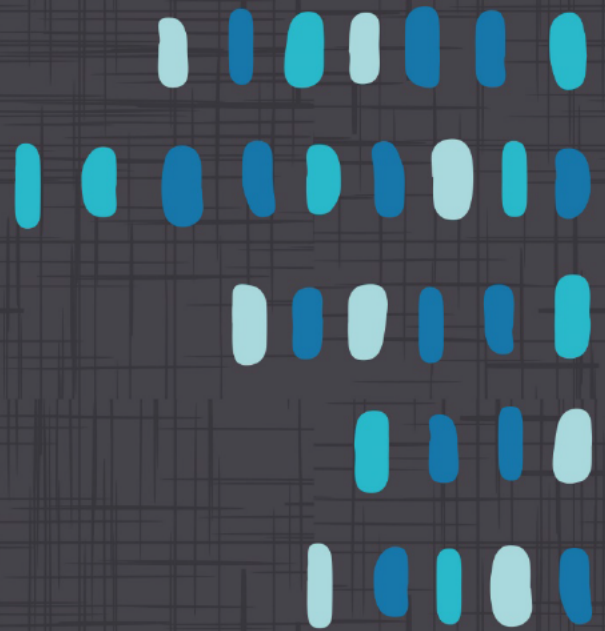




Government of **Western Australia**  
Department of **Communities**



# Submission:

## Consultation on review of the *Workplace Gender Equality* *Act 2012*

November 2021



The Western Australian Department of Communities (Communities) welcomes the opportunity to provide a submission on the review of the *Workplace Gender Equality Act 2012* (Cth) to the Commonwealth Department of the Prime Minister and Cabinet. In developing its submission, Communities has consulted with and incorporated comments from the WA Public Sector Commission, the Department of the Premier and Cabinet and the Department of Finance.

Communities is Western Australia's (WA) major human services department that brings together vital services and functions that support individual, family and community wellbeing. Communities' Women's Interests portfolio works across government, community and business sectors to inform a strategic response to issues relating to gender equality in WA. The Women's Interests portfolio supports the implementation of the McGowan Government's priorities lead by the Minister for Women's Interests, the Hon Simone McGurk MLA.

### **WA Government commitment to gender equality**

The WA Government is committed to advancing gender equality in the community and workplaces, and in 2020 the Minister for Women's Interests' launched [Stronger Together: WA's Plan for Gender Equality](#) (Stronger Together). In addition to supporting women's safety, there is clear evidence that gender equality is good for business and benefits the economy. Gender inequality, or the unequal distribution of power, resources, opportunity and value afforded to men and women, has consistently been shown to be a key driver of violence towards women.

The Australian Human Rights Commission's landmark Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces (the Respect@Work Report) report detailed the gendered and intersectional nature of sexual harassment in Australian workplaces.

The WA Government is committed to working with the Commonwealth and State and Territory Governments to progress the implementation of Respect@Work Report recommendations. The WA Government has commenced implementation of relevant Respect@Work recommendations.

The WA State Government is strongly committed to equal employment opportunity in public employment, and providing safe workplaces for all employees across WA, and to ensure women are safe and free from violence, discrimination, and harassment in their homes, in the workplace and within the community.



The WA Government has already taken steps to create safer, gender equal and inclusive workplaces for all WA employees through the development and implementation of:

- [Stronger Together: WA's Plan for Gender Equality](#).
- [Path to Safety: Western Australia's strategy to reduce family and domestic violence](#).
- [The Workforce Diversification and Inclusion Strategy for WA public sector employment](#).
- [The development of a Sexual Violence Prevention Strategy](#).

These strategies recognise the disproportionate impact on women of workplace inequalities, including sexual harassment and sexual abuse. Women's economic security is fundamentally related to their safety in the workplace. The complex nature of gender inequality requires a multifaceted response, which includes consideration of groups of women that are particularly vulnerable.

The WA Department of Communities (Communities) is leading the implementation and reporting of Stronger Together for the next ten years from 2020-2030. A final report on government outcomes of the first action plan of Stronger Together identifies 31 actions achieved, 21 actions underway/ongoing.

