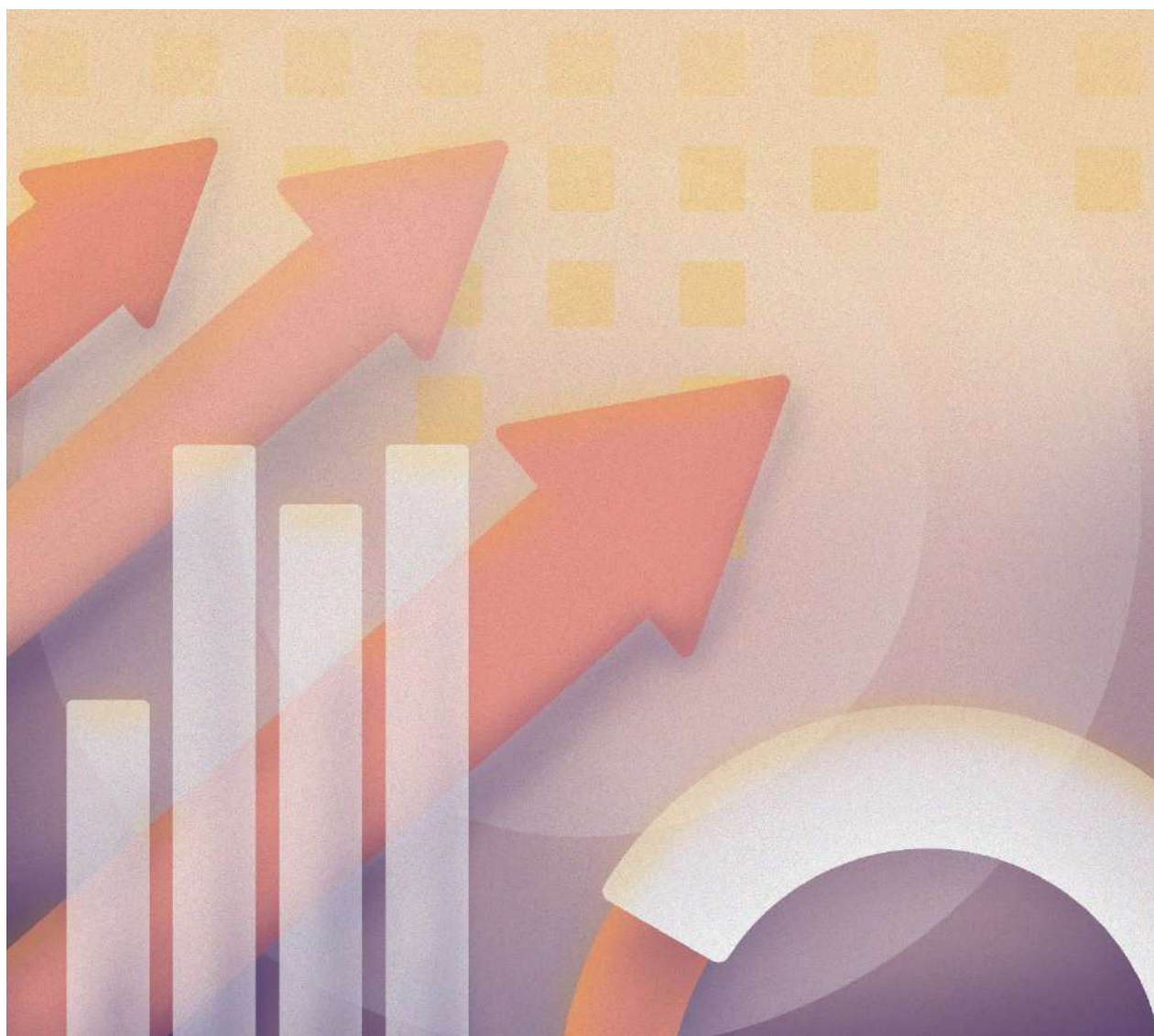




WGEA Review Report

Review of the Workplace Gender Equality Act 2012, December 2021



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Executive summary

Overview of the WGEA Review Report

This report proposes ten recommendations to accelerate progress on gender equality in workplaces and streamline reporting for employers to the Workplace Gender Equality Agency (WGEA).

The headline recommendations are:

- *Recommendation 1: make it easier for employers to report to WGEA and improve WGEA's data collection* by enabling WGEA to use data employers have already provided to government, and investing in a way to assist employers to extract other data from their own employer systems using a digital solution. It is proposed that a new Gender Data Steering Group led by senior officials will oversee research and stakeholder consultation to drive this work.
- *Recommendation 2: publish organisation gender pay gaps* at an employer level – not just at an industry level as currently happens – to accelerate action to close them.
- *Recommendation 3: bridge the 'action gap' with new gender equality standards that set targets* by requiring large employers (500 or more employees) to commit to, achieve, and report to WGEA on measurable genuine targets to improve gender equality in their workplaces.
- *Recommendation 4: reduce the regulatory burden for employers* by replacing and refining particular 'pain point' questions in the WGEA reporting components including removing the 'reporting levels to CEO' question.

The ten recommendations outlined in this report will both enhance the *Workplace Gender Equality Act 2012* and make it easier for employers to report to WGEA.

Substantially reducing the *reporting* regulatory burden for employers will free them to take *action* on the identified gaps and opportunities and help them accelerate progress on gender equality in their workplaces. The recommendations will boost WGEA's capacity – as an influencer, educator and regulator – to assist employers accelerate gender equality in their workplaces.

Accelerating progress on gender equality in workplaces is good for individuals, employers, families and the broader Australian economy. KPMG research shows that halving the workforce gender participation gap would increase Australia's GDP by \$60 billion in 20 years (KPMG, 2018).

COVID-19's impact on the community – including employers – is important context for this review. The impact of COVID-19 is both a reason to take more action to accelerate gender equality and to do so in a way that is mindful of impacts on business.

A number of stakeholders called for further consultation on any detailed proposals that might flow from the WGEA Review. This feedback has been taken into account in developing the WGEA Review recommendations. Further consultation, and regulatory impact assessments, are proposed for several key recommendations as outlined below.

WGEA is one part of a broader approach to gender equality

Many stakeholders noted that WGEA's role working with employers is one part of a broader system to achieve gender equality in Australian workplaces. Stakeholders gave input on a broad range of issues beyond the scope of the Terms of Reference for this statutory review of WGEA's legislation. This included calls for more affordable and accessible childcare, an increase in shared parenting in families, and skills reforms. Stakeholders noted these issues would have a material impact on further advancing gender equality in Australian workplaces.

The Workplace Gender Equality Act 2012 – ‘Gender equality indicators’ and ‘minimum standards’

The *Workplace Gender Equality Act 2012* was established to promote and improve gender equality in the workplace and support employers in advancing workplace gender equality. The *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No 1)* requires relevant non-public sector employers (‘relevant employers’) with 100 or more employees to report annually to WGEA against six gender equality indicators (GEIs):

- GEI 1 – gender composition of the workforce
- GEI 2 – gender composition of governing bodies of relevant employers
- GEI 3 – equal remuneration between women and men
- GEI 4 – availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities
- GEI 5 – consultation with employees on issues concerning gender equality in the workplace, and
- GEI 6 – sex-based harassment and discrimination.

Relevant employers with 500 or more employees are also required to comply with ‘minimum standards’ that require employers to have one policy or strategy against one of four gender equality indicators (GEIs 1, 3, 4, or 6).

WGEA was established under the Workplace Gender Equality Act to support employers in meeting their reporting requirements and promoting and improving workplace gender equality. WGEA’s vision is for women and men to be equally represented, valued and rewarded in the workplace. WGEA provides employers with data-backed insights, practical enabling tools and leading edge research to accelerate change to achieve gender equality in Australian workplaces.

The timing of this review coincided with the roll-out of WGEA’s new online reporting platform. WGEA has acknowledged there were many problems with the new WGEA reporting platform, which made the reporting process onerous for employers this year. WGEA notes that reporting should be smoother for employers next year because technical issues have been resolved and some fields in the WGEA questionnaire will be pre-populated with the previous year’s answers.

Workplace gender inequality persists – More needs to be done to address it

A strong theme in the consultation was the persistence of gender inequality and the need to do more to address it. There has been progress on gender equality. But the national gender pay gap is 14.2 per cent. There is a gender pay gap in favour of men across all industries, even female-dominated ones. Women are significantly under-represented in science, technology, engineering and mathematics (STEM) education and careers in Australia. Women are under-represented in higher paid trades. Women experience significantly more sexual harassment in the workplace than men.

There has been some progress on women’s leadership. ASX200 companies have achieved the 30 per cent target set by the 30% Club Australia and the Australian Institute of Company Directors (AICD). However, there are only 18 women CEOs in the ASX300 and of the 23 CEO appointments in 2020-21 only one woman was appointed.

Gender inequality in Australian workplaces is not explained simply by individual choices of women, although choice is a factor. For example, research shows the gender pay gap is influenced by a number of factors, including:

- discrimination and bias in hiring and pay decisions
- women and men working in different industries and different jobs, with female-dominated industries and jobs attracting lower wages
- women’s disproportionate share of unpaid caring and domestic work
- lack of workplace flexibility to accommodate caring and other responsibilities, especially in senior roles, and
- women’s greater time out of the workforce impacting career progression and opportunities. (see WGEA Fact Sheet on Gender Pay Gap at Appendix 6).

WGEA's role is important to help improve gender equality outcomes in workplaces

The persistence of gender inequality in workplaces underlines the significance of this review of the Workplace Gender Equality Act. WGEA plays an important role supporting employers to identify and address the barriers to gender equality in their own workplaces. Through the consultation process stakeholders said they value WGEA's role promoting and improving gender equality in Australian workplaces – but it is timely to review WGEA's legislation to improve standards and streamline reporting.

Stakeholders said WGEA's dataset on gender equality indicators is world-leading – a 'national treasure' – and of great value to many users of it including employers, researchers, government decision-makers, and investors. The dataset is valuable as it is a census of all non-public employers in Australia with 100 or more employees and enables longitudinal analysis.

Many applauded the research work commissioned by WGEA and its contribution to understanding gender equality issues in workplaces and what can be done to improve gender equality. An example of this is the research from BankWest Curtin Economics Centre and WGEA that shows the causal relationship between increasing gender diversity in senior leadership teams and an increase in key company productivity, profitability and performance metrics.

WGEA's work is also an asset for Australia's global leadership on gender equality. Sharing and promoting WGEA tools for employers is important in Australia's work internationally, especially in South East Asia.

However, stakeholders also said progress on gender equality is too slow. They said changes to the Workplace Gender Equality Act are needed to give WGEA enhanced tools to assist employers accelerate the rate of change. Many stakeholders called for strengthening the Act to enhance transparency and require employers to take action on improving gender equality in their workplaces.

More also needs to be done to streamline and improve WGEA's reporting processes to reduce the regulatory burden on employers, improve the quality of some of the data reported to WGEA, and improve the way WGEA supports employers to advance gender equality in their workplaces.

Retain existing functions of WGEA and scope of the Act

There were calls to extend both the functions and scope of the Workplace Gender Equality Act. However, no changes are proposed to either the function or scope of the Act. WGEA's functions are already broad enough to enable them to drive progress on gender equality in Australian workplaces.

Many stakeholders supported expansion of WGEA's scope to include public sector reporting to WGEA. Stakeholders said governments should report to WGEA in the same way as the private sector, not-for-profits and universities are required to report. As governments have made significant announcements about reporting to WGEA, no recommendation is made on this issue. The Australian Government has announced it will start reporting to WGEA from 2022-23. National Cabinet announced on 10 December 2021 in principle agreement from all State and Territory jurisdictions to provide public sector workforce data to WGEA.

Some stakeholders also called for expansion of the scope of the Act to cover small business. The review concluded that small employers (50-99 employees) should not be covered by the scope of the Workplace Gender Equality Act unless two pre-conditions are met. First, a digital solution to streamline reporting for all relevant employers is developed (see Recommendation 1.1.b). Second, smaller employers have fewer reporting obligations than employers with 100 or more employees.

Two broad themes – Need to accelerate gender equality outcomes and reduce regulatory burden

The recommendations in this report address two broad overarching themes from the consultation and research for this review.

The first broad theme is that the Workplace Gender Equality Act and associated legislative instruments be amended to accelerate progress on gender equality by increasing transparency of employer-level gender pay gaps and requiring employers to take action to meet targets.

There was widespread criticism of WGEA's legislative framework. Currently, in order to comply with the Act, it simply requires *reporting* of data across six gender equality indicators by employers with 100 or more employees. For employers with 500 or more employees, the 'minimum standards' in the Act require them to have a strategy or policy on only one of four gender equality indicators. In both cases *no action* on gender equality outcomes is required.

Many said these requirements are insufficient for creating change and need to be strengthened. Many employers, industry groups and employee groups – who appreciate the benefits that gender diversity brings to their workplaces – said the bar for reporting to WGEA, and the associated transparency, needs to be lifted.

The second broad theme is the regulatory burden of WGEA reporting needs to be reduced. Employers have to extract data from multiple payroll and HR systems and do time-consuming manual work joining up, interpreting and checking data from disparate systems to report to WGEA. Several WGEA reporting requirements were identified as particular 'pain points'. For example, many employers noted that one particular question – 'reporting levels to CEO' – was very onerous to report on. Responding to this question requires substantial time-consuming manual work as discussed further below.

The ten recommendations below address these two broad themes.

Make reporting easier for employers and improve collection and use of gender equality data (Recommendation 1)

Recommendation 1.1 is a central recommendation. It recommends that WGEA be able to use data employers have already given government. Research and stakeholder consultations identified that there is no single data source that could wholly replace WGEA data, although Single Touch Payroll data, combined with other data, could replace the need for employers to provide some payroll data to WGEA. However, more work needs to be done on this issue. That is why this report recommends a new Gender Data Steering Group to oversee and drive further research and stakeholder consultation to enable WGEA to be able to use data already provided to government (Recommendation 1.1.a).

