

24 November 2021

WGEA Review Team
Department of Prime Minister and Cabinet

Dear Workplace Gender Equality Act Review Team

I write in response to the Review of the Workplace Gender Equality Act 2012.

Our Watch has a mandate to focus on the primary prevention of violence against women and their children; to stop this violence before it starts. We aim to provide national leadership to drive change in the social norms, structures, attitudes, practices and power imbalances that underpin, drive and support violence against women and their children.

Violence against women is a social problem, and workplaces are part of the social ecology. Their structures, norms and practices are both influenced by, and influence other, levels of society. They can either reflect and reinforce, or help to transform broader gendered power structures and relationships. As such, workplaces, corporations and employee organisations are identified within [Change the story](#), Australia's shared national framework for the primary prevention of violence against women, as priority settings for work to address the gendered drivers of violence against women.

Our Watch welcomes the opportunity to respond to the Terms of Reference. My team has prepared a brief response to the consultation paper (Attachment 1). This provides advice on actions needed to strengthen the Workplace Gender Equality Agency's mandate and functions to promote and improve gender equality across Australian workplaces, and on best practice approaches to promoting gender equality in workplaces.

Our Watch Interim Director, Policy and Evaluation, Robyn Gregory, would welcome the opportunity to meet with you to discuss this further at a time of your convenience. Should you wish to contact Robyn please email her [REDACTED] in the first instance, on [REDACTED]

Yours sincerely

[REDACTED]

Patty Kinnersly
CEO

Attachment 1.

Our Watch response to the Review of the Workplace Gender Equality Act 2012

Our Watch welcomes the opportunity to provide advice and recommendations in response to consultation questions posed under the Review of the Workplace Gender Equality Act 2012.

In response to the consultation questions:

- 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?**

The current framing of the Workplace Gender Equality Act places mandatory requirements upon organisations to report on outcome measures related to workforce composition, employment level, and pay gaps. This provides a valuable source of data for organisations to benchmark their own progress towards gender equity and compare against other organisations and industries. Compliance against the data reporting measures is high.¹ However, WGEA is limited in its functions and powers to improve gender equality in the workplace by the lack of a mandated positive duty within the Act for employers to take action to redress gender inequality and demonstrate improvement.

[Recommendation 1] The Workplace Gender Equality Act 2012 be revised to include specific gender equality targets or quotas for industries to demonstrate progress against; and to place a positive duty upon workplaces to take actions to redress gender gaps across the workforce.

- 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?**

Change the story: A shared framework for the primary prevention of violence against women and their children in Australia identifies that gender inequality sets the social context for, and is the primary driver of, violence against women. Implementing activities within workplaces to influence aspects of organisational culture, work environment and practices to support gender equality, has the strong potential to shape social norms and relationships. Organisations can derive direct benefits from this activity, but this work is also critical to Australia's national efforts to shift attitudes, social norms and behaviours more broadly. Our Watch, supported by

¹ Kings College London. 2021. [Bridging the Gap](#).

the Victorian Government, has developed a set of [Workplace Equality and Respect Standards](#) to guide workplaces to promote and embed gender equality and respect in the workplace through a comprehensive organisational change process.

Best practice prevention of violence against women in workplaces

As part of such whole-of-organisation approaches, workplaces should develop specific strategies to address the four drivers of violence against women. Outlined in *Change the story*, these are:

- Condoning of violence against women
- Men's control of decision-making and limits to women's independence in public life and relationships
- Rigid gender roles and identities
- Male peer relations that emphasise aggression and disrespect towards women

Workplaces often focus only on the first driver, for example by expressing 'zero-tolerance' for violence in the workplace. However it is crucial that strategies are identified to enact structural and normative changes across all four areas. Best practice takes action on all four drivers to ensure that gender unequal structures, norms and practices are being addressed as a whole, rather than approaching the issue of violence in isolation.

This best practice approach requires organisations to identify and implement broad strategies to address the structural issues that are barriers to gender equity for their staff. For example: conducting a gender pay gap analysis across the organisation and considering how inequities can be redressed; reviewing working conditions, including security of work and access to leave entitlements for employees; ensuring equal opportunities for career progression for men and women; implementing flexible working policies; and providing paid parental leave. It also requires organisations to review and change workplace culture, including avoiding stereotyping language and images, seeking staff feedback and perspectives on the way that gender influences and shapes staff experiences in the workplace, and communicating with staff about what constitutes unacceptable language and imagery.