These actions include:

- Communities participating in the Workplace Gender Equality Agency (WGEA) voluntary public sector reporting pilot. The pilot will provide Communities with a benchmark to measure progress towards a gender equal workplace across its workforce, strategies and policies, and career development opportunities.
- Communities is working with the WA Department of Finance to promote gender equality through State Government procurement processes.
- A Gender Diversity Case for Change initiative aims to improve gender balance within the sport and recreation sector. This includes a requirement for State Sporting Associations to have 50 per cent women on their Boards by June 2022.

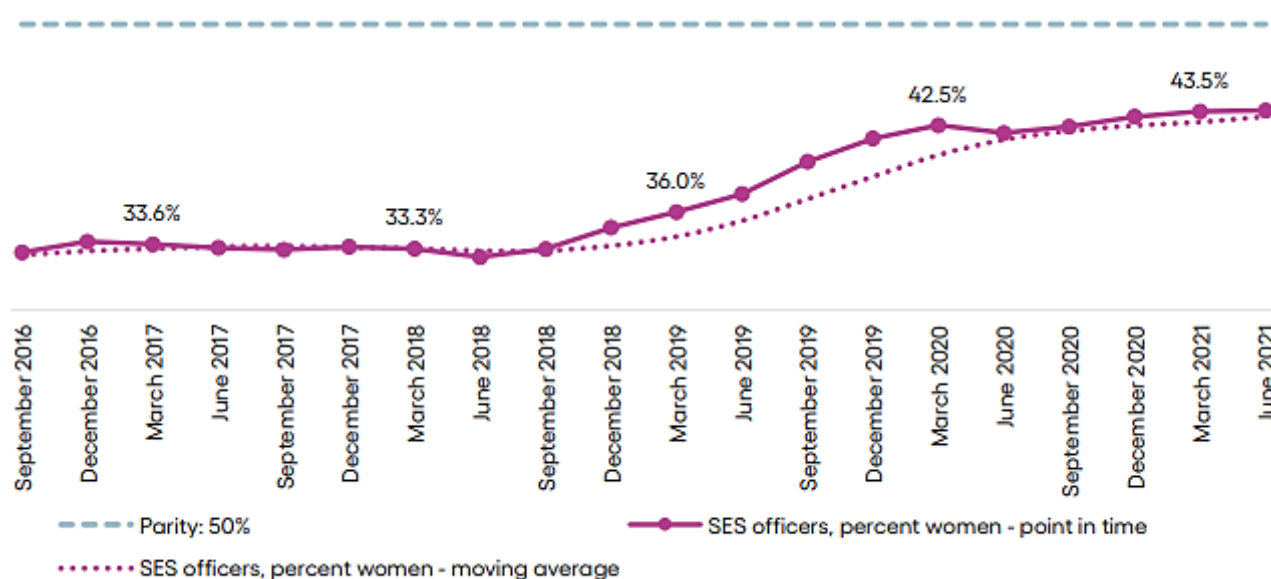
Communities is finalising the second action plan for Stronger Together which includes over 50 actions to drive the State Government's gender equality plan over the next four years. The second action plan will be released in the coming weeks. This presents an opportunity to raise awareness and embed practices that ensure women's safety and participation and



build a whole-of-government approach to prevent and address workplace sexual harassment.

In March 2020, the Government announced an employment target of 50 per cent women in the Senior Executive Service (SES). In September 2020, the Government released the Workforce Diversification and Inclusion Strategy for WA public sector employment 2020-2025, and the Women: Action Plan to Improve WA Public Sector Employment Outcomes 2020-2025. The Strategy and Action Plan outlines the WA Government's commitment to improve public sector employment outcomes for women. In March 2021, representation of women in the SES was the highest it has ever been at 43.5% (Figure 1 below). In June 2021, representation of women in the SES was 43.6%, having increased 6.3 percentage points over the previous 2-year period.