It is also recommended that research and stakeholder consultation be done to identify the best way to invest in assisting employers to extract other data from their own employer systems using a digital solution where possible (Recommendation 1.1.b).

Both parts of Recommendation 1.1 address the two major themes from the consultation process and research. Making it easier for employers to report will result in WGEA collecting better data, which in turn will result in better data-backed insights from WGEA to help employers drive gender equality in their workplaces. Also, critically, as noted above substantially reducing the *reporting* regulatory burden for employers will free employers to take *action* on the identified gaps and opportunities and help them accelerate progress on gender equality in their workplaces.

The proposed new Gender Data Steering Group will bring strategic senior leadership heft to implementing both parts of Recommendation 1.1. Led by senior officials in the Australian Government (the Deputy Secretary Social Policy in the Department of Prime Minister and Cabinet and the Deputy Australian Statistician), it will oversee implementation of Recommendation 1.1 and improve the impact of the Australian Government's collection and use of gender data (Recommendation 1.2).

Relevant employers provide input to WGEA on three reporting components – the Reporting Questionnaire, the Workforce Management Statistics, and the Workplace Profile. Developing the proposed digital solution will involve considering the questions in these three WGEA reporting components, taking into account the benefits of the longitudinal dataset WGEA has developed over the last eight years, and considering the stakeholder feedback on the reporting components provided to the WGEA Review.

Publish organisation gender pay gaps to accelerate action to close them (Recommendation 2)

Recommendation 2.1 is that WGEA be able to publish gender pay gaps at the organisation level, and across quartiles of employees, not just industry gender pay gaps as it currently does. The consultation process identified that publishing workforce composition across pay quartiles will contribute to accelerate the narrowing of the gender pay gap. It will help track women and men's representation at, and progression through, different levels of the organisation. Reporting across quartiles shows the spread of female and male earners across an organisation. It also shows if one gender is over- or under-represented in a particular quartile. This helps employers assess what is happening and take action as needed.

There are different ways to present quartile reporting. Options for how to present quartile reporting and workforce composition by quartiles (gender distribution by head count across quartiles) are at figure 7. The quartile reporting example in figure 7 shows employees in an organisation divided into four equal groups, ranked from lowest to highest pay. The bottom quartile is the lowest earning group of employees, while the upper quartile is the highest earning group. This is one example of how quartile reporting could be represented. The proposed stakeholder consultation on how to implement Recommendation 2.1 will be an opportunity to work out the best way to represent quartile reporting.

Drivers of the gender pay gap are complex. Addressing the contributing factors requires a whole-of-community effort, including focused action by employers. As this is a key change, further stakeholder consultation is critical to ensure implementation of this recommendation achieves its intent: to hold employers accountable to take action, and minimise the unintended consequences.

Issues for stakeholder consideration include the best way to present gender pay gap data at an organisation level. For example, whether it is presented as an overall percentage and/or as an average dollar difference.

Bridge the 'action gap' with new gender equality standards (Recommendation 3)

A number of stakeholders said that the current 'minimum standards' are out of step with community expectations about what needs to be done to drive gender equality in workplaces. Simply having a strategy or policy on one of four gender equality indicators was roundly criticised as barely meeting the bar of being a 'standard.'

There were calls for any strengthening of the minimum standards to apply to all relevant employers (not just those with 500 or more employees). However, many businesses and employer peak bodies called for any new standards to apply only to larger employers, noting the regulatory impact of WGEA reporting and current COVID challenges.

Balancing these views, Recommendation 3.1 makes key proposals to bridge the action gap with new gender equality standards. It recommends:

- adding a new minimum standard to require relevant employers with 500 or more employees to commit to, achieve and report to WGEA on measurable genuine *targets* to improve gender equality in their workplace against three of the six gender equality indicators
- strengthening the existing minimum standards to require relevant employers with 500 or more employees to have *policies or strategies* that cover all six gender equality indicators (not just one policy or strategy for one gender equality indicator as is the requirement in the current minimum standards), and
- renaming the minimum standards to be 'gender equality standards.'

The recommendation for a new gender equality standard requiring employers to have targets is a major change. In the consultation process stakeholders asked that there be a co-design process to develop any new standards that might require them to take action against targets. Further consultation is recommended to develop the best way to implement this recommendation. It is also recommended that a regulatory impact assessment of this proposal be done ahead of implementation.

Balancing views from different stakeholders, it is proposed that the new minimum standards apply only to employers with 500 or more employees rather than apply to all relevant employers with 100 or more employees. This tiered approach is in line with the reporting framework in the Minimum Standards Legislative Instrument, which currently applies only to employers with 500 or more employees. It is not proposed that this expanded gender equality standard apply to employers with 100-499 employees. A future review of the Act could consider whether to extend this new reporting requirements to employers with 100-499 employees. Such an extension should only be done if the deregulation benefits of Recommendation 1.1 are realised and after a regulatory impact assessment has been conducted.

Reduce the regulatory burden on employers (Recommendation 4)

In addition to the major proposal in Recommendation 1.1 – to enable WGEA to use data employers already provide to government, and invest in developing a digital solution to make it easier for employers to extract data from their own systems – the report also makes technical recommendations to the existing WGEA reporting requirements (Recommendation 4.1).

Through the consultation process it became clear that several questions accounted for major ‘pain points’ for employers. The proposal to remove the ‘reporting levels to the CEO’ question will remove a major source of this pain. Employers were highly critical of this question saying it requires substantial interpreting and manual checking for accuracy. WGEA advised that this question effectively duplicates the ‘manager questions’ asked by WGEA. WGEA advised that removing the ‘reporting levels to CEO’ question will not diminish the gender data collected by WGEA as they obtain similar information through the ‘manager questions’ employers report on.

There are other technical recommendations to simplify reporting for employers. It is recommended that employers report on casual and part-time actual hours, rather than employers having to report on annualised full-time equivalent figures. It is also recommended that the ‘proportion’ of the workforce questions are replaced with a simpler requirement to report on ‘numbers’ of the workforce with access to parental leave.

Support Respect@Work implementation to prevent and address sexual harassment (Recommendation 5)

The Sex Discrimination Commissioner’s duo of landmark reports in the last two years – *Respect@Work* and *Set the Standard* – underline that preventing and addressing sexual harassment is vital for accelerating progress on gender equality in Australian workplaces.

Employers already report to WGEA on sex-based harassment and discrimination. However, sex-based harassment is the only gender equality indicator that is specified in *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* but not also in the Workplace Gender Equality Act. In recognition that sex-based harassment and discrimination is a core gender equality standard, Recommendation 5.1 proposes legislative change to bring the Act and Instrument in line and make sex-based harassment and discrimination a gender equality indicator under the Act.

As the Respect@Work Council is already overseeing work underway by the Attorney-General’s Department (AGD) and WGEA – as part of implementing *Roadmap for Respect* – no change is recommended to the current gender equality indicator reporting requirements on sexual harassment. *Roadmap for Respect* is the Australian Government’s response to *Respect@Work*. Proposals for reforms are likely to flow from WGEA’s work implementing recommendation 42 of the *Respect@Work* report. Those proposals will be enhanced with the benefit of the submissions made to the WGEA Review.

Additional diversity data (Recommendation 6)

Recommendation 6.1 proposes WGEA conduct research on the best way to collect additional diversity data on Aboriginal and Torres Strait Islander background, cultural and linguistic diversity, and disability. This research is needed as many raised that collecting this data requires a sensitive approach. Employees can be reticent about providing this diversity data for fear of negative consequences at work. Privacy, trust and safety are key issues to explore in this research, together with input from employers about what kind of diversity data they collect.

Refine the gender equality indicators (Recommendation 7)

The six gender equality indicators in the Workplace Gender Equality Act remain relevant. Capturing data across the six gender equality indicators continues to give insights into addressing the major challenges to gender equality in the workplace.

In assessing the need to refine the gender equality indicators, the WGEA Review considered WGEA's experience with voluntary reporting. Given the high rates of voluntary reporting on certain issues, and the value of data on those issues, it is proposed that it be mandatory to report on age of employees, their primary workplace, and whether superannuation is paid on paid and unpaid parental leave (Recommendation 7.1.a, b and c).

Many additional GEs were proposed in the consultation process. However, it is recommended that only four targeted mandatory reporting questions be added at this stage. This strikes the right balance between stakeholders who asked the review to be mindful of the regulatory impact of introducing additional reporting requirements and those who sought to add more GEs to accelerate the pace of change.

It is also proposed that employers report on CEO remuneration to WGEA (Recommendation 7.1.d). Exclusion of this data means gender pay gap data is incomplete. Individual remuneration would not be public but would be aggregated to calculate gender pay gaps and used for other remuneration analysis and insights.

Recommendation 7.2 proposes alignment with the Australian Bureau of Statistics (ABS) 2020 *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables* so WGEA can collect data on non-binary people.

This report also recommends further work be done: to improve the WGEA questions on 'occupations and jobs', on how to include partners in partnership structures more comprehensively in WGEA's dataset than they are currently, and to consider making it mandatory for employers to report on data for individual entities in corporate structures, not at the group level as happens currently (Recommendation 7.3).

Strengthen compliance and enforcement (Recommendation 8)

There was widespread feedback that the current compliance and enforcement mechanisms are inadequate and need to be improved. Recommendation 8.1 is that employers must comply with WGEA reporting requirements for Commonwealth grants eligibility and Commonwealth procurement participation. To improve these compliance tools it is recommended that the practical application of the Workplace Gender Equality Procurement Principles be reviewed.

A number of stakeholders called for stronger enforcement measures. However, financial penalties, and compliance or improvement notices are not recommended. This is in line with WGEA's regulatory approach which seeks to help employers meet their obligations to achieve progress on gender equality in Australian workplaces. If the Government adopts the recommendations in the report, WGEA should assist employers meet the ambitious proposed new standards in the first instance rather than enforce new punitive compliance mechanisms.

Any future review of the Workplace Gender Equality Act (see Recommendation 10) should assess whether stronger enforcement powers are needed. That will be an opportunity to consider additional enforcement powers if there is a reduction in the current high compliance rate.

Set WGEA up for future success to support employers to drive gender equality in Australian workplaces (Recommendation 9)

To fully realise the potential of the proposed reforms for employers and their workplaces additional investment in WGEA will need to be considered by the Australian Government (Recommendation 9.1).

Among other proposals, Recommendation 9 proposes that WGEA review its Employer of Choice Gender Equality (EOCGE) citation to improve its effectiveness. It also proposes that WGEA continue to improve the way it supports employers to progress gender equality in workplaces. This includes, for example, developing tailored 'off the shelf' policies for use by small and medium enterprises and publicising positive progress by employers. The measure of success for this work is that employers use the full range of WGEA's tools and supports and find them helpful to improve gender equality outcomes in their workplaces.

Review the Workplace Gender Equality Act in five years from the date any legislative changes commence (Recommendation 10)

A staged approach to implementation has been suggested in some recommendations. The intent is to support employers to adjust to any new standards flowing from the report. A review five years after the commencement of any legislative amendments flowing from this WGEA Review will assess the effectiveness of reforms and provide an opportunity to make any changes as and if needed (Recommendation 10).

WGEA Review consultation process

The Australian Government announced this targeted review of the *Workplace Gender Equality Act 2012* in the *Women's Budget Statement 2021-22*. On 20 October 2021, the Minister for Women announced the start of the review. The Terms of Reference for the review are at Appendix 1.

On 20 October 2021, the WGEA Review Team in the Department of Prime Minister and Cabinet released a Consultation Paper seeking input on the ten questions at Appendix 2.

The review's recommendations are based on research undertaken in October 2021 and consultation with stakeholders throughout November and December 2021. Employers, industry groups, unions, advocacy groups, government officials, and academics made practical and ambitious proposals on two broad themes – accelerating progress on gender equality in Australian workplaces, and reducing the regulatory burden on employers.

Eight virtual roundtables were held with stakeholders in November 2021 and 155 written submissions were received. The consulting firm ThinkPlace facilitated the eight roundtables, provided analysis on data issues, and prepared the separate *WGEA Review Consultation Report* on the consultation process. Further information about the consultation methodology is at Appendix 3 and a summary of themes from the consultation process is at Appendix 4.

Two Expert Advisers assisted the review, Pip Marlow, CEO Salesforce, and Kerri Hartland, Principal Advisor, Proximity (and former secretary for the department that had portfolio responsibility for WGEA). The Expert Advisers provided strategic guidance drawing on their fields of expertise. They provided different perspectives on engaging with WGEA as a large and smaller employer respectively.

The WGEA Review Team is grateful to everyone who assisted the review.

WGEA Review recommendations

Recommendation 1 – Make it easier for employers to report to WGEA and improve collection and sharing of gender data

- 1.1 **Improve the quality of data reported to WGEA, and reduce the regulatory burden** for employers, by tasking a new Gender Data Steering Group (Recommendation 1.2) to drive and oversee **research and stakeholder consultation** (including with both human resources and payroll Digital Service Providers) to identify how to:
 - a. **enable WGEA to use data employers have already provided to government** (such as Single Touch Payroll data and other data) and for that data to be used by WGEA to satisfy part of the WGEA reporting requirements where possible (this is likely to require legislative amendments, depending on the nature of the data already provided to government), and
 - b. **invest in a way to assist employers to extract other data from their own employer systems using a digital solution** where possible. A digital solution would substantially reduce employer reporting burden and improve the quality of data reported to WGEA. Currently, depending on their systems, employers have to extract data from multiple payroll and HR systems and do manual work joining up, interpreting and checking data from disparate systems to report to WGEA.
- 1.2 **Improve the sharing of gender data among WGEA, other departments and agencies** by establishing a **Gender Data Steering Group** under the Deputy Secretary Data Group. Enhancing senior strategic oversight of gender data will improve the impact of the Australian Government's collection and use of gender data. The new Steering Group's role includes overseeing implementation of Recommendation 1.1.