To implement the *Workplace Equality and Respect Standards*, organisations are advised to undergo a process that they tailor to suit their workplace to create organisational and cultural change. This takes time and sustained commitment, beginning with resourcing staff to lead the work and securing genuine commitment from leaders. Following this, it is crucial that organisations prioritise and plan their activity including by consulting with staff, collecting data, assessing the workplace against the Standards to determine priorities, and developing both a long-term strategy and immediate action plan.

To improve gender equality in the workplace, legislative mechanisms to mandate data collection and reporting need to be reinforced through tailored, practical support for workplaces to take actions to redress gender inequality. Key agencies and regulators (for example, human rights agencies, work health and safety regulators, and others) do not currently have an adequate level

of sustained funding to enable them to lead and support actions to respond to gender inequality in the workplace.

Employers need support and guidance to implement best-practice prevention strategies across their organisations. At present, there is a shortage of specialist trainers and workers across the country who can support workplaces to undertake this work. It is crucial that governments make investments to upskill and build the capacity of regional- and state-based organisations to support workplaces in their regions in implementing best practices approaches.

To drive the level of change required across industries and workplaces nationally, the responsibility to improve capabilities cannot sit with WGEA alone. But, as a national body with strong connections across industry, WGEA has a unique position and opportunity to act as an access point for organisations looking for further support, and to build networks and funding opportunities for organisations at the national, state and regional level to implement leading practice programs.

[Recommendation 2] Provide adequate resourcing to WGEA, and other workplace regulatory bodies, to provide education and tailored support to organisations to implement leading practice programs.

[Recommendation 3] Resource WGEA to expand upon its education and practice functions, to build a network and funding mechanisms for national, state and regional gender equality organisations that can implement leading practice workplace gender equality programs.

[Recommendation 4] All employers should develop and implement strategies to prevent sexual harassment (and other forms of violence against women) by addressing the four gendered drivers of violence against women. Progress on this would be aided by revising the Gender Equality Indicators outlined within the Workplace Gender Equality Act to include a specific set of reporting indicators related to the prevention of gender-based violence and sexual harassment.

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?

Many employers are already implementing or developing relevant gender equality strategies. However, there is currently no duty on those employers who do not have such policies in place to develop and implement them. Further, there is no data available on how widespread gender equality policies are among employers with less than 100 employees.

The Australian Human Rights Commission’s *Respect@Work* report showed that nearly three out of five people who said they experienced workplace sexual harassment in the last five years said the most recent incident occurred in a small or medium sized organisation with less than 200 employees.² The report also showed that small businesses feature particular barriers to reporting or responding to sexual harassment in the workplace, but in spite of this:

² AHRC. 2020. *Respect@Work*

“the Commission heard that small businesses may not have the same pressure or priorities as large organisations to address sexual harassment as an organisational issue, and may not see sexual harassment as a key operational concern... [and] that many small businesses did not take ‘front end’ steps to prevent sexual harassment in their workplaces. Because their priority was running their business, they were unsure what appropriate preventative measures they could take.”

Small businesses employ 44 per cent of the Australian population, and as such should be considered a priority for work to promote gender equality and prevent violence against women. Our Watch recommends that the *Workplace Gender Equality Act* expand the scope of ‘relevant employer’ to include SME businesses with 50 or more employees. Placing a mandate on small and mid-size businesses to report against gender equality indicators, including implementing policies to prevent and respond to sexual harassment, will help to ensure more employers take pre-emptive measures to prevent violence against women.

[Recommendation 5] that the Workplace Gender Equality Act expand the scope of ‘relevant employer’ to include SME businesses with 50 or more employees. This should occur in a staggered way, to provide time to develop tailored resources and establish support mechanisms for small businesses to undertake this work.

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?

Our Watch recommends that the Gender Equality Indicators be expanded and draw upon the Gender Equality Indicators outlined in the Victorian *Gender Equality Act 2020*, which provides specific indicators related to family violence and sexual harassment.

