

Submission to Review of *Workplace Gender Equality Act*  
Dr Leonora Risse

WGEA Review Team  
Department of the Prime Minister and Cabinet  
Australian Government

Dear Members of the WGEA Review Team,

Thank you for the opportunity to offer a submission to the Review of the *Workplace Gender Equality Act 2012*.

My independent submission offers research insights and evidence-based policy considerations that respond to the Terms of Reference of the Review.

I offer my professional expertise as an academic economist specialising in gender equality in the workforce and with experience in data analysis and public policy.

If I can be of any further assistance, I would be pleased to support the Office of Women in further analysis and consultation in the future.

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## Submission WGEA Review

### Key points

- WGEA plays a critical role in Australia's pursuit of gender equitable workplaces. It is essential that WGEA continues to be adequately resourced and supported to fulfil its objectives and to preserve the strengths of its longitudinal dataset, its analytical capacity and its provision of resources for organisations.
- While much focus in the gender equality space has been placed on articulating the 'business case' for gender equality, it is not clear that this strategy necessarily delivers meaningful and sustainable change and resonates with those who are ideologically resistant to equality and diversity initiatives. While there is no denying the benefits of gender equality for businesses, there is scope for the Australia's pursuit of gender equitable workplaces to be reconceptualised not just as a business performance or economic issue, but also as a positive duty of care and expected responsibility of employers. This is important for positioning gender equity as a matter of moral principle, and for aligning the purpose and implementation of the WGE Act to other emerging developments in the domain of women's economic security and safety in Australia, such as the outcomes arising from the Respect@Work Inquiry.
- There is scope for WGEA to expand its data collection requirements to encompass an intersectional lens, by way of collecting data that is further disaggregated by other important dimensions of identity and lived experience. This requires a carefully considered data collection strategy that is respectful of the sensitivities and complexities surrounding the nature of demographic data and assures trust in the data collection process.
- There is scope for WGEA's reporting requirements to be extended to the public sector (including State, Territory and Local Governments) and to private sector companies which have fewer than 100 employees. This will require investment by WGEA in supportive resources for small and medium enterprises who may have limited capacity to engage in this process.

## 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?**

WGEA's effectiveness lies in its focus on data collection and analysis, and its promotion of an objective, evidence-based approach towards closing gender gaps in workplace outcomes and promoting the adoption of gender equitable practices within Australian workplaces. WGEA's strength lies in its institutional credibility, professionalism and authority as one of the key national organisations that can be turned to for dependable and evidence-based information and insights on gender equality in Australia.

In my capacity as an academic research in this field, I can attest that the information and resources that WGEA provides through its website portal are reflective of new and expanding frontiers in

knowledge and research, communicated accurately, and attuned to best practice developments. This is a dynamic space, with international research and policy insights steadily expanding over time: this Review process will enable the Agency to stay abreast of the growing evidence base and strengthen its capacity to incorporate new research and best practice insights into its scope and operations.

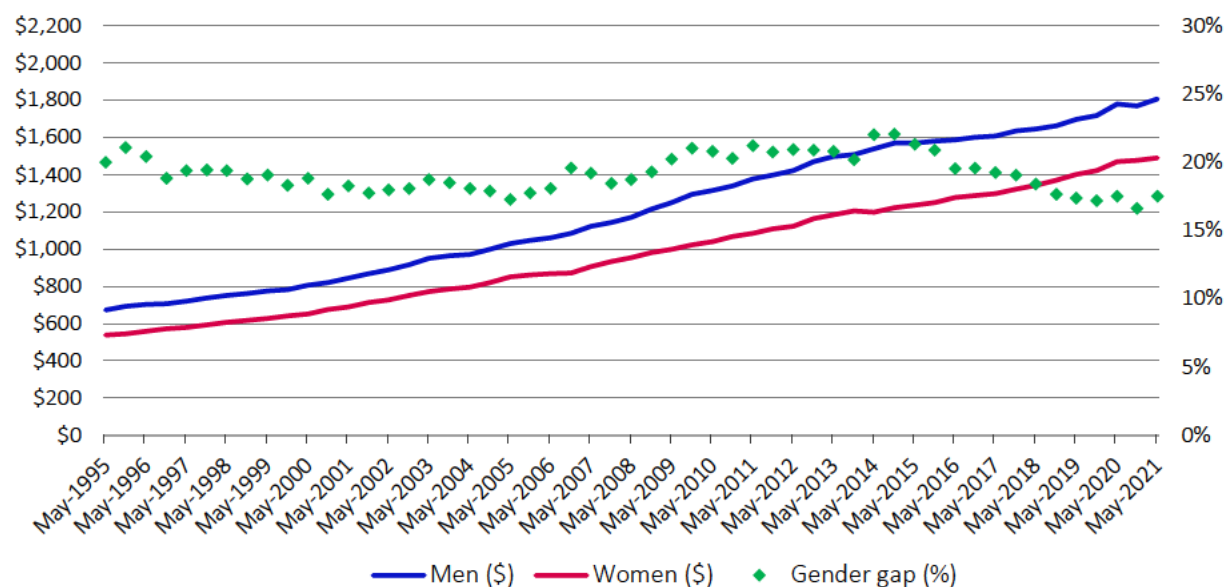
WGEA's contribution to gender equality lies across many dimensions. One way to assess the effectiveness of WGEA is to look at the data itself, and specifically the gender equality indicators that WGEA is tasked with improving. One of these key indicators is the gender pay gap. Given that WGEA came into effect in 2012 and applied to all large-sized private sector companies, a comparison of the size and directional trend of the gender pay gap in the private sector from 2012 onwards, compared to the preceding time period, provides an indicative picture of WGEA's impact. Using ABS data on average weekly earnings, the 9-year period in which WGEA came into effect (from 2012 onwards) is characterised by an overall declining trend in the size of the gender pay gap. This is illustrated in Figure 1 (in terms of full-time ordinary-time earnings) and Figure 2 (in terms of total earnings which included overtime and bonuses). It is in contrast to the dynamics that were observed in the public sector, illustrated in Figures 3 and 4. Although the public sector earnings exhibited a narrower gender gap to begin with, and are determined through different industrial mechanisms than in the private sector, it is clear that the overall decline in the gender earnings gap observed in the private sector since WGEA's establishment was distinctive, and not simply part of an overall improvement across the workforce. As the graphs show, the reduction in the size of the gender pay gap in the private sector from 2012 onwards was largely driven by men's average earnings easing off in their previously rapid pace of growth, more so than by women's earnings picking up in pace and "catching up" to men's.