**Figure 1: Women in the SES 2016-17 to 2020-21 (March data highlighted)**

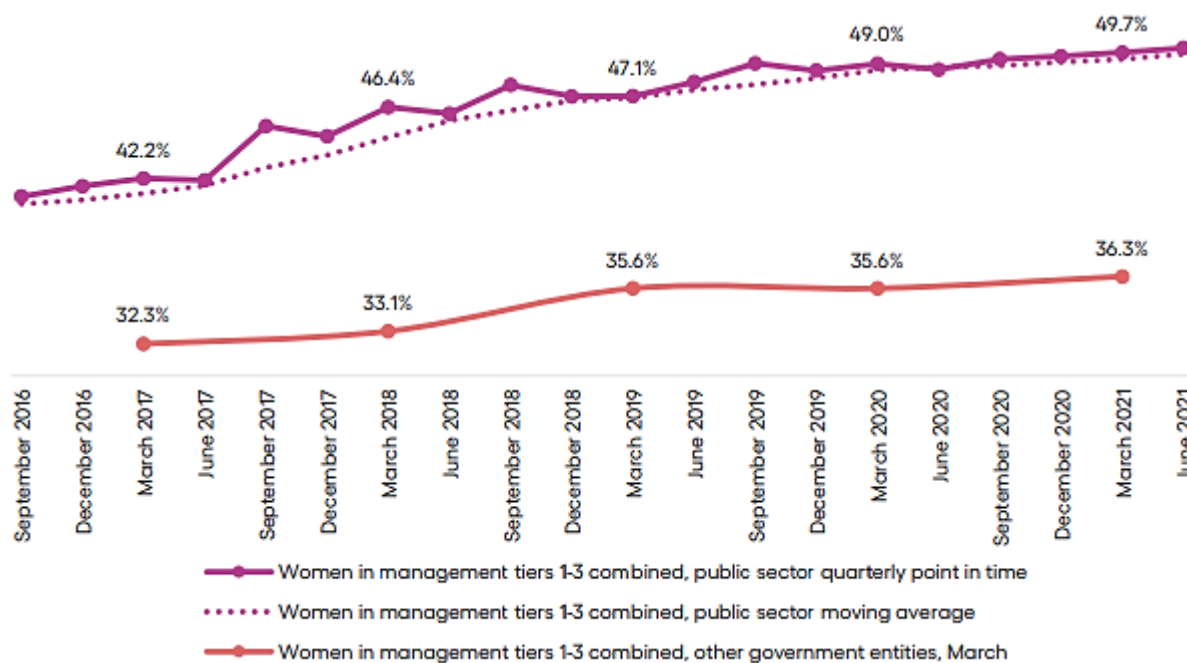


Source: [State of the WA Government Sector Workforce 2020-21](#) P47



As the SES only exists in the public service, an appropriate indicator for the wider government sector is women in management. This measure also demonstrates consistent increases in the proportion of sector leaders who are women. Representation of women in leadership in other government entities remains lower than in the public sector but has increased over the longer term from 32.3 per cent of management tiers 1 to 3 combined in March 2017 to 36.3 per cent in March 2021 (Figure 2 below).

**Figure 2: Women in management tiers 1 to 3 combined, WA government sector 2016-17 to 2020-21 (March data highlighted)**



