

23 November 2021

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

Review of the Workplace Gender Equality Act 2012

Industry Super Australia (ISA) is a research and advocacy body for Industry SuperFunds. ISA manages collective projects on behalf of a number of industry super funds with the objective of maximising the retirement savings of nearly five million industry super members.

Our submission on the review of the *Workplace Gender Equality Act 2012* focuses on the gender super gap and how the Workplace Gender Equality Agency (WGEA) can help narrow the gap.

The gender gap in super balances continues to be a persistent problem in every state and territory in Australia. Our analysis of ATO data shows that on average, women approach retirement with a third less super than men.¹ Unless action is taken, the gender super gap is expected to persist for at least the next four decades.²

Earlier this year, we released our first report on how the super system can be improved to narrow the gender super gap in Australia. The report *Paying super on parental leave*³ called on governments at all levels and employers to reduce the gap by paying super on paid parental leave. The report also recommended that:

- ▶ the Federal Government amend the law to require employers to report to WGEA about whether they pay super on both paid and unpaid parental leave, and
- ▶ WGEA publish data it has collected on the payment of super on parental leave.

We acknowledge the work that WGEA has already done in this area, including:

- ▶ collecting information about whether employers pay super on paid parental leave as part of the compliance reporting program, and
- ▶ requiring employers to pay super on paid parental leave to hold the Employer of Choice for Gender Equality citation.

¹ ISA analysis of the 2018-19 2% ATO tax file.

² Treasury Intergenerational Report 2021, chart 7.4.5.

³ <https://www.industrysuper.com/assets/FileDownloadCTA/Paying-super-on-parental-leave-How-governments-and-employers-can-help-reduce-the-gender-gap-in-super.pdf>.

However, to build on this important work, we encourage WGEA to continue focusing on narrowing the gender super gap by taking the following action.

- ▶ **Recommendation 1:** WGEA should also collect data about whether employers pay super on unpaid parental leave.
- ▶ **Recommendation 2:** Where employers are not paying super on either paid or unpaid parental leave, WGEA should collect data about the employer's reasons for this.
- ▶ **Recommendation 3:** WGEA should publish data it has collected on the payment of super on paid and unpaid parental leave at an organisational and industry level.

Collecting data about whether employers pay super on unpaid parental leave

Based on our review of the templates for the compliance reporting program, we understand WGEA does not currently collect data about whether employers pay super on *unpaid* parental leave.

As there are employers⁴ that have adopted WGEA's leading-practice policy of paying super on unpaid parental leave⁵, ISA considers that collecting this data will ensure WGEA has a more complete dataset on the payment of super on parental leave.

This data could be collected by updating the reporting questionnaire that forms part of the compliance reporting program. However, consistent with our report *Paying super on parental leave*, we recommend that for clarity, the Federal Government should first amend the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* to clearly require employers to report to WGEA about whether they pay super on: employer-funded paid parental leave, government-funded paid parental leave, and unpaid parental leave.

Collecting data about why employers are not paying super on parental leave

We also understand WGEA does not currently collect data about the reasons why employers do not pay super on parental leave (whether paid or unpaid).

In our view, this data could be used to ensure any future policies and strategies to narrow the gender super gap (including any strategies to encourage more employers to pay super on parental leave) are more targeted and effective.

Similarly, this data could be collected by updating the reporting questionnaire that forms part of the compliance reporting program. For many of the other questions in the reporting questionnaire, employers responding in the negative are prompted to provide further information about the reasons for doing so by checking the applicable boxes (see for example, question 1.a. about whether employers provide employer-funded paid parental leave in addition to any government-funded parental leave scheme). We support taking a similar approach to questions concerning the payment of super on paid and unpaid parental leave.

⁴ See for example the case study on HESTA in our report *Paying super on parental leave*.

⁵ <https://www.wgea.gov.au/sites/default/files/documents/WGEA-Leading-Practice-Parental-Leave-Policy-Guide.pdf>.

Publishing data about the payment of super on parental leave

We also understand WGEA has not published the data it has collected on the payment of super on parental leave.

Given the limited public data availability on this topic, ISA supports the publication of any relevant data held by WGEA at an organisational and industry level. In our view, this will promote and improve gender equality as it will contribute to the public discussion on the gender super gap and will encourage more employers to pay super on parental leave. It may also encourage the Federal Government to lead the way on best practice by paying super on the Commonwealth paid parental leave scheme.

We also note the publication of the relevant data held by WGEA would be the most efficient and accurate way of increasing data availability and transparency on this issue. Otherwise, interested parties would need to rely on labour intensive and less accurate methods (such as analysing enterprise agreements) to work out the proportion of employers that pay super on parental leave in Australia.

To facilitate the publication of this data, amendments to the *Workplace Gender Equality Act 2012* may be required, given that Act currently prevents remuneration information from being published unless the employer to whom the information relates has consented.

If you would like to discuss this submission, please contact me at

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Yours sincerely



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