Recommendation 2 – Publish organisation gender pay gaps to accelerate action to close them

- 2.1 Amend the *Workplace Gender Equality Act 2012* to allow WGEA to **publish gender pay gap information at an employer level** as an overall figure and by quartile to encourage change within organisations. Individual employee pay information is not to be published. Conduct further stakeholder consultation to identify the best way to implement this recommendation and conduct a regulatory impact assessment ahead of implementation.

Recommendation 3 – Bridge the ‘action gap’ with new gender equality standards

3.1 Bridge the ‘action gap’ **to strengthen the existing minimum standards** by amending the *Workplace Gender Equality (Minimum Standards) Instrument 2014* to:

- a. **add** a new minimum standard to require relevant employers with 500 or more employees to commit to, achieve and report to WGEA on measurable genuine **targets** to improve gender equality in their workplace against three of the six gender equality indicators
- b. **strengthen** the existing minimum standards to require relevant employers with 500 or more employees to have **policies or strategies** that cover **all six gender equality indicators** (not just one policy or strategy for one gender equality indicator in the current minimum standards), and
- c. **rename** the minimum standards to be ‘**gender equality standards**.’

Conduct further stakeholder consultation to identify the best way to implement this recommendation and conduct a regulatory impact assessment ahead of implementation.

3.2 **Strengthen accountability of relevant employers to take action** to improve gender equality in workplaces by amending the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* to:

- a. require relevant employers to **report the date employers share with their employees, shareholders, and/or members the gender equality reports** that the employers provided to WGEA, and
- b. require relevant employers to **provide** the Executive Summary report and Industry Benchmark report from WGEA to employers **to their Board/Governing Body**.

Recommendation 4 – Reduce the regulatory burden on employers

Recommendation 1.1 is a major recommendation to decrease the regulatory burden on employers. This recommendation proposes changes to current WGEA reporting requirements that could be done in the short-term ahead of identifying a digital and legislative solution as proposed in Recommendation 1.1.

- 4.1 Amend the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013* (No. 1) to:
- a. **Remove the ‘reporting levels to the CEO’ question.** Currently relevant employers must report on managerial distance from the CEO or equivalent. The method of describing employee positions and distance from the CEO does not align with many existing workplace reporting structures. Many relevant employers spend considerable time interpreting and applying this requirement and identified it as a major ‘pain point.’
 - b. **Replace ‘annualised full-time equivalent figures’.** Enable relevant employers to report on *actual earnings* of part-time and casual employees as well as the number of hours employees are engaged. This is instead of relevant employers providing *annualised full-time equivalent figures* for part-time and casual employees as currently required.
 - c. **Replace the parental leave questions that currently ask employers to report on the ‘proportion’ of their workforce** as employers find this burdensome. Instead, enable relevant employers to report by gender, employment status and manager/non-manager category:
 - i. The **number** of employees with access to employer-funded paid parental leave for primary carers and for secondary carers and the eligibility period for access,
 - ii. The **number** of employees who took a period of parental leave who ceased employment during, or at the end of that period.

Recommendation 5 – Support Respect@Work implementation to prevent and address workplace sex-based harassment and discrimination

- 5.1 To align the Workplace Gender Equality Act and its associated legislative instrument, **include ‘sex-based harassment and discrimination’** as a **gender equality indicator** in the **Workplace Gender Equality Act**. It is already Gender Equality Indicator 6 in the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013* (No. 1).

Employers currently report to WGEA on sex-based harassment and discrimination. This recommendation for legislative change will bring the Act and Instrument in line and does not change reporting obligations. Separate, complementary work is underway by the Respect@Work Council, the Attorney-General’s Department and WGEA to implement *Roadmap for Respect*, the Government’s response to *Respect@Work*. This includes considering indicators for sexual harassment (recommendation 46 *Respect@Work*) and how WGEA reporting could be used in relation to those indicators (recommendation 42 *Respect@Work*).

Recommendation 6 – Research the best way to collect diversity data

- 6.1 Undertake **qualitative research** with relevant stakeholders, led by WGEA, on the **best way to collect more diversity data in addition to gender data** to enable voluntary reporting, including on Aboriginal and Torres Strait Islander background, cultural and linguistic diversity, and disability.

There was strong support in the consultation process for collecting additional diversity data. But sensitive issues were also raised about employees being reticent to provide this information to employers because of concerns about how this information may be used and the negative impact it may have on their employment. This research will consider how to address these issues.

Recommendation 7 – refine the gender equality indicators

- 7.1 Amend the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* to include mandatory reporting of:

- a. employee age (year of birth), noting many employers report voluntarily
- b. employee's primary workplace location, noting many employers report voluntarily
- c. whether superannuation is paid by an employer when an employee is on paid, unpaid employer-funded and/or government-funded parental leave, noting many employers report voluntarily, and
- d. remuneration data for Chief Executive Officers (CEOs) or the equivalent (individual remuneration would not be public but would be aggregated to calculate gender pay gaps and used for other remuneration analysis and insights).

- 7.2 Amend the Workplace Gender Equality Act and associated legislative instruments, in line with the ABS 2020 *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables*, to enable WGEA to collect data on non-binary people.

- 7.3 To **identify the best approach to improve other aspects of gender equality indicator reporting and reduce the regulatory burden on employers**, the Department of Prime Minister and Cabinet is to do further work – including conducting **further stakeholder consultation and regulatory impact assessment** for any proposals – to assess the need for legislative amendments to:

- a. require employers to report to WGEA on **occupations and jobs** at Australian and New Zealand Standard Classification of Occupations (ANZSCO) level 4 for non-managers
- b. **include partnerships and partners in the WGEA dataset more comprehensively than they are currently** (partners in partnership structures are considered owners not employees, this skews the reporting of gender pay gap data to WGEA), and
- c. make it mandatory for relevant employers to report on data as it relates to **individual entities within corporate structures**, not as it relates to the group hierarchy.

Recommendation 8 – strengthen compliance and enforcement

- 8.1 Amend the Workplace Gender Equality Act so all relevant employers **must comply with WGEA's** reporting obligations **for Commonwealth grants eligibility** and **Commonwealth procurement participation**. To support implementation of this recommendation, the Office for Women in the Department of Prime Minister and Cabinet, together with the Department of Finance and other relevant departments, will **review the Workplace Gender Equality Procurement Principles**.

Recommendation 9 – set WGEA up for future success to support employers to drive gender equality in Australian workplaces

- 9.1 **WGEA is a critical enabler of the WGEA Review recommendations.** The recommendations have **resourcing implications for WGEA** that will require consideration by the Australian Government. To maximise effectiveness, WGEA will need additional investment to implement the WGEA Review recommendations to drive action on gender equality in Australian workplaces.
- 9.2 To avoid confusion with company director roles, amend the Workplace Gender Equality Act to **change the title of the 'Director of WGEA' to Chief Executive Officer (CEO)**.
- 9.3 WGEA to **review its Employer of Choice Gender Equality citation** to improve its effectiveness as a citation and incentive for more employers to progress gender equality in their workplaces.
- 9.4 **WGEA to continue to improve the way it supports employers progress gender equality** in their workplaces including by:
- a. reviewing the reports it provides to employers
 - b. expanding its educational resources
 - c. developing tailored 'off the shelf' policies for small and medium enterprises
 - d. publicising the positive progress of employers
 - e. improving the functionality of WGEA's digital reporting platform
 - f. strengthening its capacity to assist employers to bridge their action gaps, and
 - g. leading employers through the change management required by any reforms flowing from recommendations in this report.

The measurement of success for this work by WGEA is that employers use the full range of tools and supports and find them helpful to improve gender equality in their workplaces.

Recommendation 10 – review the Workplace Gender Equality Act in five years from the date any legislative changes commence

- 10.1 Formally review the effectiveness of action flowing from this WGEA Review five years from the commencement of any legislative reform. This timeframe will give employers an opportunity to adapt to the changes and accelerate progress on gender equality in their workplaces.

Snapshot of gender equality in Australia

One of the key themes in the consultation feedback was the need to accelerate progress on gender equality in Australian workplaces. While progress has been made, there is more to do. Gender inequality persists across women's economic security, women's safety and women's leadership as shown in the *Snapshot of Gender Equality in Australia* at figure 1.

Stakeholders want to see faster change in narrowing the gender pay gap noting it is an important indicator of women's overall position in the paid workforce. The national average full-time gender pay gap is 14.2 per cent (based on ABS data). In recent years the national gender pay gap has been narrowing, as shown in the WGEA Fact Sheet on Australia's Gender Pay Gap Statistics (see 'the national gender pay gap over time' in the Fact Sheet in Appendix 6). However, there continues to be a gender pay gap in favour of men across all industries, even female-dominated industries. This compounds in an average 23 per cent superannuation gap, leaving more women economically insecure in retirement.

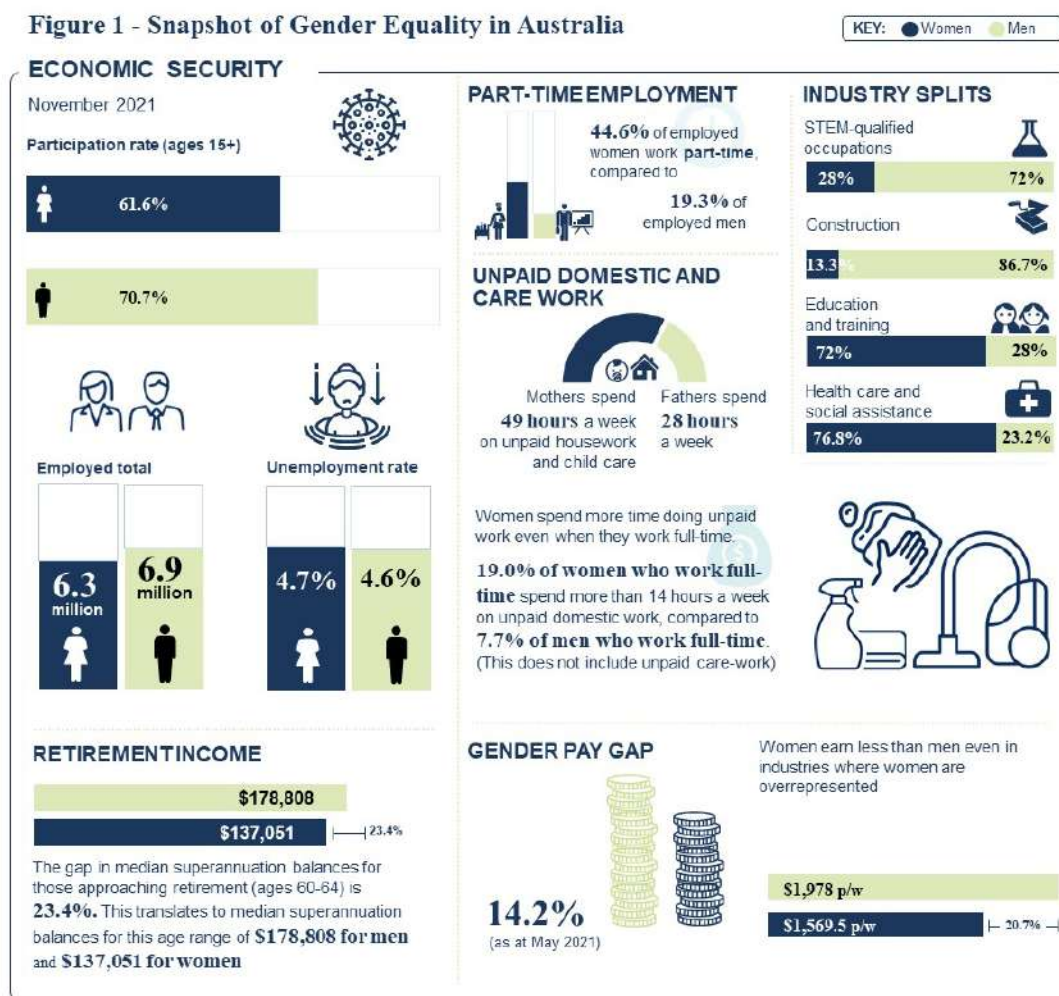
There continues to be a substantial workforce participation gap between women and men. More women work part-time (43.4 per cent) than men (18.7 per cent). Only a small proportion of men work flexibly or take parental leave. Women are under-represented in STEM education and careers, and under-represented in higher paid trades.

Women experience significantly more sexual harassment at work than men. Women's experience of violence – at home, online and in the community – constrains their workforce participation. Online abuse disproportionately impacts women, undermining their economic and professional opportunities.

There has been some progress on women's leadership. ASX200 companies have made progress on women's leadership, achieving the 30 per cent target set by the 30% Club Australia and the Australian Institute of Company Directors (AICD). However, there are only 18 women CEOs in the ASX300 and of the 23 CEO appointments in 2020-21 only one woman was appointed.

This brief snapshot of gender equality underlines the need to monitor and improve gender equality in workplaces. The recommendations in this report will help WGEA support businesses take action on gender equality in their workplaces.