To provide some caveats to this analysis. Firstly, this inspection of data can only illustrate correlation, and cannot verify causality. Secondly, it is acknowledged that the WGEA reporting requirements applied only to large firms (with 100 or more employees), while this ABS data presented in the Figures includes firms of all sizes. Thirdly, men's average earnings had been accelerating in growth from around 2007, which coincides with Australia's mining boom and the GFC. Men's earnings particularly accelerated in the industries of mining, as well as financial and insurance services. This implies that the reduction in the gender pay gap from 2012 onwards, is likely to also have been affected by these changing economic conditions.

Nevertheless, the decline in the size of the gender gap from 2012 onwards – including in comparison to the pre-mining-boom period prior to 2007 and relative to the public sector – is clearly visible. This analysis is consistent with the conclusion that the creation of the WGEA in 2012 has played a role in narrowing the average gender pay the gap in private sector in Australia.

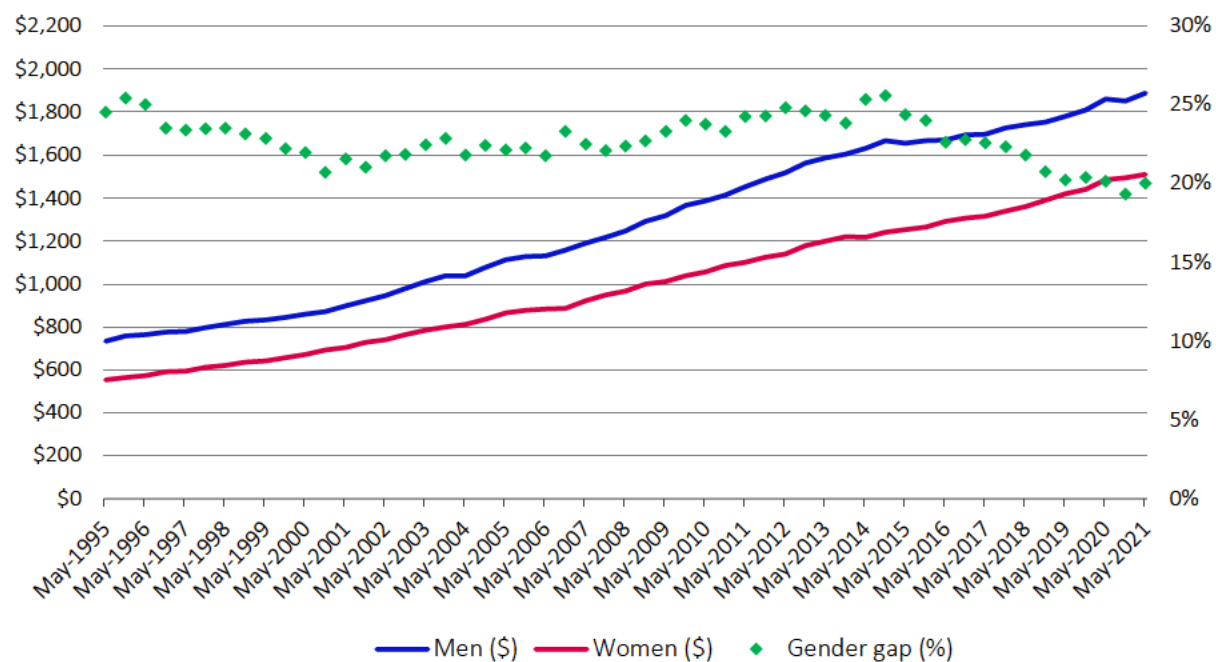
A vital contribution of WGEA is that it has defined a collective set of indicators (GEIs) that matter for gender equality and can be systematically measured and tracked over time. This set of multiple indicators is important for providing a multi-dimensional picture of gender equality. A valuable part of WGEA's operations is that it accompanies the indicator framework with the provision of supportive, evidence-based resources to guide organisations' processes for achieving a gender equitable workplace. This combined focus on measurable *outcomes* as well as *processes* is essential for achieving sustainable and meaningful change. Where there is scope for WGEA to drive further improvements is to expand the GEIs to metrics that provide more than a snapshot of what an organisation has achieved in terms of outcomes, but also shed light on the dynamics of the processes that they have in place. For example, in addition to measuring the number of employees who used parental leave, it would be more informative to measure the uptake as a proportion of employees who were eligible (as discussed in Question 4 of the submission)