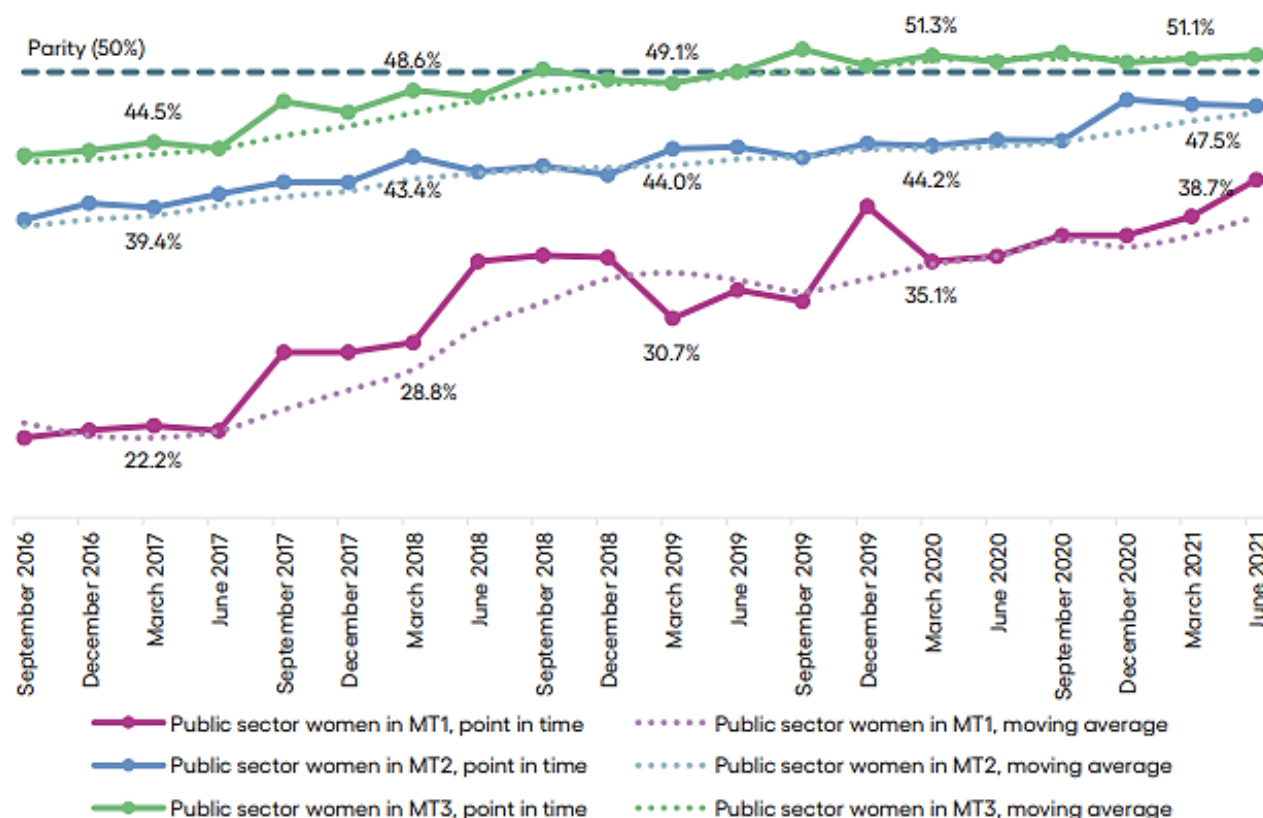
Source: [State of the WA Government Sector Workforce 2020-21](#) P47





Meanwhile, the representation of women in management tier 3 in the public sector surpassed 50% for the first-time last year and has remained above 50% since.

**Figure 3: Representation of women in management tiers 1 to 3, WA public sector 2016-17 to 2020-21**



Source: [State of the WA Government Sector Workforce 2020-21](#) P48

### Our results

In March 2021, 142,044 government sector staff (66.0 per cent) identified as women. This included 110,337 women in the public sector (72.7 per cent of the workforce) and 31,707 women in other government entities (49.9 per cent). Over the past 5 years, the proportion of women in the public sector has been very stable, consistent at 72.7 per cent in March 2017 and March 2021. In other government entities, the total workforce (headcount) increased by 446 (+0.7 per cent) between March 2017 and March 2021, but the headcount of women increased by only 122 (+0.4 per cent). As a result, the proportion of women decreased slightly from 50.1 per cent in March 2017 to 49.9 per cent in March 2021.



The pay gap is the difference between the median salaries of men and women across the public sector, including staff at all levels. The median salary for women increased by more than the median salary for men between March 2020 and March 2021. As a result, the gender pay gap has narrowed. In 2020-21, the median salary for women was 9.6 per cent lower than the median salary for men (Table 1).

For the first time, this year the Commission collected information on the equivalent annual salary of staff in local governments, government trading enterprises and public universities through the equal employment opportunity annual collection. Local governments reported almost equal median salaries for men and women, while government trading enterprises and other authorities reported percentage gender pay gaps reasonably comparable to the public sector (Table 1 below).

**Table 1: Median salary and gender pay gap WA public sector (March point-in-time data)**

	March 2019	March 2020	March 2021	Change 2020 to 2021
All staff	\$85,175	\$87,543	\$88,452	+\$909
Women	\$82,797	\$83,820	\$85,820	+\$2,000
Men	\$93,548	\$93,896	\$94,961	+\$1,065
Gender pay gap*	\$10,751 (11.5%)	\$10,076 (10.7%)	\$9,141 (9.6%)	-\$935 (-1.1 ppt)

\*Gender pay gap is the difference between median equivalent annual salary of men and women, expressed as a percentage of men's median equivalent annual salary.