Figure 1 – Snapshot of Gender Equality in Australia

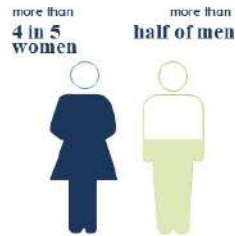


SOURCES: ABS, *Labour Force, Australia, November 2021*; HILDA data pooled from 2002 to 2015 (Waves 2 to 15), cited in "Work and family", Australian Institute of Family Studies, accessed September 29, 2020, www.aifs.gov.au/facts-and-figures/work-and-family; ABS, *Labour Force, Australia, Detailed, October 2021*; ATO *Taxation Statistics 2018-19 - Snapshot - Table 5 - data.gov.au*; ABS, *Average Weekly Earnings, Australia, May 2021*; 16th Annual HILDA Statistical Report *HILDA Statistical Report 2021.pdf* (unimelb.edu.au); Workplace Gender Equity Agency, *WGEA Australia's Gender Pay Gap Statistics* | WGEA, accessed 14 December 2021. Department of Industry, Science, Energy, and Resources, *Workforce and gender equity policies in STEM and other industries*, <https://www.industry.gov.au/data-and-publications/stem-equity-monitor/workforce-and-gender-equity-policies-in-stem-and-other-industries>

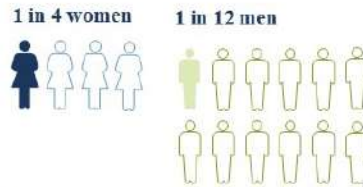
Snapshot of Gender Equality in Australia

KEY: ● Women ● Men

SAFETY



More than 4 in 5 Australian women and more than half of Australian men over the age of 15 have been sexually harassed at some point in their lives



have experienced intimate partner violence since the age of 15

\$26 billion The estimated cost of violence against women and their children in 2015-16



1 woman is killed every 11 days

1 in 6 women



will experience financial abuse from an intimate partner in their lifetime



Indigenous females aged 15 and over are 34 times as likely to be hospitalised due to family violence as non-Indigenous females



Indigenous males are 27 times as likely to be hospitalised due to family violence as non-Indigenous men



Of women living outside major cities, **23%** reported experiencing partner violence,



compared with **15%** of women in major cities

SOURCES: Australian Human Rights Commission, *Everyone's business: Fourth national survey on sexual harassment in Australian workplaces* (Sydney: AHRC, 2018); ABS, *Personal Safety, Australia, 2016*; KPMG, *The cost of violence against women and their children in Australia* (KPMG, 2016); Australian Institute of Health & Welfare, *Family, domestic and sexual violence in Australia: continuing the national story* (AIHW, 2019); J. Kutin et al, *Economic abuse between intimate partners in Australia: prevalence, health status, disability and financial stress*, Australian and New Zealand Journal of Public Health 41, no. 3 (2017); Australian Institute of Criminology, *Homicide in Australia: Statistical Report 34* (2021)

LEADERSHIP



Australian Government Boards
(as at 30 June 2021)



ASX200 Boards
(as at 30 November 2021)



SOURCES: "Gender Balance on Australian Government Boards Report 2020-21", the Department of the Prime Minister and Cabinet, accessed December 14, 2021, www.pmc.gov.au/office-women/leadership/gender-balance-australian-government-boards; "Board Diversity Statistics", Australian Institute of Company Directors, accessed December 14, 2021, <https://aicd.companydirectors.com.au/advocacy/board-diversity/statistics>.

Brief overview of WGEA's role

Established by the *Workplace Gender Equality Act 2012* (Workplace Gender Equality Act), the Workplace Gender Equality Agency (WGEA) manages a reporting program, in which non-public sector employers with 100 or more employees ('relevant employers') report to WGEA against six gender equality indicators (GEIs) on an annual basis. The resulting eight-year gender equality dataset is considered world-leading. How WGEA supports employers to improve gender equality outcomes is shown in figure 2.

WGEA works with employers to help them comply with their reporting requirements under the Workplace Gender Equality Act. This reporting framework aims to highlight measures that employers can focus on to improve workplace gender equality outcomes. WGEA provides advice, practical tools and education to employers to help them improve their gender performance including through the assessment and measurement of gender equality data. The Data Explorer, published on the website, releases all workplace gender equality data collected (excluding remuneration) and enables the public to access and analyse overall, industry and individual company performance.

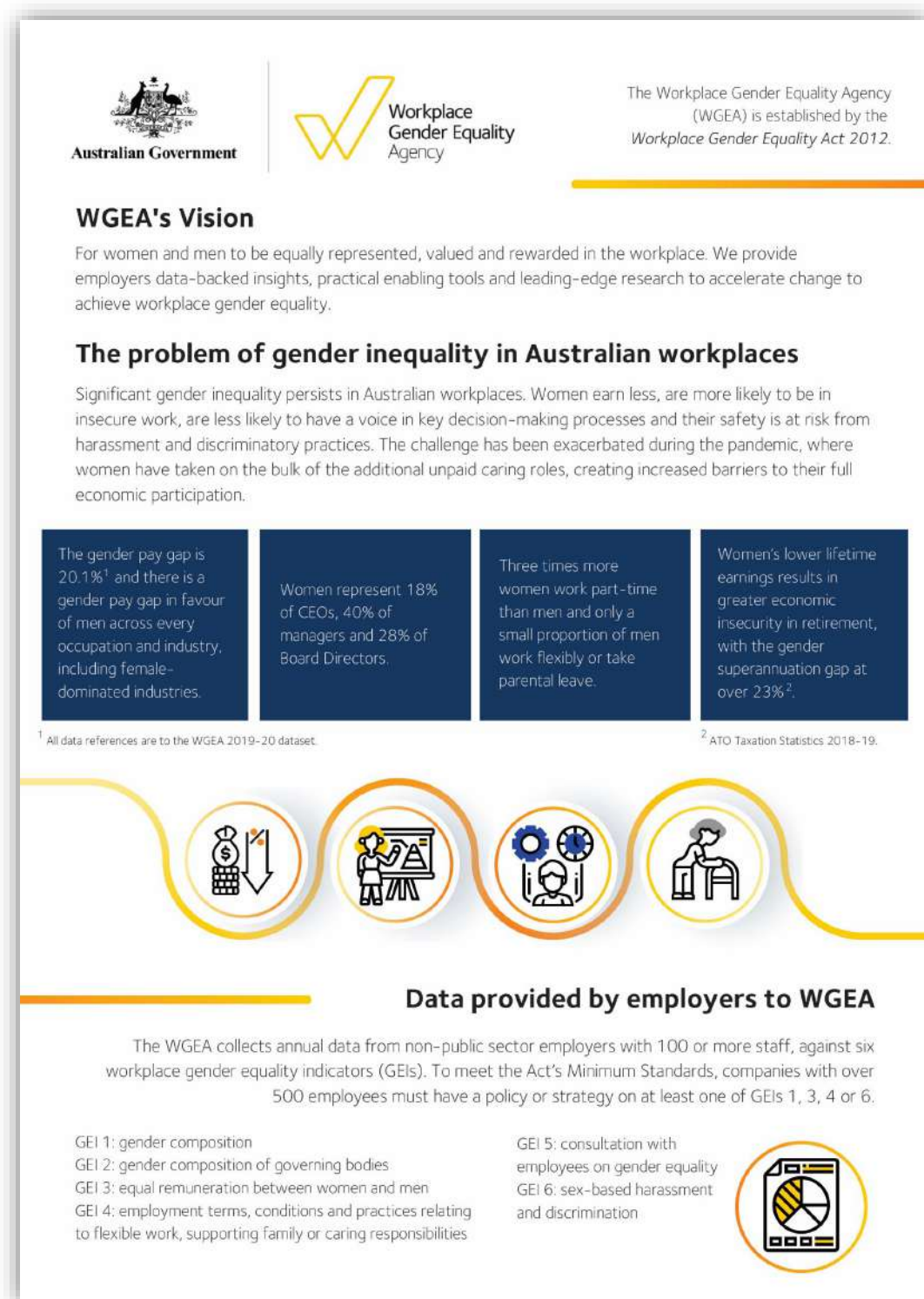
WGEA also works with employers, business, industry and professional associations, academics and researchers, equal opportunity networks and women's groups promoting and contributing to understanding, acceptance and public discussion of gender equality in the Australian workplace.

WGEA undertakes research and analysis on a range of issues relevant to workplace gender equality, often in partnership with other organisations. WGEA releases information on the gender pay gap, including the gender pay gap which is calculated from their data. Unlike the national gender pay gap, WGEA's total remuneration gender pay gap covers full-time total earnings and is currently at 20.1 per cent. WGEA also calculates the national gender pay gap using ABS data. For more on the gender pay gap, see WGEA's Fact Sheet, Australia's Gender Pay Gap Statistics at Appendix 6.

WGEA promotes best practice through the Employer of Choice for Gender Equality citation and Pay Equity Ambassadors. It also provides information on key topics such as parental leave, flexible work and procurement policies.

The Director of WGEA is a core member of the newly established Respect@Work Council. The Council brings together leaders from key government regulators and policy makers responsible for sexual harassment policies and complaints to improve coordination, consistency and clarity across existing legal and regulatory framework. More information is available at: <https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/respect-at-work/council>.

Figure 2 – How WGEA supports employers improve gender equality outcomes



Analysis by WGEA of employers' data

Widely regarded as a world-leading dataset, WGEA has 8 years of information about the GEs in Australian workplaces and is the trusted primary source of workplace gender equality data in Australia.

Data analysis and insights are provided to employers about their results, including over time, and benchmarking their performance against their industry.

A public dashboard showcases results; overall, by industry, by company, over time and by company size, excluding confidential remuneration data.

Extensive research partnerships interpret and analyse the reporting and Employer of Choice data, identifying effective approaches to progressing gender equality and developing educational tools for employers to take action.



WGEA's impact

- Annual reporting and analysis of data and insights assists companies to undertake consistent and comprehensive action, which is proven to reduce gender pay gaps and improve gender equality outcomes in workplaces.
- WGEA's Employer of Choice for Gender Equality (EOCGE) citation provides a challenging framework of strategic actions employers must take and has generated significant positive change. EOCGE employers have a faster reduction in their gender pay gap and greater proportion of women in all levels of management, on their boards and working full-time.
- WGEA's tools and resources are widely utilised and described by employers as invaluable in designing workplace policies and strategies which help to attract and retain staff. Employers undertaking pay gap analysis has doubled in 7 years, assisted by WGEA's gender pay gap calculator and pay equity guide, which was viewed 180,000 times last year alone.
- Leading edge research including WGEA and Bankwest Curtin Economics Centre finding a world-first causal relationship between more women in leadership and increased business performance and value, definitively proving the business case for action on gender equality.



WGEA's assistance to employers

WGEA staff are workplace gender equality specialists and work closely with employers to assist them to report, analyse their data, identify opportunities for action, use the tools and implement new strategies to improve their gender performance.

Functions of WGEA

Current approach

The functions and powers of WGEA as set out in the Workplace Gender Equality Act include (section 10 of the Act):

- Advising and assisting employers in promoting and improving gender equality in the workplace
- Developing, in consultation with relevant employers and employee organisations, benchmarks in relation to gender equality indicators
- Issuing guidelines to assist relevant employers to achieve the purposes of the Workplace Gender Equality Act
- Reviewing compliance with the Workplace Gender Equality Act by relevant employers, reviewing public reports lodged by relevant employers, and dealing with those reports
- Collecting and analysing information provided by relevant employers under the Workplace Gender Equality Act to assist WGEA to advise the Minister
- Undertaking research, educational programs and other programs for the purpose of promoting and improving gender equality in the workplace
- Working with employers to maximise the effectiveness of the administration of the Workplace Gender Equality Act, including by minimising the regulatory burden on employers
- Promoting and contributing to understanding and acceptance, and public discussion, of gender equality in the workplace
- Reviewing the effectiveness of the Workplace Gender Equality Act in achieving its purposes, and
- Reporting to the Minister on such matters in relation to gender equality in the workplace as WGEA thinks fit.

Proposed approach

No recommendations to change WGEA's functions are proposed. Some stakeholders proposed expanding WGEA's functions. However, WGEA's functions are already broad enough to enable them to drive progress on gender equality in Australian workplaces.

Rather than expand WGEA's statutory *functions*, this report recommends expanding the statutory *tools* WGEA has to assist employers to drive action. For example, Recommendation 2.1 proposes that WGEA is able to publish the gender pay gap of organisations and Recommendation 3.1 proposes new gender equality standards to give WGEA an enhanced role in helping employers 'bridge the action gap.'

Scope of the Workplace Gender Equality Act

Current approach

Currently the Workplace Gender Equality Act covers around 40 per cent of employees in Australia. The Workplace Gender Equality Act requires 'relevant employers' to report to WGEA. 'Relevant employer' is defined in section 3 of the Act as meaning:

- a natural person, or a body or association (whether incorporated or not), being the employer of 100 or more employees in Australia, or
- a registered higher education provider that is an employer.

The Workplace Gender Equality Act does not currently cover Commonwealth, State, or Territory public sectors.

However, in the Australian Government's response to recommendation 43(a) of the *Respect@Work* report the Australian Government announced in *Roadmap for Respect* it would amend the Workplace Gender Equality Act to 'require public sector organisations to report to WGEA on gender equality initiatives.' The Australian Government will start mandatory reporting to WGEA from 2022-23 and a voluntary trial is underway.

The *Women's Budget Statement 2021-22* noted that ahead of legislative amendment of the Workplace Gender Equality Act, WGEA will adapt its reporting and data management system for the public sector and work with the Australian Public Service Commission and relevant APS agencies to create a more comprehensive, representative and accurate data set of the Australian workforce. These changes will assist public and private sector organisations to benchmark performance against each other in order to better understand their progress against key metrics of gender equality, including to address workplace sexual harassment.

Proposed approach

State and Territory governments

Many stakeholders supported expansion of WGEA's scope to include public sector reporting to WGEA. Stakeholders said governments should report to WGEA in the same way that the private sector, not-for-profits and universities are required to do.