**Figure 1: Private sector full-time ordinary-time average weekly earnings, Australia (May 1995 to May 2021)**



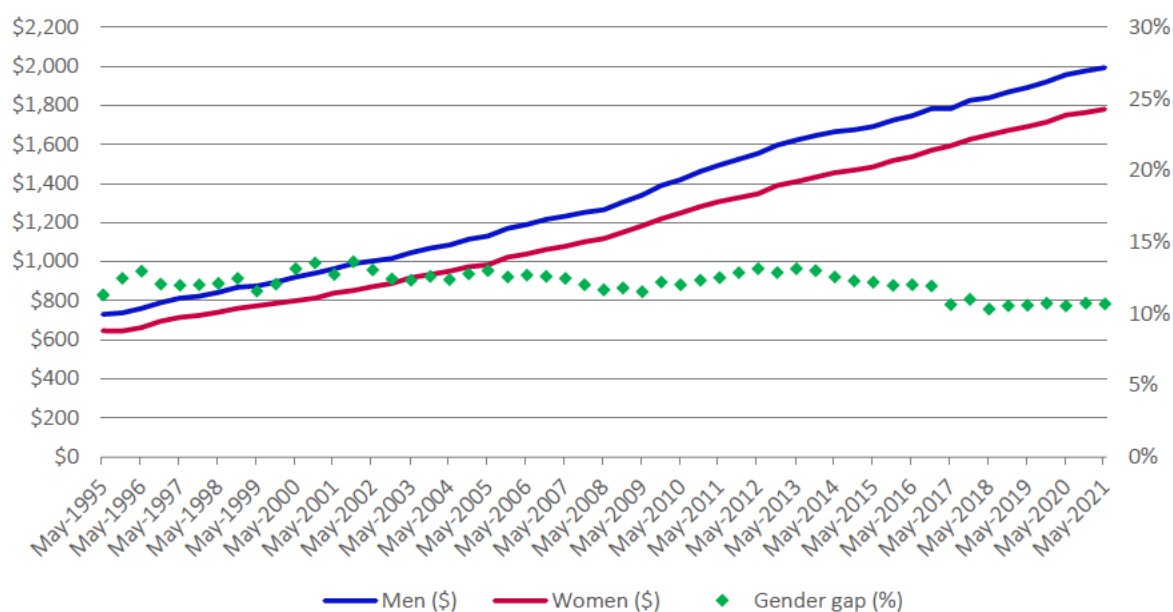
Source: ABS, Average Weekly Earnings, Australia. Original data series. Dollar amounts are nominal (not adjusted for inflation). Gender gap is calculated as the difference between men’s and women’s average earnings, expressed as a percentage of men’s average earnings.

**Figure 2: Private sector full-time total average weekly earnings (May 1995 to May 2021)**

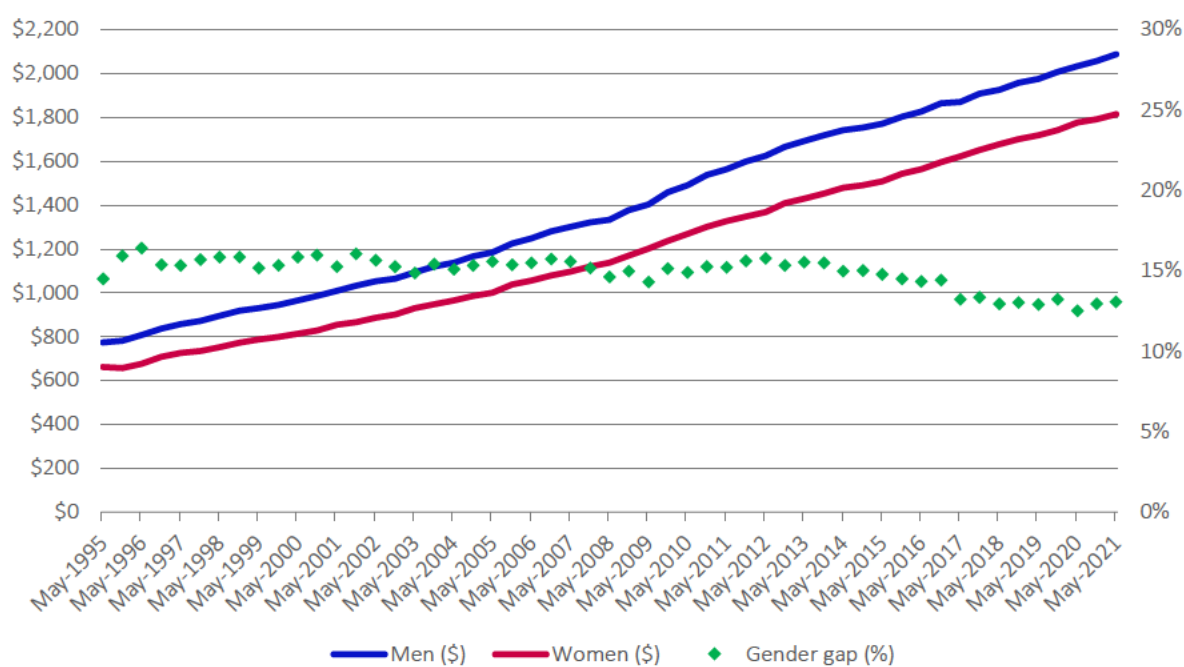


Source: ABS, Average Weekly Earnings, Australia. Original data series. Dollar amounts are nominal (not adjusted for inflation). Gender gap is calculated as the difference between men’s and women’s average earnings, expressed as a percentage of men’s average earnings.