Source: [State of the WA Government Sector Workforce 2020-21](#) P36



## Responses to WGEA review consultation questions

**Q1.** 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?

Communities' acknowledges and commends WGEA's commitment to reporting and advocating gender equality in Australian workplaces. The scale of connecting with 40 per cent of Australia's employees with the aim of improving and promoting gender equality in their workplace is significant.

Communities' recognises that while progress has been made towards gender equality in Australian workplaces, the gender pay gap remains unacceptably high. The gender pay gap in WA is the highest of all states and territories in Australia at 21.9 per cent<sup>1</sup>, compared with the national average of 14.2 per cent WA's resources driven economy is one factor contributing to a widening gender pay gap; the other issue reflects the lack of economic remuneration for female dominated industries. Put simply there are fewer women in higher paid full-time positions in male dominated industries and full time workers in male dominated industries (construction, finance, IT, property development) are paid significantly more than fulltime workers in female dominated industries (community services, hospitality, health).

A recent report by the Fawcett Society on the gender pay gap released last month examined best practice in gender pay reporting systems in six countries – Australia was included in recognition of its world leading, longitudinal gender equality dataset.<sup>2</sup> The findings of the report ranked Australia equal last alongside the United Kingdom, citing a lack of accountability and transparency measures for reporting employers.

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<sup>1</sup> The gender pay gap for the WA Public Sector is 9.6 per cent (\$9,141), down from 10.7 per cent in 2020 - [State of the WA Government Sector Workforce 2020-21 \(www.wa.gov.au\)](#)

<sup>2</sup> The Fawcett Society, 'Bridging the Gap? An Analysis of gender pay gap reporting in six countries', October 2021, <[bridging-the-gap-full-report.pdf \(kcl.ac.uk\)](#)>. The study analysed the gender pay gap reporting frameworks of Australia, France, South Africa, Spain, Sweden and the United Kingdom.





WGEA has been successful in raising awareness and promoting gender equality through its research and publications on issues that impact Australian working women. These publications inform public debate and broader government policy. Communities' suggest WGEA consider options that provide greater accountability and transparency for organisations which do not meet minimum standards to report progress in subsequent reporting periods to improve the ranking among other reporting systems.

**Q2.** 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?

In 2020-21, 72.8 per cent of the WA public sector workforce were women. A gender mapping of salary bands of full-time equivalent staff identifies women as being overrepresented in the lower salary bands and underrepresented in the higher salary bands.<sup>3</sup> While the trend continues that women remain overrepresented in lower salary bands, the WA Government is committed to providing leadership pathways for women in the Public Sector. In March 2020, the WA Government announced an employment target of 50 per cent women in the Senior Executive Service.

In September 2020, the WA Public Sector Commission released the [Workforce Diversification and Inclusion Strategy for WA public sector employment 2020-2025](#), and the [Women: Action Plan to Improve WA Public Sector Employment Outcomes 2020-2025](#). The Strategy and Action Plan outline the WA Government's commitment to improve public sector employment outcomes for women, including reiterating the aspirational target of 50 per cent for representation of women in the Senior Executive Service. In June 2021, representation of women in the Senior Executive Service was 43.6 per cent, having increased 6.3 percentage points over the previous 2-year period. At this rate of growth, parity for women in the Senior Executive Service is expected to be reached in the next few years. Previous forecasts estimated parity would not be reached until 2035.

Communities' implementation of Stronger Together provides a mechanism to raise awareness and improve gender equality outcomes internal and external to the organisation. A key action implemented under the plan is Communities' participation in the WGEA pilot for voluntary reporting public sector employee data. Participating in the pilot

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<sup>3</sup> [State of the WA Government Sector Workforce 2020-21 \(www.wa.gov.au\)](http://www.wa.gov.au)



will assist Communities to benchmark its gender equality performance and measure progress over successive years.