As governments have made significant announcements about reporting to WGEA, no recommendation is made on this issue. As noted above, earlier this year the Australian Government announced it will start reporting to WGEA from 2022-23. Further to that, on 10 December 2021, National Cabinet announced in principle agreement that all jurisdictions, including states and territories, will provide public sector workforce data to WGEA as soon as possible:

As part of National Cabinet's work on a Nationally Consistent Reporting Framework for Measuring Progress of Women's Economic Security, there was in principle agreement from the National Cabinet to provide public sector workforce data to the Workplace Gender Equality Agency (WGEA). This means that state and territory governments will join the Commonwealth Government's commitment from earlier this year to provide data on six Gender Equality Indicators. This will expand the Australian workforce covered by consistent reporting on workforce gender equality approaches and outcomes, which can be used to continue to target efforts to reduce the gender pay gap.

National Cabinet's in principle agreement is in line with extensive stakeholder support for governments to report to WGEA. Expanding WGEA's scope to include state and territory public sectors would further increase WGEA's data to cover nearly 60 per cent of Australian employees.

Other scope issues

Stakeholders raised a variety of other scope-related issues that are covered later in this report. Small business coverage is addressed in the next section on making reporting easier for business. Inclusion of non-binary people is addressed in Recommendation 7.2. Coverage of partners in partnership structures is addressed in Recommendation 7.3.b.

Make reporting easier for business and improve collection and sharing of gender data

Current approach

The key function of WGEA is to manage a gender equality reporting program. Non-public sector employers with 100 or more employees ('relevant employers') report to WGEA against six gender equality indicators (GEIs) annually. WGEA works with employers to support them in complying with their reporting requirements under the Workplace Gender Equality Act. This reporting framework is designed to help employers improve gender equality in their workplaces.

WGEA's public data dashboard (Data Explorer) showcases workplace gender equality results: overall, by industry, by company, over time and by company size (excluding actual remuneration data for individuals). It can be used to analyse overall, industry and individual company performance.

Relevant employers report to WGEA on three reporting components:

- **Reporting Questionnaire** – an online survey related to an organisation's policies, strategies and actions on gender equality such as whether an employer has a policy on flexible working arrangements
- **Workforce Management Statistics** - Excel worksheet designed to collect information about employee movements, including appointments, promotions, resignations and parental leave utilisation, and
- **Workplace Profile** - Excel worksheet designed to collect information about workforce composition, including occupation and job categories and 'reporting levels to CEO'; salaries and remuneration. This is unit level data about individual employees.

Data provided by employers must refer to the 12-month reporting period 1 April to 31 March. Employers can report additional information voluntarily, including through WGEA's Employer of Choice for Gender Equality accreditation program. The data reported by employers enables WGEA to produce analysis to support employers to drive workplace gender equality outcomes in Australia.

Since the last major review that led to the Workplace Gender Equality Act there is now a major new source of data – Single Touch Payroll (STP) data. STP data makes it easier to report tax and superannuation information to the Australian Taxation Office (ATO). The ATO receives payroll information from employers with STP-enabled payroll and accounting software each time the employer runs its payroll. The ATO provides selected employer and job level data items from the STP system to the ABS for the production of statistics. As discussed further below, there is some very limited overlap between STP data and some payroll-based data that WGEA collects on gender equality indicators.

Proposed approach

Enable WGEA to use data employers have already provided to government

As part of the WGEA Review, analysis was undertaken to identify whether there are any alternative Government data sources that could fulfil WGEA reporting requirements for employers. As shown in Figure 3 no other single data source could wholly replace WGEA data, but some data sources have some overlapping data or could provide additional insights into workplace gender equality.

Figure 3 Review finding – no single data source wholly replaces WGEA data

Australia is fortunate to have WGEA's world leading national gender equality dataset. Through the consultation period research and analysis was undertaken into other datasets that capture information relating to gender and equality. This included Single Touch Payroll (STP) data, the ABS Census, ABS Survey of Employee Earnings and Hours survey, the ABS Personal Safety Survey, the National Community Attitudes towards Violence against Women, and other data sources.

There were no datasets identified that would wholly replace the requirement for WGEA reporting.

Some data items collected by STP could be shared with WGEA and reused. The possibility of this should be further explored as part of the research implementing Recommendation 1.1.a. Most of the other datasets are designed to produce aggregate information (e.g. at an industry level) or use sample data which is not transferrable for usage by WGEA because they require data from the individual relevant employers in order to assist employers improve gender equality in the workplace. In time the Multi-Agency Data Integration project (MADIP) may be able to be used, particularly with STP data integrated into it, however this is a long term project and will not be suitable in the short to medium term.

As discussed in figure 4, STP data may possibly replace the need for manual reporting by employers on *some* payroll questions in the medium-term. However, there are a range of complex issues to be considered. This is why it is **recommended that** the new Gender Data Steering Group (Recommendation 1.2) drive and oversee research and stakeholder consultation to **enable employers to report data once to government** and for that **data to be used by WGEA where possible** (Recommendation 1.1.a). This applies to one of the three WGEA reporting components (Workplace Profile).

Figure 4 Review finding – Single Touch Payroll is not a short-term solution to replace even some payroll data in one of the three WGEA reporting components

Early thinking in the review focused on the possibility that Single Touch Payroll (STP) could be the solution to reduce the reporting burden for employers while still providing WGEA with robust data. The ABS has reviewed how STP could support WGEA reporting objectives. The ABS found 'It is important to note that STP data cannot perfectly replace the current WGEA survey without some compromise and/or adaptation.'

Through the current review consultation it has become clear that STP is not a short-term solution for replacing even some WGEA reporting requirements, even those related only to payroll data. There is only a short series of STP data, with different employers starting to report at different points in time during 2019-20 and 2020-21, and most of the key data items will not be available until the second phase of STP. More work needs to be done to explore using STP as a medium-term solution to report on some payroll questions. A comparison of WGEA data items and STP items is at figure 5. As noted above there are three WGEA reporting components. Of the three components, the only one that asks questions about data already provided to Government is the WGEA Workplace Profile. The key data items that WGEA require in the WGEA Workplace Profile that are not collected by STP are:

Gender data

STP does not and will not capture gender data from employers. However, individuals are asked to supply the ATO with their gender when they apply for a Tax File Number.

The ABS produces gender measures from STP data using the latest gender information from the ATO Client register and connecting this to STP data (which the ABS is able to do for more than 99.5 per cent of people).

Number of hours worked by part time and casual employees

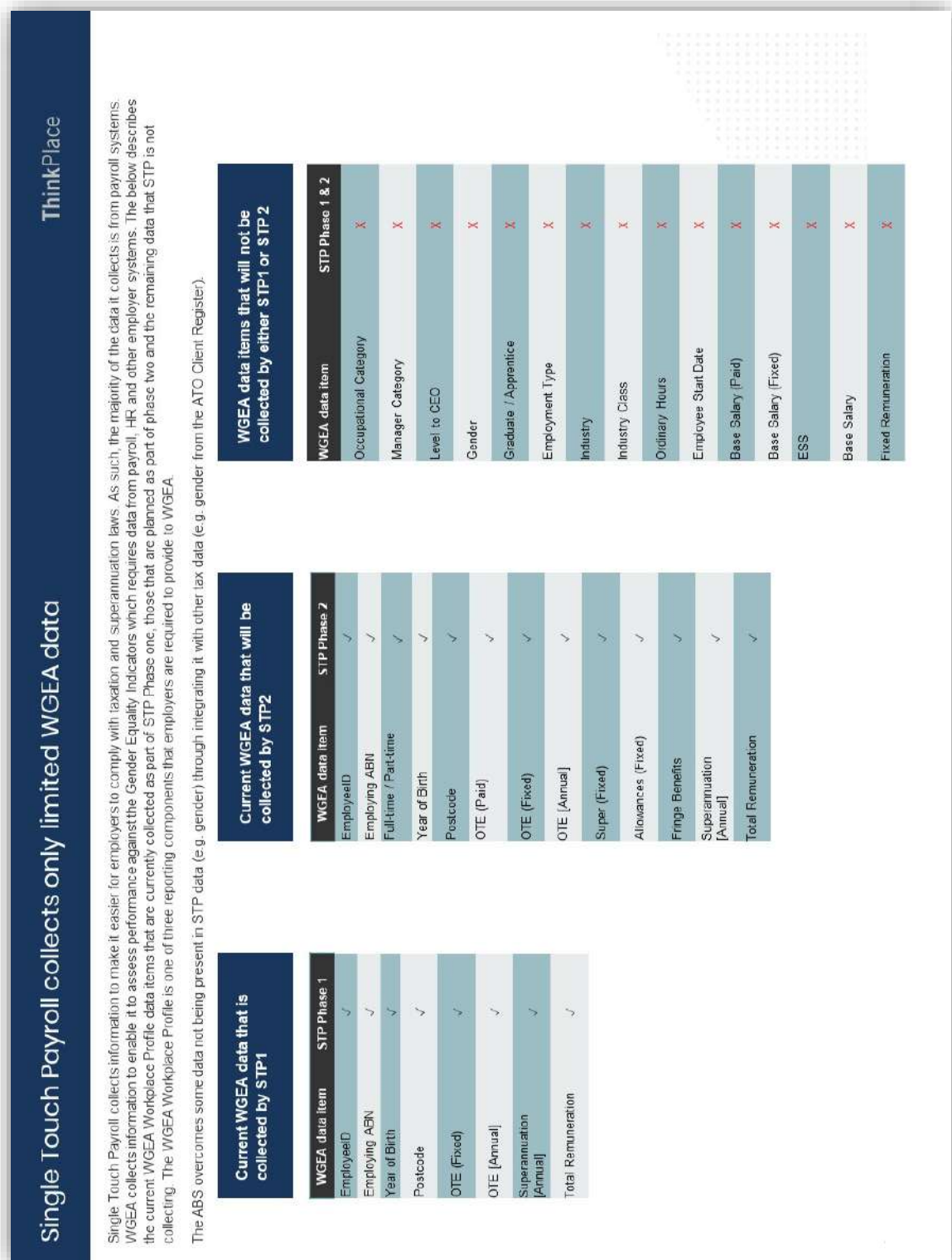
To calculate the gender pay gap WGEA requires employers to report annualised part time and casual employee figures. Women make up the largest cohort of part time and casual employees. To calculate the annualised figures, WGEA needs 'number of hours worked' for this cohort. Capturing 'number of hours worked' for all employees would have broader use and provide wider economic value.

Occupation information

This is not captured by STP but is entered by the employee into their tax return, which could be provided by the ATO. This however introduces complexity and risk as the reporting would come from the both the employee and employer. Some employers indicated that they would wish to ensure that this data is correct before being used by WGEA.

In addition to exploring whether STP could replace any WGEA data, the ABS Survey of Employee Earnings and Hours (EEH) and Census data were considered. EEH information is collected biennially and on a sample basis (a sample of employers and a sample of employees within those employers, which would not provide the complete coverage of the WGEA data) and Census information is only collected five-yearly and has limited workplace related variables.

Figure 5 Review finding - Single Touch Payroll collects only limited WGEA data



Invest in a digital solution to assist employers extract data from their own systems

Employers reported that it is time-consuming for them to report to WGEA because they have to extract data from multiple payroll and HR systems. A range of employers said that they have to do substantial manual work joining up, interpreting and checking data from disparate systems to compile their report to WGEA.

To reduce the regulatory burden for employers – and improve the quality of data reported to WGEA – the reporting process needs to be streamlined and better aligned with HR and payroll processes and systems. The WGEA Review Team worked with ThinkPlace, ABS, ATO, Treasury and others including Digital Service Providers to identify how this reporting burden could be reduced while ensuring employers are able to report gender data to WGEA. As figure 6 sets out, there is scope to develop a digital solution to reduce the reporting burden on employers.

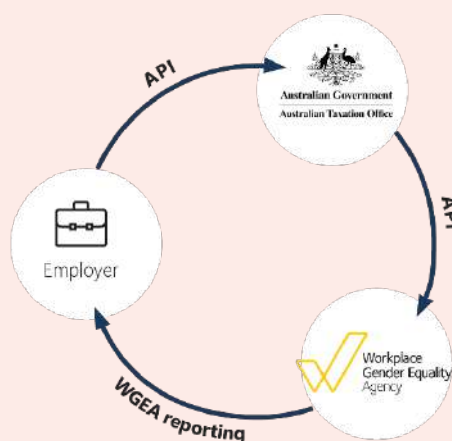
Figure 6 Review finding – Possible digital solution to help employers extract data from their own systems

While STP may not be an immediate solution, other opportunities for possible ‘prefilling’ and automation of reporting were identified during consultation. One possible solution identified was utilising the technology developed by the ATO Digital Services Gateway to explore if one or more Application Programming Interfaces (APIs) could be developed to reduce the burden on employers. One or more APIs could extract data from multiple employer HR and payroll systems to make it easier for employers to report to WGEA.

This option has not been tested or discussed widely with employers or digital service providers (DSPs) and has dependencies on integration and the data capture of HR and payroll systems. That is why it is proposed in Recommendation 1.1.b, that work is needed to identify how to make this a viable option. Qualitative and quantitative research with employers and DSPs is required to develop a digital solution. This proposal would assist employers report to WGEA on the other two WGEA reporting components i.e. the Reporting Questionnaire and Workforce Management Statistics. As noted above, Recommendation 1.1.a would assist employers effectively to report to WGEA on part of the third reporting component – the Workplace Profile.

How this might work

Data flows from the employer to the ATO by one or many APIs. The ATO could then combine with other ATO held data and pass through to WGEA. WGEA would analyse the data and provide reporting directly to the employer. The diagram below illustrates that the APIs could potentially integrate with existing ATO-oriented APIs, but they could also simply integrate with employer platforms that feed the ATO APIs.