**Figure 3: Public sector full-time ordinary-time average weekly earnings (May 1995 to May 2021)**



**Figure 4: Public sector full-time total average weekly earnings (May 1995 to May 2021)**



**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?**

- The research on gender equality in economic outcomes clearly points towards the need for organisational and institutional-level change in policies, processes and systems to reduce the influence of subjectivity, unconscious bias, social norms and gender stereotypes. WGEA plays an important role in providing organisations with research-based guidance on how to de-bias their workplaces through redesigning policies and procedures. This is a strong, but continually growing, field of research. One area in which WGEA can further strengthen its contribution in this space is to integrate an **intersectional lens** to its analysis and dissemination of evidence-based strategies to address gender gaps in the workplace, and to alert organisations to the need to consider this in their implementation of these strategies. For example, evidence shows that some diversity and equality initiatives are not effective for women from under-represented socioeconomic or cultural backgrounds.<sup>1</sup>
- In relation to intersectionality, WGEA's recent study on the experiences of **First Nations women, Gari Yala (*Speak the Truth*)**, which was undertaken in collaboration with UTS Jumbunna Institute for Indigenous Education and Research and the Diversity Council Australia (DCA), provides an excellent example of the importance of recognising the amplified effects of discrimination and exclusion experienced by Australia's First Nations women. In ongoing collaboration with First Nations groups and other partnership agencies, WGEA can play an important ongoing role in keeping this issue on the agenda and equipping organisations to activate the policies needed to make change.
- Bigger picture, progress towards gender equality requires need a shift in gender norms, and a recognition that these norms apply to men too. We have expanded the roles that are expected of women in society – effectively stretching women across multiple roles of paid workforce, carer, and unpaid domestic worker – but not done the same for men. A focus on supporting, incentivising, and opening up **opportunities for men to step into non-traditional roles and sectors** is the crucial 'other half' of the equation that has not been adequately addressed in Australia's broad policy picture. WGEA can play a role in expanding society's understanding of "gender equality" to extend beyond a focus on women to also encompass a change in behaviours, attitudes, aspirations and expectations that society prescribes for men.
- While much focus has been placed on articulating the 'business case' for gender equality, especially in terms of profitable returns at the level of the organisation, it is not clear that this strategy necessarily activates meaningful and sustainable change and that it resonates with those who are ideologically resistant to equality and diversity initiatives. There is scope for Australia's pursuit of gender equity in the workplace to be reconceptualised not just as an economic issue, but as a **duty of care and expected responsibility of employers**, in the same way that employers are obligated to ensure their employees' workplace health and safety, and to comply with reporting requirements accordingly. This would situate the goal of gender equity within the domain of human rights and in alignment with the CEDAW. The adoption of gender equitable

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<sup>1</sup> For example, see: 'Inclusion on Purpose An intersectional approach to creating a culture of belonging a work' by Ruchika Tulshyan (forthcoming in 2022); and 'Why Companies Should Add Class to Their Diversity Discussions' by Joan C. Williams, Marina Multhaup, and Sky Mihaylo, Harvard Business Review, 5 September 2018.

practices can be viewed as **sound, ethical and responsible business practice**, in alignment with the ESG frameworks and SDG goals that businesses, governments and investors are increasingly adopting for values-based guidance.

- Even though there may be expressions from among employers that reporting requirements add to compliance costs and regulatory burden – which is a very legitimate concern from the point of view of business operators – the **benefits of WGEA’s reporting requirements** for businesses, for employees, and for the wider economy and society, also need to be recognised and highlighted. Already in its communications, it is clear that WGEA is investing in ways to articulate its messaging to speak to the wider community (for example, to communicate the ways that closing the gender inequality is positive for all of society). There is also scope for WGEA’s communications and messaging to focus beyond employers, so that it also **speaks to employees** (for example, communicating the ways that WGEA’s resources and processes serve employees’ interest and wellbeing). This can help to empower a larger number of employees within organisations to understand the purpose of WGEA and its reporting requirements, which can activate stronger support within an organisation and awareness of inequality issues.

### **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?**

The private sector employs around three-quarters of Australia’s total workforce. Of this private sector workforce, around 70 per cent of workers are employed in a workplaces with fewer than 100 employees.<sup>2</sup> This means that around half of Australia’s total workforce currently falling outside of WGEA’s scope. Given the therefore important to consider extending WGEA’s scope to include the public sector and small-and-medium sized private companies.

The current scope of private sector companies with 100 or more employees is a clear limitation to the potential impact of the legislation. Expanding WGEA’s scope to include **public sector** reporting obligations would be a positive development for internal consistency: if a government agency is compelling private companies to participate in the reporting process, the public sector should be expected to do the same.

Extending to **small-to-medium-size companies** to are currently outside of reporting scope (that is, with fewer than 100 employees) requires a balanced consideration of the resourcing demands that this would place on these companies who are likely to have less administrative capacity to fulfil these data collection processes. To support the gains that would come from extending WGEA’s scope to companies with fewer than 100 employees, WGEA can invest in ways to support these smaller-sized companies to make use of WGEA’s resources and engage in WGEA’s data collection process. Specific support can also be provided to not-for-profit organisations.

There is potential for WGEA to distinguish between ‘minimum standards requirements’ from ‘best practice’ reporting requirements for small-to-medium companies, and to allow for a transition period as they begin their engagement process.

There is scope to incentivise and reward small-and medium-sized companies to engage in Employer of Choice accreditation. This elevates the points that engagement with WGEA is not just about adherence to data collection policies: it is about making use of the resources, guidance and best

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<sup>2</sup> Author’s calculation using Household, Income and Labour Dynamics in Australia (HILDA) Survey for 2019.

practice models of doing business that WGEA equips organisations with. It is a valuable asset for companies have access to the evidence-based insights and toolkits for analysis that WGEA provides.

It is also reasonable to expect that any small-to-medium-sized company that **receives government funding**, such as through procurements, should be expected to participate in these reporting requirements.