It is recognised that WGEA's current reporting requirements/terminology are aligned to non-public sector organisations which is not readily comparable to public sector reporting. Considerable resources have been allocated to align WGEA's manager and non-manager categories to Communities' position profiles – this is a key task that had to be completed before the rest of the data collection could be undertaken. Communities collects most of the data sought by WGEA however it is formatted and configured differently which has required manual collation and input for some tasks. Understandably, the first year of reporting is likely to be the most resource intensive; it is anticipated in subsequent years the reporting requirements will be less onerous.

Communities' suggest a focus for WGEA in the next ten years could be incentivising other sectors to voluntarily report their employee and organisational data. WGEA may also wish to consider future requirements that provide increased accountability and transparency of organisations to meet minimum standards.

A focus for WGEA over the next ten years is likely to be reviewing data sets, identifying new data sets to provide additional rigour and analysing gaps across its gender equality indicators. Communities' would welcome a particular focus on intersectional data identified for different groups of women including Aboriginal women, women with disability, Culturally and Linguistically Diverse women, women of colour and LGBTQI+ workers. WGEA could also consider options for coordinating and aligning data points with other data collection agencies, for example the Australian Taxation Office, Australian Public Sector Commissions.

The WA Public Sector Commission is supporting the Communities pilot to assess the feasibility, impact and utility of WGEA data collection and reporting. It is worth noting that the WA Public Sector already collects data of a similar scope and frequency to that collected by Australian Public Sector Commission for the federal government, through the Human Resource Minimum Obligatory Information Reporting (HRMOIR) requirements. This data is used to perform a range of analysis regarding gender, pay and diversity. It is used to directly report against targets, provide information on the WA Public Sector pay gap and inform policies and strategies, albeit with comparable but slightly different methodologies.



Due to the differences between WGEA mandated reporting and the data already collected from the WA Public Sector, there would be significant resource implications for adding a new, WGEA-defined whole of sector reporting requirement that current processes and systems are not configured to meet. It is also worth noting that the WA Public Sector collects other data through its annual EEO data collection which is also used to inform policies and strategies.

**Q3.** 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?

Communities’ notes recommendation 43 of the Australian Human Right’s Commission’s Respect@Work report is for all public sector organisations (federal, state and territory and local governments) to be mandated to report to WGEA. Communities’ notes WGEA’s submission on the review of the Act recommends extending the definition of reporting employer to include federal, state and territory, and local governments.

Communities’ notes that further consultation is required with states and territories on any proposals to expand the definition of ‘relevant employer’, including any potential resourcing and financial implications.

If reporting is expanded to state and territory and local governments, it is critical WGEA is sufficiently resourced to support agencies to report and noting further consultation would be required to identify the most appropriate and streamlined approach for reporting. This would mean working with data that is already collected by the WA Public Sector Commission to assess how variables can be mapped to WGEA data requirements. In exploring the feasibility of whole of sector participation in the WGEA data collection the Commission notes:

- directly comparable WA public sector data sets are not readily available. The WA Public Sector collects data through the established HRMOIR process, which is similar to the federal government Australian Public Service Employment Database (APSED) collection
- significant funding would be required for the Commission and public sector agencies to make system, data collection and reporting changes to support comparison.



The WA Public Sector Commission staff have discussed this and other complexities with the Department of Communities, WGEA, and Bankwest Curtin Economics Centre (BCEC) who partner with WGEA in the analysis and reporting of collected data. In discussion with BCEC, it was noted that the WA Public Sector is more advanced in its analysis of gender equality within the public sector workforce than previously understood.

To support review of WA data sets and points of interest, opportunities to compare aggregate data, or other ways of achieving comparison, the WA Public Sector Commission provided WGEA (via Communities) with a range of workforce information that is already collected and reported. This included samples of the suite of WA Public Sector workforce data reporting and analysis products.

**Q4.** 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?

The WA Government's workforce data collection provides information to promote and improve gender equality. Improvements in the collection and use of its workforce data are proposed which aim increase quality and utility.

Communities' suggest the consideration of intersectional data results against relevant gender equality indicators in the WGEA Act.

Other areas may include linking indicators to outcomes and requiring organisations to demonstrate how deficiencies in meeting standards are being addressed and reported in future reporting periods.