Developing a digital solution to make it easier for employers to extract data from their own systems is a major way to decrease the regulatory burden of reporting to WGEA. Streamlining the reporting process for employers will mean they can spend less time on form-filling and more time identifying and acting on the best way to improve gender equality in their workplaces.

To make it easier for employers to report to WGEA, it is **recommended that** the new Gender Data Steering Group (Recommendation 1.2) drive and oversee research and stakeholder consultation **to invest in a way to assist employers to extract other data from their own employer systems using a digital solution where possible** (Recommendation 1.1.b).

Developing this digital solution will involve considering the questions in the three current WGEA reporting components – the Reporting Questionnaire, the Workforce Management Statistics, and the Workplace Profile. Developing the proposed digital solution will involve considering the questions in these three WGEA reporting components, taking into account the benefits of the longitudinal dataset WGEA has developed over the last eight years, and considering the stakeholder feedback on the reporting components provided to the WGEA Review.

Small employers

Stakeholders were divided on whether small employers should report to WGEA. Some stakeholders were in favour of small employers reporting to WGEA given the major gender pay gaps in small businesses. Women are often highly concentrated in casualised workforces in small to medium-sized businesses, and particular male-dominated industries are pre-dominantly made up of small businesses (e.g. most businesses in the construction industry are either sole traders or very small, employing less than 20 people). Stakeholders said the gender pay gap is under-reported since reporting is required only by employers with 100 or more employees. However, businesses and business peak bodies cautioned against extending the regulatory reporting burden to small business particularly given the challenges COVID-19 continues to pose for business.

There are persuasive arguments to consider extending WGEA's scope to smaller employers in the future but this is not currently recommended given serious challenges for business posed by COVID-19. This is why it is **not recommended** that the definition of 'relevant employer' **include smaller employers** with 50-99 employees unless:

- a **digital solution** is developed to streamline reporting to WGEA (recommendation 1.1.b), and
- employers with between 50-99 employees have **more streamlined reporting obligations** than larger employers (this would require legislative change).

Smaller employers (with 50-99 employees) should be able to **voluntarily choose to report to WGEA** and subsequently participate in WGEA award and recognition programs.

Gender Data Steering Group

To improve collection, use and impact of gender data by the Australian Government – including sharing WGEA data between departments and agencies – it is recommended that a new Gender Data Steering Group be established (Recommendation 1.2). The Gender Data Steering Group could be a short-term sub-group of the Deputy Secretary Data Group and be co-chaired by the Deputy Secretary Social Policy in the Department of the Prime Minister and Cabinet, and the Deputy Australian Statistician.

As noted above, this new Gender Data Steering Group could also drive and oversee the two data and digital projects recommended in Recommendations 1.1.a and 1.1.b. On completion of those projects, the Gender Data Steering Group's work to foster collection, use and sharing of gender data could be folded in to the ongoing work of the Deputy Secretary Data Group.

In addition to the proposed new Gender Data Steering Group, the Commonwealth is working with states and territories through the First Deputies Group to support work to improve gender equality in Australian workplaces as part of the National Cabinet work to develop a nationally consistent reporting framework on women's economic security objectives.

Recommendation 1 – Make it easier for employers to report to WGEA and improve collection and sharing of gender data

- 1.1 **Improve the quality of data reported to WGEA, and reduce the regulatory burden** for employers, by tasking a new Gender Data Steering Group (Recommendation 1.2) to drive and oversee **research and stakeholder consultation** (including with both human resources and payroll Digital Service Providers) to identify how to:
 - a. **enable WGEA to use data employers have already provided to government** (such as Single Touch Payroll data and other data) and for that data to be used by WGEA to satisfy part of the WGEA reporting requirements where possible (this is likely to require legislative amendments, depending on the nature of the data already provided to government), and
 - b. **invest in a way to assist employers to extract other data from their own employer systems using a digital solution** where possible. A digital solution would substantially reduce employer reporting burden and improve the quality of data reported to WGEA. Currently, depending on their systems, employers have to extract data from multiple payroll and HR systems and do manual work joining up, interpreting and checking data from disparate systems to report to WGEA.
- 1.2 **Improve the sharing of gender data among WGEA, other departments and agencies** by establishing a **Gender Data Steering Group** under the Deputy Secretary Data Group. Enhancing senior strategic oversight of gender data will improve the impact of the Australian Government's collection and use of gender data. The new Steering Group's role includes overseeing implementation of Recommendation 1.1.

Publish organisation gender pay gaps to accelerate action to close them

Current approach

Employers report remuneration data to WGEA, but no individual employee remuneration is published by WGEA. WGEA uses this remuneration data to publish gender pay gaps by *industry* – e.g. for the mining, health care and social assistance, financial and insurance services, and construction industries.

However, the Workplace Gender Equality Act provides that WGEA is not able to include remuneration data provided by a relevant employer in WGEA's public data or reports (section 14 of the Act). This means WGEA cannot currently publish an employer's gender pay gap at an *organisation* level.

Proposed approach

Many stakeholders called for WGEA to publish the gender pay gaps of *organisations*. They said that the current approach of publishing aggregate *industry* gender pay gaps is not creating the transparency, accountability and insights necessary to closing the gender pay gap fast enough. As noted earlier, WGEA data (2019-20) shows all industries in Australia have a gender pay gap in favour of men. Stakeholders said increased transparency of an organisation's gender pay gap promotes accountability and accelerates progress towards reducing its gender pay gap.

WGEA recommended publishing gender pay gaps at the organisation level because:

Increased transparency in Australia's gender equality reporting can promote accountability for workplace gender equality and drive reductions in the gender pay gap. Transparency is "a vital first step" towards addressing the discrimination that contributes to pay gaps and other workplace inequalities. Increased transparency can cause organisations to assess systems and processes for pay, job evaluation and performance. Publishing individual organisations gender pay gaps can also generate stakeholder engagement and pressure and inform investment decisions. Without organisational gender pay gaps – "arguably the most important variable" – in the Agency's public dataset, the dataset is less useful for improving gender equality outcomes.

This approach is not new – a number of Australian employers are already publishing their gender pay gaps. Also, in 2017 the UK Government passed legislation to require large employers to annually publicly report their gender pay gap. This includes the mean and median gender pay gaps; the mean and median gender bonus gaps; the proportion of men and women who received bonuses; and the proportions of male and female employees in each pay quartile.

Some business groups and some employers are concerned about possible negative impacts of reporting gender pay gaps at an organisation level. They are concerned about the possibility of dampening productivity due to low morale, slowing men's wages growth to raise women's wages comparatively, and challenges for global organisations to reconcile international reporting obligations. Some stakeholders also noted remuneration is highly sensitive data that should not be made public.

But some investors noted they assess their fund holdings against a number of Environmental Social and Governance (ESG) Key Performance Indicators and find WGEA data useful in making those assessments. This involves comparing company performance across a range of metrics – including WGEA's data on gender equality – to decide where to deploy capital.

To accelerate closing Australia's gender pay gap, it is recommended that the Workplace Gender Equality Act be amended to **enable WGEA to publish gender pay gap information at an employer level as an overall figure and by quartile to encourage change within organisations** (Recommendation 2.1). As is the case currently, *individual* employee pay information would not be published.

Drivers of the gender pay gap are complex. Addressing the contributing factors requires a whole-of-community effort, including strong actions by employers. As this is a key change, it is proposed that there be further stakeholder consultation to ensure implementation of this recommendation achieves its intent: to hold employers accountable to take action, and minimise any unintended consequences.

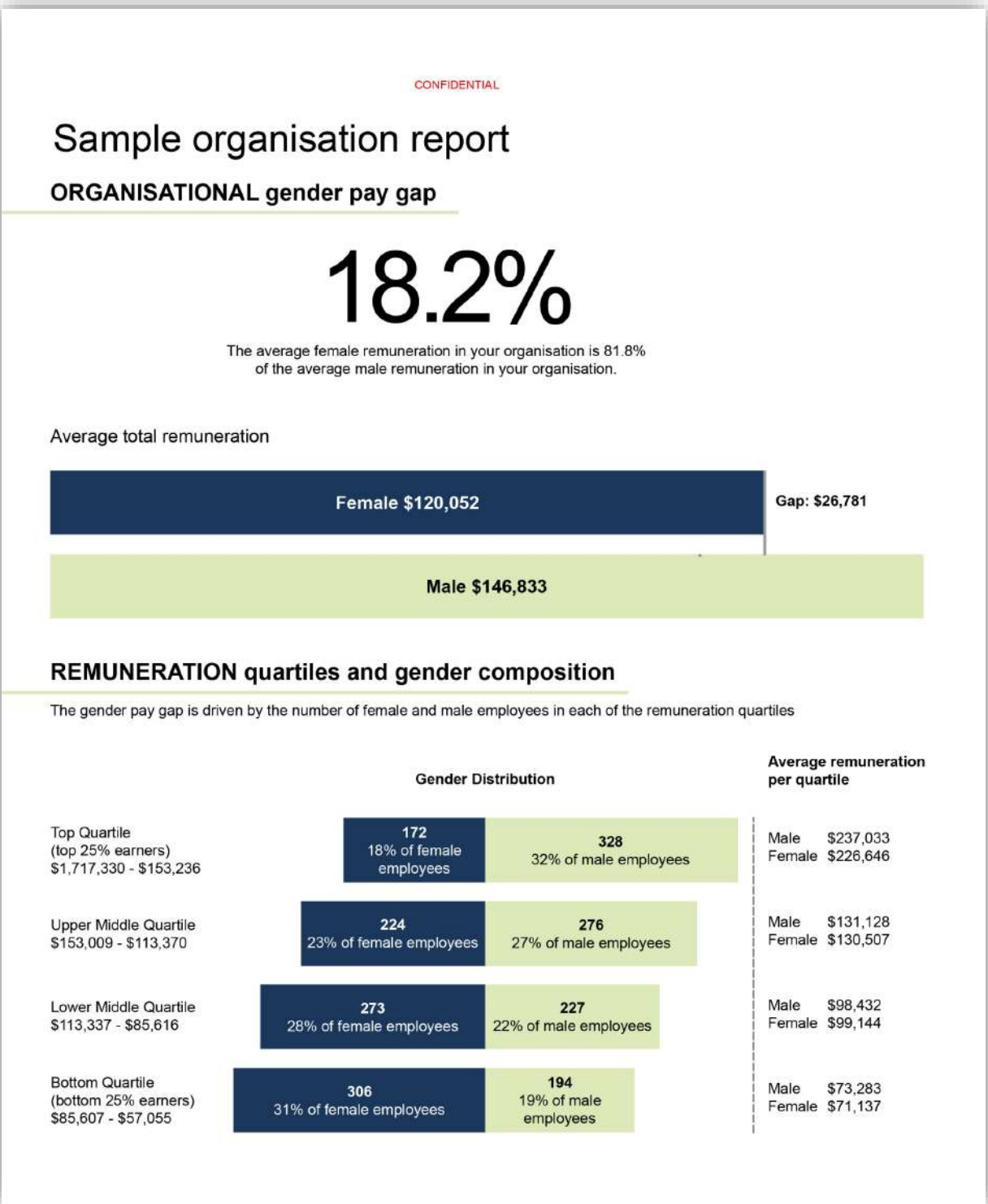
Employers already provide remuneration data to WGEA – so Recommendation 2.1 does not impose any additional reporting requirements on employers. However, it is also proposed that a regulatory impact assessment be done ahead of implementation.

Issues for stakeholder consideration include privacy safeguards for smaller sized reporting organisations, the criteria WGEA should use to calculate remuneration data, publishing necessary contextual analysis to ensure proper interpretation, enabling employers with fewer than 100 employees to voluntarily report, and identifying the best way to present gender pay gap data at an organisation level. For example, whether it is presented as an overall percentage and/or as an average dollar difference.

Options for how to present quartile reporting and workforce composition by quartiles (gender distribution by head count across quartiles) are at figure 7. The quartile reporting example in figure 7 shows employees in an organisation divided into four equal groups, ranked from lowest to highest pay. The bottom quartile is the lowest earning group of employees, while the upper quartile is the highest earning group. This is one example of how quartile reporting could be represented. The proposed stakeholder consultation on how to implement Recommendation 2.1 will be an opportunity to work out the best way to represent quartile reporting.

To enable relevant employers to prepare for this change, employers could be given a two year grace period before WGEA reports individual organisation gender pay gaps. This two-year grace period would not prevent employers opting-in to WGEA publishing their organisational gender pay gap before publication is mandatory. WGEA could work with EOCGE citation holders to encourage voluntary reporting of organisation gender pay gaps. EOCGE employers could be ‘early adopters’ to show other employers what the new public data set could look like.

Figure 7 Example of possible way to present organisational gender pay gap and remuneration quartiles and gender composition (sample data)



Recommendation 2 – Publish organisation gender pay gaps to accelerate action to close them

- 2.1 Amend the *Workplace Gender Equality Act 2012* to allow WGEA to **publish gender pay gap information at an employer level** as an overall figure and by quartile to encourage change within organisations. Individual employee pay information is not to be published. Conduct further stakeholder consultation to identify the best way to implement this recommendation and conduct a regulatory impact assessment ahead of implementation.

Bridge the ‘action gap’ with gender equality standards

Current ‘minimum standards’

Under the Workplace Gender Equality Act, the Minister sets the minimum standards in relation to gender equality indicators (section 19 of the Act).

The *Workplace Gender Equality (Minimum Standards) Instrument 2014* (Minimum Standards Legislative Instrument) sets out the minimum standards which apply to relevant employers with 500 or more employees. The Minimum Standards Legislative Instrument is at: <https://www.legislation.gov.au/Details/F2014L00365>

Relevant employers with 500 or more employees must have policies or strategies in place to support one or more of the following indicators (section 5(3) of the Minimum Standards Legislative Instrument):

- gender composition of the workforce
- equal remuneration between women and men
- flexible working arrangements, and
- sex-based harassment and discrimination.