**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?**

To support companies through a process of improving their gender gaps in pay and other indicators, it would be even more meaningful to report on not only the given indicator during the reporting period, but also an organisation's **rate of change in closing gaps** in these indicators from the period reporting period. This would be a way of incentivising progress and acknowledging the companies that are investing in strategic efforts to improve, even if they are still a distance from achieving their goals.

Other metrics that are important for progressing improvement in gender equality in Australian workforce, and wider society, relate to indicators that are not just about achieved outcomes, but about processes for shifting gender norms. Research is clear that the underpinning factors that gives rise to gender disparities in economic and societal outcomes is the influence of gender norms, and the persistence of stereotypical expectations of differentiated roles for men and women in society. Policies that will achieve gender equality in Australia – and equality of respect – need to be focused on not just achieving 50/50 outcomes but a genuine dismantling of gender norms.

This could be supported by the GEIs including metrics on the following, which I have selectively identified as key leverage points for change, based on what we know about impediments to progress and what works to address unconscious biases and shift gender norms in workplace culture and wider society:

- the availability and uptake of employer-provided paid parental leave and carer leave (disaggregated for men, women, other gender), relative to the total number of workers who were eligible to make use of the entitlement
- how many men (and all workers in general disaggregated by gender) requested paid parental leave and were denied their request
- whether paid parental leave is non-transferable
- rate of wage replacement offered in employer-provided paid parental leave
- other dimensions of flexibility in usage of employer-provided parental leave (for example, can leave be taken at a fractional rate over a longer time period)
- removing the classification of primary and secondary carers, in relation to parental leave
- how many women were promoted within organisation, and how many women applied for promotion within the organisation but were not successful
- how many women were shortlisted for senior and executive roles, relative to the total number of shortlisted candidates
- the availability, uptake and distinguishing characteristics of policies that support workers to transition back to the workforce after a period of parental, carer or other forms of family or personal leave (including, for example, keep-in-touch programs while on leave)
- implementation of an intersectional lens on GEI metrics (as discussed in Question 5 of this submission)



Any considerations of potential expansions to current GEIs of course need to be balanced against the practical feasibility and reporting burden experienced by employers, and their administrative capacity to measure these indicators. However, the effectiveness the WGE Act lies in its capacity to raise awareness and salience about the dimensions that matter for gender equality – and will have the strongest likelihood of bring about change. Any proposals for expansions for GEI data collection can be evaluated through this lens.

**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 (eg cultural and linguistic diversity, disability, age, location of primary workplace). If not, why not?**

In light of the many ways that the effect of gender can be compounded by the biases and barriers associated with other sociodemographic characteristics, there is scope to improve the data collection mechanisms that would enable an intersectional lens to be applied to gender gap analyses and the measurement and monitoring of gender equality indicators. An intersectional lens is required to fully understand and respond to the specific barriers or inequity of treatment facing particular cohorts of women, including Aboriginal and Torres Strait Islander women, women with a disability, LGBTQI+ women and people, and women from migrant backgrounds.

The collection of information disaggregated by sociodemographic characteristics brings additional resourcing requirements and other practical challenges for organisations as well as for their employees. Among these challenges are the privacy and personal sensitivities surrounding the collection and analysis of data of this nature.

If WGEA were to prescribe a mandatory collection of intersectional data, it should take responsibility to invest in a dedicated strategy and **set of guidelines to support organisations to undertake the collection of intersectional data in a responsible, respectful and ethical way**. Importantly, the collection of intersectional data needs to be designed and conducted in a way that nurtures individuals’ trust in the process, and in a way that is informed by the leadership, insights and values of the under-represented cohorts themselves.

When considering the criteria and definitions of these additional dimensions of data to collect, WGEA should consult across other data collection agencies (including the ABS and the National Centre for Longitudinal Data (NCLD)) so as to build **consistency and compatibility across Australia’s major data collections**. An outcome of this WGEA Review could be to recommend for a nationally consistent strategy for intersectional data definitions and collection to be co-ordinated across all major data collection agencies, not only as a way of harmonising metrics but also to advance the implementation of intersectional data within the institutions that support Australia’s research and policy processes. WGEA’s endorsement for a co-ordinated and strategic approach to intersectional metrics can inform the Australian Government’s Data Strategy: the Australian Government’s vision for Australia to become “a modern data-driven society by 2030” needs a well-informed intersectional lens.

**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?**

The way in which WGEA presents its data on its Data Explorer Portal is generally very accessible and usable. It is promising that WGEA has recently expanded opportunities for academic researchers to collaborate with the Agency on projects that make full use of its data and contribute to expanding our

knowledge. (I have a vested interest in this development in data access, but I also share this view on behalf of the wider research community and gender equality advocacy groups.)

It is positive to see WGEA engaging in public information campaigns which serve to disseminate statistics and knowledge to the Australian community in an objectively informatively but also empowering way, by way of accompanying the facts with evidence-based strategies on what to do about it. Where there is also scope to improve accessibility is for this information to be translated into a range of non-English languages, to reach migrant and non-English-speaking communities who are often worst affected by gender-based disparities and other forms of biases and barriers. This would of course need to be undertaken in a culturally sensitive way and in consultation with these communities.

On the question of **pay transparency**, there is currently interest and debate as to whether pay transparency would help to accelerate progress on gender equality. Mandated reporting of a company's gender pay gap aims to address the problem of 'asymmetric' or 'incomplete' information: the distribution of salaries is known by employers, but not available to employees. This imbalance in knowledge places employees in a weaker position in the overall employer-employee wage bargaining process. As an indication of the effects of mandated transparency in gender gap reporting, a longitudinal analysis of the impact of mandated transparency enacted by legislation in Denmark in 2006 found that the policy resulted in a narrowing of the gender pay gap among companies.<sup>3</sup> This outcome arose due to a slowdown in the pace of men's wage growth. It resulted in an overall lower wage bill for the organisation and, furthermore, without any reduction in productivity. This, along with other studies with similar findings, points towards the effectiveness of pay transparency policy in compressing wage gaps. Informatively, it implies that mandated pay transparency has the effect of reducing the apparent "over-payment" of men.