**Q5.** 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?

This could include a focus on expanding data collection and reporting on diversity and inclusion criteria on a mandatory basis across all WGEA reporting requirements. As our understanding and awareness of gender equality increases, so too is the recognition that gender inequality doesn't affect all women the same way. Some women are affected by multiple types of bias or discrimination and face additional challenges and barriers to participating in their workplaces.



Consideration of how gender intersects and overlaps with other aspects of a person's identity when developing actions for change is critical. Reporting intersectional data to WGEA will provide more robust analysis of the lived experiences of all women in Australian workplaces. This is consistent with the findings of the Respect@Work Report. Importantly, it will benchmark employer's on workplace practices that promote and improve gender equality for all women.

The WA Public Sector Commission considers that the collection of additional diversity and inclusion data has some appeal. This needs to be balanced with any additional reporting burdens on organisations.

**Q6.** 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?

Remuneration in the WA public sector is already publicly available and the gender pay gap is already measured and reported publicly in the State of the [WA Government Sector Workforce report](#).

Communities' recognises that variations exist in the way that public sector employee data is collected and reported across jurisdictions by public sector commissions.

Women make up a greater proportion of part-time workers, are employed in lower-paid industries, generally are paid a lower hourly rate than men and spend less time in the paid workforce throughout their working life, which contributes to the gender pay gap. Women are more likely to be in less secure employment and therefore are more likely to have gaps in employment and less retirement savings.

The social and economic undervaluing of female dominated industries despite being critical to our economy is evident during the COVID-19 pandemic. Critical industries such as childcare and community services, represent some of Australia's lowest paid workers. Communities' supports greater awareness and increased transparency of the principle of equal pay for equal value. For example, analysis can be applied to the total economic value of an industry to the economy comparative to the remuneration average of a worker and applying an intersectional gender lens.

**Q7.** 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?

Communities' notes the principle of aligning reporting processes to reduce the regulatory burden on relevant employers.

As discussed above, the WA Government collects data through the quarterly HRMOIR data collection, which is equivalent to the federal government APSED. The work currently being undertaken between the APSC and WGEA on the suitability of the existing APSED data collection is directly relevant to WA (and other state jurisdictions), who may be able to use existing collection mechanism to provide data to WGEA, resulting in time and cost efficiencies.

**Q8.** 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?

Communities' supports minimum standards applying to all reporting employers and linking the standards to organisational outcomes and reported as part of the mandatory reporting. For example, each year reporting employers should demonstrate how actions over the previous reporting period have corrected deficiencies in meeting the minimum standards.

From a WA government employment perspective, many of the minimum standards are already contained in our terms and conditions of employment. Strategies and policies that are designed to build equality and inclusive cultures, have the potential to drive stronger change.



**Q9.** 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?

Communities' notes WGEA currently publishes a list of non-compliant organisations. Non-compliant employees may not be eligible to tender for contracts under the Commonwealth or some state procurement frameworks. There is some uncertainty about how this is applied, and it is suggested this is an area for future consideration.

Compliance mechanisms are one of many levers that can be used. The WA government has established employment targets for diversity groups, referenced this in CEO performance agreements and is piloting an agency capability program which incorporates diversity elements. We report progress towards these targets in the [State of the WA Government Sector Workforce report](#).

The Western Australian Government's Debarment Regime will come into effect on 1 January 2022. The Debarment Regime includes a ground that allows exclusion of suppliers who are non-compliant with the reporting requirements of the WGEA. The Procurement Assurance area within the Department of Finance has been in contact with WGEA to ensure we are informed in the event the Minister responsible for the Act agrees to publicly name employers as non-compliant under section 19D of the Act.

**Q10.** 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?

There is clear evidence that gender equality in the workforce and in leadership roles brings benefits for the community. Women's career progression to leadership roles can be adversely affected by workplace practices and attitudes that are biased towards traditional gender roles in families where one parent, usually the mother, provides primary care to children.

Gender equality empowers men to have a more active role in their children's lives and supports them to do so. Enabling men to achieve better balance between work and family responsibilities can improve their overall wellbeing and their emotional connections.