Currently 100 per cent of relevant employers with 500 or more employees comply with the minimum standards, with almost every company having a policy or strategy in place on sex-based harassment and discrimination.

Although the minimum standards only apply to employers with 500 or more employees, 99.2 per cent of employers with 100-499 employees currently comply with the minimum standards.

Proposed approach

Strengthen existing minimum standards to bridge the ‘action gap’

Stakeholder views

There was widespread support for WGEA in the consultation process. Its dataset was often applauded for being world-leading due to the coverage of the data, with some calling it a ‘national treasure.’ Many were positive about the role WGEA has played thus far. But a major theme in the consultation was that employers should have to take action to improve gender equality in their workplaces in order to comply with WGEA’s reporting requirements.

Stakeholders proposed substantial strengthening of the minimum standards as a mechanism to drive change towards gender equality. They criticised the current legislative framework that only requires reporting data to be enough for WGEA compliance – without any need for employers to take action and show progress on gender equality. There were concerns that progress is not happening fast enough and the current bar for compliance with the minimum standards is too low.

In line with these broad views, recent comparative research on gender pay gap reporting recommended that action plans are essential for change, finding that ‘employers should be mandated to create time-bound targets to redress pay gaps, setting out clear and measurable goals’ (Global Institute for Women’s Leadership, October 2021). Companion research recommended that Australia introduce ‘outcome-based’ minimum standards (Global Institute for Women’s Leadership and Australian National University, October 2021).

A number of business peak bodies were concerned that it is not the time to introduce any additional reporting requirements on business, particularly given serious challenges for business posed by COVID-19. These concerns have been taken into account throughout this report including in Recommendation 1 (making it easier for employers to report) and Recommendation 4 (reducing the regulatory burden for employers).

In contrast, a number of employers supported changes to WGEA's legislation to accelerate gender equality in workplaces. They see improving gender equality in their workplaces as a key part of their business strategy as it has benefits across a number of key business areas. Research by the Bankwest Curtin Economics Centre (BCEC) and WGEA found that an increase in the share of female 'top-tier' managers by 10 percentage points or more led to a 6.6 per cent increase in the market value of Australian ASX-listed companies, worth the equivalent of AUD\$104.7 million. The report, *Gender Equity Insights 2020: Delivering on Business Outcomes*, reveals a strong and convincing causal relationship between an increase in the number of women in key decision-making positions and subsequent improvements in company performance.

Recommendation to bridge the action gap

It is recommended that the minimum standards be enhanced to accelerate progress on gender equality in workplaces. The WGEA Review has taken different stakeholder views into account – views about both the need to accelerate progress on gender equality in Australian workplaces and the need to be mindful of the regulatory impact on employers.

To accelerate gender equality in workplaces, it is recommended that a new minimum standard be added to require relevant employers with 500 or more employees to commit to, achieve and publicly report to WGEA on measurable genuine **targets** to improve gender equality in their workplaces against three of the six gender equality indicators. This is a central recommendation of this review (Recommendation 3.1.a).

It is also recommended that the existing minimum standards be strengthened to require relevant employers with 500 or more employees to have a **policy or strategy** against **all six gender equality indicators**, not just one of four as is currently the case (Recommendation 3.1.b).

To reflect the increased ambition of these proposals to enhance the minimum standards, it is recommended that the minimum standards are **renamed as 'gender equality standards'** (Recommendation 3.1.c).

Balancing views from different stakeholders, it is proposed that the new minimum standards **apply only to employers with 500 or more employees** rather than apply to all relevant employers with 100 or more employees. This tiered approach is in line with the reporting framework in the Minimum Standards Legislative Instrument, which currently applies only to employers with 500 or more employees. It is **not recommended** that the **renamed and expanded gender equality standards apply to employers with 100-499 employees** given the likely regulatory impact, particularly in the current context where employers face many challenges dealing with the impacts of COVID-19. While many employers with 500 or more employees already have the required policies or strategies to meet the minimum standards, employers with 100 or more employees would be more likely to have to develop policies or strategies to meet such a proposed change.

In the consultation process stakeholders asked that there be a co-design process to develop any new standards that might require them to take action against targets. As this is another key change, further consultation with stakeholders is proposed to work out the best approach to implementing the recommendation for employers to commit to, achieve and publicly report on measurable genuine targets to improve gender equality in their workplaces.

The consultation process will be an opportunity to consider how the targets are set, by whom, their content and the reasonable timeframes to meet them. Targets could be set against data already provided to WGEA. **For example, a target** that could be set against data already reported to WGEA by employers could be **'to have a gender balanced board with at least 40 per cent women.'** This could be a target against gender equality indicator 2 (gender composition of governing bodies of relevant employers). Another example of a target could be **'key management personnel are gender balanced with at least 40 per cent women.'** This would be a target against gender equality indicator 1. The consultation process will provide an opportunity to work out implementation details such as whether these kinds of targets would be part of a suite of targets set out in the Workplace Gender Equality (Minimum Standards) Instrument from which employers could choose and the reasonable timeframes to meet the target.

Given the significance of this proposed change to the renamed gender equality standards, it is also recommended that a regulatory impact assessment be conducted ahead of implementation (Recommendation 3.1).

Improve accountability

In the short-term – ahead of changing the minimum standards as proposed in Recommendation 3.1 – it is recommended that the Workplace Gender Equality Act be amended in two ways to strengthen the accountability of employers to take action (Recommendation 3.2).

First, to embed accountability into the reporting process, and foster transparency of gender equality challenges and progress within organisations, it is recommended that the WGEA legislation be amended to require relevant employers to report the date their gender equality reports to WGEA are shared with employees, shareholders, and/or members (Recommendation 3.2.a).

Second, given the important strategic role boards play, it is recommended that both the Executive Summary report and Industry Benchmark report that WGEA provides to employers should be provided on an annual basis to the employer's Board or Governing Body (Recommendation 3.2.b). Currently the CEO is required to sign off on reporting provided to WGEA. But there is no requirement for the reports that WGEA provides to employers to be provided to an employer's Board or Governing Body.

Recommendation 3 – Bridge the ‘action gap’ with new gender equality standards

3.1 Bridge the ‘action gap’ **to strengthen the existing minimum standards** by amending the *Workplace Gender Equality (Minimum Standards) Instrument 2014* to:

- a. **add** a new minimum standard to require relevant employers with 500 or more employees to commit to, achieve and report to WGEA on measurable genuine **targets** to improve gender equality in their workplace against three of the six gender equality indicators
- b. **strengthen** the existing minimum standards to require relevant employers with 500 or more employees to have **policies or strategies** that cover **all six gender equality indicators** (not just one policy or strategy for one gender equality indicator in the current minimum standards), and
- c. **rename** the minimum standards to be ‘**gender equality standards**.’

Conduct further stakeholder consultation to identify the best way to implement this recommendation and conduct a regulatory impact assessment ahead of implementation.

3.2 **Strengthen accountability of relevant employers to take action** to improve gender equality in workplaces by amending the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* to:

- a. require relevant employers to **report the date employers share with their employees, shareholders, and/or members the gender equality reports** that the employers provided to WGEA, and
- b. require relevant employers to **provide** the Executive Summary report and Industry Benchmark report from WGEA to employers **to their Board/Governing Body**.

Reduce the regulatory burden on employers

Current approach

One function of WGEA is to 'work with employers to maximise the effectiveness of the administration of the Act, including by minimising the regulatory burden on employers' (section 10(1)(ea) of the Act).

The Government's Deregulation Agenda is ensuring regulation across Government remains fit for purpose, maintains critical safeguards and is implemented well. By reducing unnecessary regulatory burden, it becomes easier for business to invest, create jobs and grow the economy.

One of the focus areas for the Government is streamlining Commonwealth interactions with employers to reduce regulatory burden for employers. This includes implementing a 'tell us once' policy wherever possible and appropriate.

Proposed approach

A key theme in the consultation was the need to reduce the regulatory burden on employers and streamline reporting. In contrast, another key theme was the need to expand the data reported to WGEA given its value in monitoring gender equality across Australian workplaces. There were different views on where to strike the right balance. But it is clear there are opportunities to streamline the data collection process. This will both reduce the regulatory burden on employers and enhance the data WGEA receives. Streamlining data collection will help improve the quality and accuracy of the data WGEA collects. In turn this will enhance the data-backed insights WGEA provides to employers to help them drive change on gender equality in their workplaces.

Many employers and business groups commented on the significant time and resources taken to fulfil WGEA reporting requirements. Employers reported that the aspects of the WGEA questionnaires and Workplace Profile that took the most time are manual calculations of reporting lines to the CEO, annualising full-time equivalent salaries for part-time and casual employees and calculating 'proportions' of their workforce.

'Reporting levels to the CEO' requires employers to report on managerial distance from the CEO or equivalent. The method of describing employee positions and distance from the CEO does not align with standard reporting structures and processes. This question is a particular 'pain point' for employers reporting to WGEA. To address these concerns and reduce the regulatory burden on business, it is **recommended that the 'reporting levels to the CEO' question be removed** (Recommendation 4.1.a). This recommendation will alleviate a major time-consuming, manual burden for employers reporting to WGEA. WGEA considers that this recommendation will not diminish the effectiveness of their data as the 'manager' questions employers must report on provide similar data.

Employers are currently required to calculate a full-time equivalent salary for casual and part-time employees. This is burdensome and can produce inaccurate data. That is why it is **recommended that relevant employers report on *actual earnings* of part-time and casual employees as well as the number of hours** employees are engaged instead of having to provide annualised full-time equivalent figures for part-time and casual employees Recommendation 4.1.b).

Currently the WGEA legislation provides that employers report on the proportion of the workforce who have access to employer-funded paid parental leave for primary and secondary carers, and the proportion of employees who took a period of parental leave who ceased employment during, or at the end of, that period. This is difficult for employers to calculate and as such the data is of varying degrees of quality and often inconsistent. Due to the questionable quality of this data WGEA has indicated that it has a low reliance on this data and does not make it available for third parties to utilise. Given these issues, it is **recommended that these 'proportion' questions be amended** to clarify that relevant employers report by gender, employment status and manager/non-manager category:

- the **number of employees** with access to employer-funded paid parental leave for primary carers and for secondary carers and the eligibility period for access, and

- the **number of employees** who took a period of parental leave who ceased employment during, or at the end of that period.

The technical recommendations proposed in this section are in addition to Recommendation 1.1, which is the headline recommendation in this report to reduce the regulatory burden on employers, and improve the quality of data collected by WGEA.

The Office of Best Practice Regulation in the Department of the Prime Minister and Cabinet participated in the WGEA Review consultation process and will continue to be involved to assess the regulatory impact of any reforms flowing from the WGEA Review.

As noted in Recommendations 1.1, 2.1, 3.1, 7.2 it is proposed that further consultation be done with employees, employers and the broader Australian community to analyse the full regulatory, economic and social impacts of those recommendations.

Recommendation 4 – Reduce the regulatory burden on employers

Recommendation 1.1 is a major recommendation to decrease the regulatory burden on employers. This recommendation proposes changes to current WGEA reporting requirements that could be done in the short-term ahead of identifying a digital and legislative solution as proposed in Recommendation 1.1.

4.1 Amend the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013* (No. 1) to:

- a. **Remove the 'reporting levels to the CEO' question.** Currently relevant employers must report on managerial distance from the CEO or equivalent. The method of describing employee positions and distance from the CEO does not align with many existing workplace reporting structures. Many relevant employers spend considerable time interpreting and applying this requirement and identified it as a major 'pain point.'
- b. **Replace 'annualised full-time equivalent figures'.** Enable relevant employers to report on *actual earnings* of part-time and casual employees as well as the number of hours employees are engaged. This is instead of relevant employers providing *annualised full-time equivalent figures* for part-time and casual employees as currently required.
- c. **Replace the parental leave questions that currently ask employers to report on the 'proportion' of their workforce** as employers find this burdensome. Instead, enable relevant employers to report by gender, employment status and manager/non-manager category:
 - i. The **number** of employees with access to employer-funded paid parental leave for primary carers and for secondary carers and the eligibility period for access,
 - ii. The **number** of employees who took a period of parental leave who ceased employment during, or at the end of that period.

Support Respect@Work implementation to prevent and address workplace sex-based harassment and discrimination

Current approach

Employers report to WGEA on a small number of matters related to sex-based harassment and discrimination. This is set out in the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* at Gender Equality Indicator 6 (GEI 6). At present, employers report on:

- The existence of a sex-based harassment and discrimination prevention strategy or policy
- The inclusion of a grievance process in any sex-based harassment and discrimination prevention policy
- Workplace training, if any, for managers on sex-based harassment and discrimination, and
- The frequency of workplace training about sex-based harassment and discrimination.

WGEA provides guidance to employers on understanding sex-based harassment and discrimination in the WGEA Reporting Questionnaire and in its Employer Portal.

Sex-based harassment and discrimination is not one of the five GEIs listed in the Workplace Gender Equality Act (s.3(1)). However, the Act provides that the Minister may, by legislative instrument, specify 'any other matters' to be a 'gender equality indicator' (s.3(1)(f) and s.3(1A) in the Act). As noted above, sex-based harassment and discrimination is specified as GEI 6 in the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)*.

Sex-based discrimination occurs when someone is treated less favourably or not given the same opportunities because of their sex.

Sex-based harassment includes sexual or non-sexual behaviour that offends, humiliates, intimidates, is unwanted, or is not returned.