One purported mechanism through which mandated pay transparency operates is at the internal level of an organisation: this information can empower employees with more complete knowledge about the pay distribution in their own organisation, thereby incentivise or pressurise employers to pay their workers more equitably. A second purported mechanism of mandated pay transparency operates externally: public information on a company's pay gap can be used by potential customers, clients, collaborators or other external parties to decide on whether to engage in business with the company, on the grounds of whether the company is perceived as an equitable employer. The rationale is that this potential for negative perceptions will pressurise companies to improve their gender pay gap.

However, there will be differences in the extent to these various factors will affect company behaviour in practice. For example, some companies may be more dependent on customer perceptions than others. Workers' capacity to exert bargaining power is also dependent on a range of other factors, such as their level of seniority within the organisation and the feasibility with which they can secure another job in another organisation. This is borne out in a study of the effects of the introduction of mandated pay transparency in the UK on gender gaps in pay in UK universities, which found that the transparency initiative was effective in narrowing the pay gap, as a result of senior women bargaining for higher wages or leaving the institution.<sup>4</sup> This signals that it is women in senior roles, or with the mobility and capacity to move institutions, who benefit from the policy. It is not clear that women in

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<sup>3</sup> Bennedsen, M., Simintzi, E., Tsoutsoura, M. and Wolfenzon, D. (2019) Do firms response to gender pay gap transparency? NBER Working Paper No. 25435

<sup>4</sup> Danula K. Gamage, Georgios Kavetsos, Sushanta Mallick, and Almudena Sevilla (2020) Pay Transparency Initiative and Gender Pay Gap: Evidence from Research-Intensive Universities in the UK, IZA Discussion Paper No. 13635

more junior or mid-tiered positions, or without the flexibility to move to another job, will necessarily reap the benefits. For mandated pay transparency to function effectively and equitably for all women (and, indeed, for all workers) in the workforce, it needs to be taken up by all organisations and it needs for all organisations to be held to account to improve the gap. Otherwise, there is a risk of generating a segmented labour market, where women in organisations that do not transparently publish their gender pay gap or cannot change jobs and move to a new employer, are excluded from their right to equitable pay.

The practical implementation of pay gap transparency brings other complexities. The process also needs to build in mechanisms for quality assurance, such as spot audits, to ensure that the information reported by organisations is reliable and that calculations are being carried out accurately, honestly and reliably. While the prospect of pay gaps being publicly shared can put pressure on companies to take proper action to genuinely address pay inequity, it could also result in distorted responses such as a manipulation of data or other unintended responses.<sup>5</sup> Research in this field also points towards the potential negative implications of pay transparency on workers' morale, productivity and perceptions of fairness and justice, if pay gap information is not also accompanied by an explanation of the reasons for the pay distribution and information on what an organisation is doing to address any pay disparities, and if workers do not have the agency to be able to do anything with their wages.<sup>6</sup>

Pay transparency also does not guarantee to reduce other biases. The research is clear that women still face more severe repercussions for assertiveness and initiating negotiations. Knowledge of what others earn, and public pressure on employers to do something about their pay gap, does not guarantee that women will be less exposed to this backlash if they do initiate negotiations for higher pay. This points towards the need for organisations to invest in a broader set of policies to address these gender-based inequities, focused on de-biasing their system of decision-making, more so than depending on workers to do anything differently.

In sum, although what we know about organisational-level research on transparency mandates, to date, towards the positive potential for mandated transparency in reporting as a mechanism for improving pay equity, there is a need for further examination at a workforce-wide level and through a systems-level approach, to better understand the full implications of pay mandates. To ensure effectiveness of any proposed shift to mandated reporting, this includes a need for further research and testing to identify what other policies and supportive resources must also be provided if we are to move to a mandated system of transparent reporting.

A takeaway implication for WGEA in this exploration is that research and practice in this space has highlighted the importance of the **distinguishing between transparency of outcomes and transparency of processes**: "Transparency does not mean revealing, for example, all employees' pay and reward to everyone within the organisation – although some organisations do choose to do this, which is sometimes referred to as 'radical transparency'. In the case of this guidance, however, being transparent simply means being clear and open about how these decisions are made." (Behavioural Insights Team, 2021, p. 1)<sup>7</sup>. Best practice guidance in this field, drawing upon behavioural insights,

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<sup>5</sup> Tomasz Obloj Todd Zenger (2016) The Influence of Pay Transparency on Inequity, Inequality, and the Performance-Basis of Pay, Harvard Business Review, 6 September 2016.

<sup>6</sup> Bennedsen, M., Simintzi, E., Tsoutsoura, M. and Wolfenzon, D. (2019) Do firms respond to gender pay gap transparency? NBER Working Paper No. 25435; Breza E., Kaur S., Shamdasani Y. (2018) The morale effects of pay inequality, Quarterly Journal of Economics, 133, 611-663; Cullen, Zoë B., and Bobak Pakzad-Hurson, Equilibrium Effects of Pay Transparency, NBER Working Paper Series, No. 28903, June 2021.