Gender Equality Indicators in the Workplace Gender Equality Act 2012	Gender Equality Indicators in the Victorian Gender Equality Act 2020
(a) gender composition of the workforce	(a) gender composition of all levels of the workforce
(b) gender composition of governing bodies of relevant employers	(b) gender composition of governing bodies
(c) equal remuneration between women and men	(c) equal remuneration for work of equal or comparable value across all levels of the workforce, irrespective of gender;
(d) availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements	(f) availability and utilisation of terms, conditions and practices relating to— (i) family violence leave; and (ii) flexible working arrangements; and

supporting employees with family or caring responsibilities	(iii) working arrangements supporting employees with family or caring responsibilities.
(e) consultation with employees on issues concerning gender equality in the workplace	
	Additional indicators included
	(d) sexual harassment in the workplace
	(e) recruitment and promotion practices in the workplace
	(f) availability and utilisation of terms, conditions and practices relating to— (i) family violence leave;
	(g) gendered segregation within the workplace

The Victorian Act also recognised that “gender inequality may be compounded by other forms of discrimination or disadvantage” and asks defined entities to, when conducting gender impact assessments and gender audits, collect data on Aboriginality, age, disability, gender identity, race, religion and sexual orientation “if practicable”.

[Recommendation 6] Our Watch recommends that the Gender Equality Indicators within the Workplace Gender Equality Act be revised to include indicators related to:

- a) gender composition of all levels of the workforce**
- b) equal remuneration for work of equal or comparable value across all levels of the workforce, irrespective of gender**
- c) availability and utilisation of terms, conditions and practices relating to family violence leave**
- d) sexual harassment in the workplace**
- e) recruitment and promotion practices in the workplace**
- f) gendered segregation within the workplace.**

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?

Primary prevention aims to stop violence against women from occurring in the first place. It works to change the deep-seated gendered drivers of this violence, and the underlying social condition of gender inequality in which it arises, through the following essential actions:

- Challenging the condoning of violence against women
- Promoting women’s independence and decision-making in public life and relationships
- Fostering positive personal identities and challenging gender stereotypes and roles

- Strengthening positive, equal and respectful relations between and among women and men, girls and boys
- Promoting and normalising gender equality in public and private life

Making remuneration data more public could create new incentives to compel organisations to take further actions beyond policies and strategies to eliminate the condoning of violence against women, to respond to a broader range of the gendered drivers of violence against women, by promoting women's independence and decision-making and normalising gender equality in public life.

Greater public transparency on remuneration levels between industries, and across levels within organisations, could provide employees with better information and decision-making powers in relation to employment choices, and with clearer information to negotiate or advocate to employers and industries to take action to close gender pay gaps.

Beyond this, creating greater public visibility and public accountability around remuneration levels could improve public understanding of, and discussions around gender pay gaps by making the figures, and levels of discrepancy in pay between industries (for example between male-dominated and feminised industries) and between levels of employment more explicit. Making these figures more transparent and publicly accessible would challenge commonly held misperceptions on gender pay gaps and help to promote and normalise actions to promote gender equality.

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?

In 2012 when the WGEA Act was passed, the Minimum Standards focused on collecting data and pushing progress across organisations to develop formal policies and strategies related to gender equality. To continue building on progress to date to improve gender equality in workplaces, Our Watch recommends that the Minimum Standards be revised to include action or progress measurements. This could be achieved by including within the Minimum Standards, a set of targets or quotas, for organisations to demonstrate progress against over time. Setting specific, minimum standards or targets to be achieved would create greater incentive for organisations to not only develop strategies, but to demonstrate actions they have taken to close gender gaps across pay equity and gender composition across levels of employment. Our Watch recommends that WGEA and the Australian Human Rights Commission be resourced to develop a set of appropriate targets or quotas by industry or size of organisation.

[Recommendation 7] that the Minimum Standards be revised to include specific targets or quotas for organisations and/or industries to demonstrate progress against over time. Our Watch advises that in order to establish meaningful and achievable targets or quotas, WGEA

and the Australian Human Rights Commission be resourced to work with industries to define appropriate targets and quotas and scope appropriate tools, resources or supports that might be needed to enable organisations to achieve these targets.