and equal participation of women in the workplace and to eliminate discrimination on the basis of gender in relation to employment matters. The Review is also looking at any changes needed for WGEA to implement the recommendations of the Respect@Work national inquiry and options to reduce the regulatory burden on employers while continuing to enable WGEA to promote and improve gender equality. The Terms of Reference are at [Attachment A](#).

### Consultation process

We welcome submissions on this targeted Review of the Workplace Gender Equality Act by **24 November 2021**.

After reading this consultation paper, and the Privacy Collection Notice at the end of the questions in this paper, you can send your written submissions using the online form at <https://www.pmc.gov.au/workplace-gender-equality-review-consultation> or by post.

Alternatively, hard copy submissions can be posted to:

WGEA Review Team – Consultation  
Department of the Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2600

The Department will consider hardcopy submissions received by post. However, we will not publish these submissions on the website.

The consultation questions in this paper are a guide. Please answer as many or as few as you wish. We welcome other comments you may have on the Act. The WGEA Review Team will also arrange targeted virtual consultation meetings with key stakeholders in October and November 2021.

A report from the WGEA Review is scheduled to be provided to the Minister for Women and the Minister for Women's Economic Security before the end of 2021.

## WGEA Review consultation questions – at a glance

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