<sup>7</sup> Behavioural Insights Team (2021) *How to increase transparency of progression, pay and reward: 5 steps for increasing transparency to improve gender equality and representation*, 'How to improve gender equality'

advises organisations to identify the processes that could be made more transparent – this is different from prescribing pay transparency per se. For example, in the Behaviour Insights Guide compiled by leading gender equality researchers, their list of recommended, evidence-based actions to close gender gaps in pay does not specifically prescribe a role for pay transparency per se. Rather, it focuses on transparency of process.<sup>8</sup>

Broadly speaking, the cited above research still recognise power of transparency in processes to serve as a mechanism for more equitable outcomes: “Increasing transparency is a fundamental and necessary step towards genuine culture change. Ultimately, transparency benefits the whole organisation. Its positive impact goes beyond improving gender equality. Transparency, combined with employee consultation on and input into decision-making processes, results in a greater perception that decisions are just and fair. Transparency can also improve the acceptance of decisions by all employees, of all genders, because they understand the decision-making process.” This is not to put forward a case against transparency mandates, but to proceed with a full awareness of the complexities involved.<sup>9</sup>

**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?**

Regulatory burden is a legitimate concern for businesses and governments, and there is potential for the regulatory burden associated with WGEA reporting requirements to be reduced as part of the Australian Government’s Deregulation Agenda’s focus on ‘streamlining overlapping requirements’ . However, the extent to which WGEA’s data requirements place undue regulatory burden on organisations needs to be weighed up relative to the value that WGEA’s brings. WGEA’s structure is there to serve to the interest of businesses and their employees: in exchange for placing reporting requirements and compliance measures on organisations, WGEA provides valuable resources to employers that support their organisations to attract and retain a wider pool to talent, achieve better outcomes for the organisation, and operate more equitably.

Furthermore, it can be argued that requiring employers to report on metrics in relation to workforce equity policies and outcomes falls under a duty of care and employer responsibility, in the same way that a company’s obligation to report on workplace health and safety.

In terms of potential ways for data to be collected more efficiently, the use of data that is already been submitted through the Single Touch Payroll appears to provide advantages. There is a potential risk that switching from current data collection methods to the Single Touch Payroll (STP) systems could result in losing some of the valuable components of the data that is submitted through current data method, and lead to a disruption to the consistency and comparability of the WGEA dataset over time. The longitudinal property of WGEA’s dataset is a valuable feature that takes years to accumulate and enables us to identify what actions and characteristics of companies are linked to progress in gender equality indicators.

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Toolkits, Government Equalities Office, UK Government. [https://www.bi.team/wp-content/uploads/2021/07/BIT\\_How\\_to\\_improve\\_gender\\_equality\\_guide-ITPPR.pdf](https://www.bi.team/wp-content/uploads/2021/07/BIT_How_to_improve_gender_equality_guide-ITPPR.pdf)

<sup>8</sup> A summary of recommended actions are listed here: <https://gender-pay-gap.service.gov.uk/actions-to-close-the-gap/effective-actions>

<sup>9</sup> For an informative guidance of the research and practical consideration, see: William Heisler (2021) Increasing pay transparency: A guide for change, *Business Horizons*, 64: 73-81.

If a switch to STP data collection is being considered, it would be wise to firstly conduct a direct comparison between the data collected by existing methods to the data that would be generated by STP, at the level of the organisation within the same reporting time period, to confirm consistency and equivalence. Otherwise the risk is that we end up with a 'structural break' in the datasets that would make the pre-STP time periods non-comparable to later years.

The advantage of current reporting mechanisms is that the intentional process of reporting to WGEA makes the issue of gender equality salient to organisations. Coat-tailing on other data reporting mechanisms might come with perceived efficiencies, but could actually have the effect of reducing a company's mindfulness about the need for gender-based analysis and thereby weaken the potential to have an impact on a company's action – which is ultimately the underlying goal.

Making a switch to reporting mechanisms could also be negatively received by the organisations that have dutifully invested in current systems of reporting. The perceived gains of using STP systems to reduce regulatory burden would need to be balanced against their potential fallouts.

**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?**

To gauge the practical feasibility of this proposal, this question should be informed by WGEA analysing what share of companies currently adequately fulfilling current minimum standards as required and clearly identifying the reasons that prohibit companies from engaging with minimum requirements (including if minimum standards were extended to other company sizes, such as employers with 100 to 499 employees).

As noted elsewhere in my submission, there is potential for WGEA to distinguish gradients between 'minimum standards requirements' from 'best practice' reporting requirements, and to allow for a transition period as they begin their engagement process.

**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?**

There is scope to consider whether current mechanisms for incentivising compliances, including through imposing repercussions for non-compliance, are as effective as they could be.

Among its strength, WGEA has are solid incentives to support and reward organisations for compliance (including in the form of eligibility for government procurements) and for taking steps that go beyond minimal requirements, in the form of Employer of Choice Accreditation. This incentive and reward system is important for recognising businesses who are doing their part to contribute to a more gender equitable Australian workforce, and for demonstrating to the wider business community what is achievable.

There is scope to introduce more gradients of recognition that accommodate differences in organisations' resource capacity: this will be an important consideration if the scope of WGEA reporting requirements are expanded to smaller-size businesses.

Currently one of the key mechanisms that WGEA depends on to motivate compliance is through listing non-complying companies publicly on the WGEA website and for deeming non-complying companies ineligible for government procurement. However, it is not clear that these mechanisms are as effective as they could be, given that there are many companies that are not in the business of seeking

government procurements and it is unclear whether there is wide public knowledge of the existence of the non-compliant list and to what degree the existence of the list pressurises organisations to make a meaningful change.

Incentive mechanisms need to be attached to ‘credible threat’ in terms of a repercussions. To activate a tangible cost for non-compliance for all organisations with reporting requirements, there is legitimate case for the WGEA to adopt the use the financial penalties for organisations that do not fulfil their obligations.

**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?**

***A role for innovation and evaluation***

Although our understanding of ‘what works’ to close gender gaps in workforce outcomes, there are existing gaps in our evidence base particular in intersectional contexts. There is potential for WGEA to play a role in supporting the innovation and evaluation of well-informed but new approaches to addressing gender equality in the workplace, in partnership with organisations and researchers. Proposed interventions must be accompanied by dedicated resourcing and support to conduct a robust evaluation and assessment of their effectiveness. To facilitate this process, specific metrics to benchmark and evaluate policy effectiveness should be pre-determined. While proposed initiatives should be informed as strongly as possible by existing evidence, nurturing a supportive culture of openly sharing learnt insights – especially if new ideas for interventions might not work as intended – should be encouraged, especially among community organisations and small-to-medium enterprises so that innovative approaches have a chance to be piloted and explored. This avenue for innovation is beyond WGEA’s remit but could be supported indirectly by the Agency, as a way for keep pushing forward our frontiers of knowledge and progress.

***Understanding resistance and opposition to equality, diversity and inclusion initiatives***

Experience teaches us that progress towards gender equality cannot assumed to take a linear trajectory or be a smooth and continually progressive process. As women make progress in the workforce, this can activate resistance, hostility and backlash from those who are not ideologically on board with these changes and are threatened by this progress. Understanding this dimension of gender equality, and equipping employers and employees to be able to manage and counter these challenges, is a critical element of Australia’s overall progression to gender equity.

***Parental leave default settings and uptake***

Broadly-speaking, Australia’s progress towards gender equality requires expanding the scope of policy focus to more fully encompass men. Below is a case example of the benefits of providing non-transferable paid parental leave for fathers, as a mechanism for strengthening women’s attachment to the paid workforce and facilitating a more gender balanced sharing of care responsibilities at home.

WGEA can support companies to bring about cultural change by including GEI metrics that are centred on these types of game-changing policies, including important elements of effectiveness such as how many men request paid parental leave and are denied their request: these are the types of roadblocks that are stalling change.

*In terms of policy action, parental leave for fathers is one of the key policies that supports women’s employment outcomes through shifting gender norms surrounding parental caregiving within households, and specifically shifting parental involvement among fathers. Canada provides a case example and evidence of policy effectiveness, with the province of Québec implementing the Québec*

*Parental Insurance Plan in 2006. The provision of five weeks of non-transferable parental leave to fathers, paid at 70% to 75% of wage replacement rate, had the effect of increasing fathers' contribution to unpaid household duties, as well as increasing women's labour force participation, and specifically in full-time employment.*<sup>10</sup>

*This shift in fathers' behaviour in parenthood was found to generate longer-term effects that can help sustain gender equality goals into the future. Québec's parental leave policy improved fathers' bonding with their children, challenging the traditional gender norm that constricts men from experiencing this important emotional dimension and caring role in their lives. Within households of heterosexual couples, parental leave for fathers has been shown to dismantle gender norms within the attitudes of the next generation of children.*<sup>11</sup> *These shifts can contribute to sustainable progress in gender equality over time across various aspects of society.*

*When putting this policy into practice, it is not sufficient to simply offer parental policy to men – the stigma and social penalties associated with contravening traditional norms stands in the way of men being able to make use of these policies. The Canadian experience attests to the tensions and negative stigma that fathers faced in their own workplaces when aspiring to make use of the parental leave on offer to them, reflective of the impedimentary influence of cultural norms.*<sup>12</sup> *Accompanying the provision of non-transferable parental leave for fathers, strategic investment is therefore also needed to shift cultural norms surrounding the expected roles of men in society, to make it more socially legitimate for men to take on these caring and parental roles.*

*While this analysis has been based on a heterosexual couple household, with the aim of improving fathers' involvement in childrearing and mothers' opportunity to engage in work outside of the home, policy entitlements should of course be articulated in a way that is fitting for same-sex couples and single parents. There is also scope to do more to promote men's uptake of care leave beyond parental leave.*

*A way to promote and legitimise parental leave uptake among men is to draw upon tools of behavioural science to design the policy as an 'opt-in' policy by default. This approach would mean that any father to has a child is automatically assigned their leave entitlement, and must take additional steps to 'opt out' of taking leave. The opt-in by design mechanism has proven to be a distinctive feature of policy uptake across a range of settings.*<sup>13</sup>

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<sup>10</sup> Dunatchik, A. and Özcan, B. (2019) Reducing Mommy Penalties with Daddy Quotas, Working Paper No. CASE/213, Centre for Analysis of Social Exclusion, London School of Economics; Patnaik, A. (2019) Reserving time for Daddy: The consequences of fathers' quotas, *Journal of Labor Economics*, 37(4): 1009-1059; Wray, D. (2020) Paternity Leave and Fathers' Responsibility: Evidence From a Natural Experiment in Canada, *Journal of Marriage and Family*, 82(2): 534-549.

<sup>11</sup> Unterhofer, U. and Wrohlich, K. (2017) Fathers, Parental Leave and Gender Norms, IZA Discussion Paper No. 10712.

<sup>12</sup> Harvey, V. and Tremblay, D.G. (2020) Paternity leave in Québec: between social objectives and workplace challenges, *Community, Work and Family*, 23(3): 253-269.

<sup>13</sup> Behavioural Economics Team of the Australian Government (BETA) (2018) *Harnessing the power of defaults*, Governance Note, Department of the Prime Minister and Cabinet, Australian Government.  
<<https://behaviouraleconomics.pmc.gov.au/sites/default/files/resources/harnessing-power-defaults.pdf>>