Employer of Choice for Gender Equality (EOCGE) citation holders voluntarily report to WGEA whether specific matters related to 'gender-based harassment and discrimination and sexual harassment complaints' are reported to their key management personnel and governing body. These matters include:

- number and nature of complaints received
- process for responding to the complaint
- time taken to resolve the complaint
- outcomes for complainant and respondent
- any organisational change following the complaint, and
- complainant and respondent turnover.

The existence of sex-based harassment and discrimination policies and strategies is not reducing the prevalence of sexual harassment in Australian workplaces fast enough. WGEA data (2019-20) shows that almost all employers (98.6 per cent) have a formal policy or formal strategy on sex-based harassment and discrimination prevention. Almost all employers include a grievance process in these policies or strategies (97.8 per cent) and a large majority (88.5 per cent) provide training on this to managers. But the Australian Human Rights Commission found in its *Fourth national survey on sexual harassment in Australian workplaces* (2018) that 71 per cent of Australians have experienced sexual harassment at

some point in their lives, and one third of Australians report experiencing sexual harassment in the workplace. More urgent action is needed to create workplaces free from harassment and discrimination.

Sexual harassment is not a women's issue: it is a societal issue, which every Australian, and every Australian workplace, can contribute to addressing. Workplace sexual harassment is not inevitable. It is not acceptable. It is preventable ...

Ultimately, a safe and harassment-free workplace is also a productive workplace.

Kate Jenkins, Sex Discrimination Commissioner, Respect@Work, March 2020

Proposed approach

Stakeholders provided extensive comments on sex-based harassment and discrimination, calling for the expansion of sex-based harassment and discrimination matters that employers report to WGEA. This included suggestions for WGEA's reporting framework to measure and monitor sexual harassment, prevalence, prevention and responses.

As part of implementing *Roadmap for Respect*, which is the Government's response to the *Respect@Work* report, the Respect@Work Council is overseeing the Attorney-General's Department's (AGD) development of indicators and methods for measuring and monitoring sexual harassment, prevention and response (*Respect@Work* recommendation 46). Also, the Respect@Work Council is overseeing WGEA's work on how those good practice indicators for measuring and monitoring sexual harassment, prevalence, prevention and response may apply to reporting under the Workplace Gender Equality Act (*Respect@Work* recommendation 42).

Stakeholder feedback provided to the WGEA Review on sex-based discrimination and harassment should inform the Respect@Work Council's work. This includes the Council's work on indicators and methods for measuring and monitoring sexual harassment, prevention and response – and how those indicators may apply to reporting under Workplace Gender Equality Act. To assist Respect@Work implementation, the Respect@Work Council should take into account stakeholder feedback provided to the WGEA Review on sex-based harassment and discrimination including:

- the provision and frequency of workplace training on sex-based harassment and discrimination for all staff (as opposed to managers only which is currently the case), disaggregated by managers and non-managers
- the quantum of sex-based harassment and discrimination complaints received during the reporting period
- the outcomes of the sex-based harassment and discrimination complaints
- the use of non-disclosure agreements
- employers to evaluate the effectiveness of their sex-based harassment and discrimination prevention measures, and
- any additional indicators specified by the Respect@Work Council related to measuring and monitoring the prevalence, prevention, and responses to workplace sexual harassment.

As the Respect@Work Council is already overseeing work underway by AGD and WGEA – as part of implementing *Roadmap for Respect* – no change to current GEI 6 reporting requirements is recommended at this time. Proposals for reforms to GEI 6 are likely to flow from WGEA's work implementing recommendation 42 of the *Respect@Work* report. Those proposals will be enhanced with the benefit of the submissions made to the WGEA Review.

Stakeholders strongly supported including sex-based harassment and discrimination as a gender equality indicator in the Workplace Gender Equality Act – as opposed to just under the relevant legislative instrument, which is currently the case.

In **recognition that sex-based harassment and discrimination is a core gender equality standard**, Recommendation 5.1 proposes **legislative change to bring the Act and Instrument in line**. It does not change reporting obligations.

Recommendation 5 – Support Respect@Work implementation to prevent and address workplace sex-based harassment and discrimination

5.1 To align the Workplace Gender Equality Act and its associated legislative instrument, **include ‘sex-based harassment and discrimination’ as a gender equality indicator in the Workplace Gender Equality Act**. It is already Gender Equality Indicator 6 in the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)*.

Employers currently report to WGEA on sex-based harassment and discrimination. This recommendation for legislative change will bring the Act and Instrument in line and does not change reporting obligations. Separate, complementary work is underway by the Respect@Work Council, the Attorney-General's Department and WGEA to implement *Roadmap for Respect*, the Government's response to *Respect@Work*. This includes considering indicators for sexual harassment (recommendation 46 *Respect@Work*) and how WGEA reporting could be used in relation to those indicators (recommendation 42 *Respect@Work*).

Research the best way to collect diversity data

Current approach

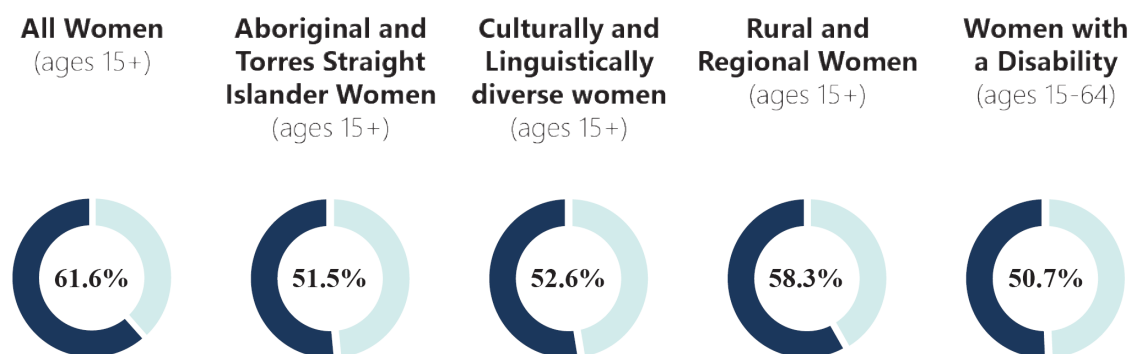
WGEA collects gender data on employees, however it is not mandatory to report to WGEA on additional diversity data such as Aboriginal and Torres Strait Islander background, age, location, cultural and linguistic background and disability.

In 2020-21 WGEA collected data on the age and location of employees on a voluntary basis. There was a very high reporting rate among employers, with 73.8 per cent of employers reporting voluntarily on age, and 72.8 per cent of employers reporting voluntarily on the primary workplace location of their employees (discussed in the next section 'Refining the Gender Equality Indicators').

Proposed approach

Diversity data provides a clearer picture on the state of gender equality in the workplace and enables WGEA to support employers to drive gender equality through targeted approaches. For example, the women's workforce participation rate for all women is 61.6 per cent. But it is substantially lower for particular groups of women including women with a disability (50.7 per cent) and Aboriginal and Torres Strait Islander women (51.5 per cent) as shown in figure 8. This reflects particular challenges faced by different groups of women.

Figure 8 – Women from diverse backgrounds have lower workforce participation rates than the national average for Australian women



Sources: ABS Labour Force Australia, Detailed, November 2021; ABS, National Aboriginal and Torres Strait Islander Social Survey, 2014-15; ABS, Disability, Ageing and Carers, Australia: Summary of Findings, 2018

Many stakeholders commented on the importance of diversity data. But many stakeholders also raised serious concerns about sensitivities with employers collecting diversity data about their employees – with many employers noting they do not currently collect this data. Some employers advised they collect some diversity data. But the extent to which this happens and the method used varies significantly from employer to employer.

Consultation and research has shown that reporting on diversity information by individuals in the community can be quite low. This is due to fears about how this information may be used and the negative impact it may have on their employment. Employees would need to feel safe to provide this information. They would need to trust that it would be used appropriately in order to provide this information to their employers.

Also, privacy issues arise with employees being required to disclose diversity details to their employers. When there are small numbers of employees reporting their diversity data it could make them easily identifiable in WGEA public reports.

Given the sensitive issues raised in the consultation process, **further research is needed on collecting diversity data in addition to gender**. This is why it is recommended that WGEA undertake a qualitative research project on the best way to collect more diversity data in addition to gender data to enable voluntary reporting (Recommendation 6.1).

However, given the high voluntary reporting to WGEA on age and location noted above, it is recommended that reporting on age and location should be mandatory across all employers (Recommendations 7.1.a and 7.1.b in the next section).

Recommendation 6 – Research the best way to collect diversity data

- 6.1** Undertake **qualitative research** with relevant stakeholders, led by WGEA, on the **best way to collect more diversity data in addition to gender data** to enable voluntary reporting, including on Aboriginal and Torres Strait Islander background, cultural and linguistic diversity, and disability.

There was strong support in the consultation process for collecting additional diversity data. But sensitive issues were also raised about employees being reticent to provide this information to employers because of concerns about how this information may be used and the negative impact it may have on their employment. This research will consider how to address these issues.

Refine the gender equality indicators (GEIs)

Current approach

The Workplace Gender Equality Act provides that all relevant employers must prepare a public report to WGEA containing information about the employer against six gender equality indicators (GEIs). The GEIs make up the Workplace Gender Equality Agency's dataset. WGEA uses this dataset for analysis to support Australian employers to drive gender equality in their workplaces.

The specific information that employers are required to report on is included in the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)*. Covering off key information on gender in the workplace, the six gender equality indicators are:

- GEI 1 – gender composition of the workforce
- GEI 2 – gender composition of governing bodies
- GEI 3 – equal remuneration between women and men
- GEI 4 – availability and utility of employment terms, conditions and practices relating to flexible working arrangements for employees and to working arrangements supporting employees with family or caring responsibilities
- GEI 5 – consultation with employees on issues concerning gender equality in the workplace
- GEI 6 – sex-based harassment and discrimination.

To take one example, the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* requires employers to report to WGEA on the following matters under GEI 1:

1. Gender Equality Indicator 1—gender composition of the workforce

Each relevant employer is to report on the gender composition of its workforce.

Matters that must be included in the report

- 1.1 Disaggregated data by gender on workforce profile is required on:
 - 1.1.1 employment status;
 - 1.1.2 managers, including distance from the CEO or equivalent; and
 - 1.1.3 non-managers.
- 1.2 The existence of strategies or policies to support gender equality.
- 1.3 The composition of applicants appointed to positions by gender and by manager/non-manager.
- 1.4 The number and proportion of employees awarded promotions by gender, employment status and manager/non-manager.
- 1.5 The number and proportion of employees who have resigned by gender, employment status and manager/non-manager.

Currently only GEIs 1-5 are in the Workplace Gender Equality Act (section 13 of the Act). GEI 6 was introduced in the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)*.

Proposed approach

Refine the gender equality indicators to add targeted additional mandatory reporting questions

Many stakeholders support the existing GEIs but recommended a number of improvements to fine-tune them. Employers already voluntarily report on items beyond the current GEIs that produce a more detailed picture of gender equality in the workplace. This includes employee age and location and whether superannuation is paid on parental leave. Collecting this additional data provides valuable insights for employers and policy makers.

Many additional GEIs were proposed in the consultation process. However, it is recommended that only four targeted mandatory reporting questions be added at this stage. This strikes the right balance between stakeholders who asked the review to be mindful of the regulatory impact of introducing additional reporting requirements and those who sought to add more GEIs to accelerate the pace of change.

Reporting to WGEA on age

Age is a critical component of the gender pay gap. As shown in the WGEA Gender Pay Gap Fact Sheet in Appendix 6, in each of the five age brackets there is a gender pay gap in favour of men. The average gender pay gap increases to its highest point at 17.7 per cent for the over 55 years and over age group. This reflects the impact that spending time out of the workforce due to family caring responsibilities has on the gender pay gap. In 2020-21 WGEA collected data on the age of employees on a voluntary basis. There was a very high reporting rate, with 73 per cent of employers reporting voluntarily on age. Age and gender data will enable WGEA to support employers in driving targeted actions on gender equality in the workplace. That is why it is **recommended that it be mandatory for employers to report on age** (Recommendation 7.1.a).

Reporting to WGEA on primary workplace location of employee

Location has a significant impact on women's and men's interaction with the workforce. Location can increase the likelihood of women facing workplace harassment and discrimination and negatively impact career progression and promotions. For the 2020-21 reporting period, WGEA collected data on the main workplace location of employees on a voluntary basis, with 72.8 per cent of employers providing data on employee location to WGEA. The fact that most employers chose to provide this data suggests many are already collecting it. Collecting data on an employee's primary workplace location enables a deeper understanding of gender equality outcomes for urban, regional and rural employers as well as enabling WGEA to drive further targeted approaches to support employers in addressing elements of the gender pay gap related to location. That is why it is **recommended that it be mandatory for employers to report on the primary workplace location of employees** (Recommendation 7.1.b).

Reporting to WGEA on superannuation

Narrowing the superannuation gap is an important outcome of closing the gender pay gap. There continues to be a superannuation gap in favour of men. For the 2020-21 reporting period, WGEA asked employers, on a voluntary basis, to state whether they pay superannuation for employees on parental leave, both paid and unpaid: 60.1 per cent of employers provided this data. Given the significance of employers paying superannuation on parental leave as a way to accelerate gender equality, it is **recommended that it be mandatory for employers to report on whether superannuation is paid by an employer when an employee is on parental leave of any kind** (Recommendation 7.1.c). Data on whether employers pay superannuation to their employees for all types of parental leave will provide WGEA with insights to advise employers of best practice.

Reporting to WGEA on CEO remuneration

Some employers report CEO remuneration data on a voluntary basis. For instance, for the 2020-21 reporting period, 51.3 per cent of employers provided remuneration data for the CEO on a voluntary basis. However, as noted above, it is not mandatory for employers to report CEO remuneration to WGEA. This gap in the WGEA dataset means statistics on remuneration between women and men, including the gender pay gap, are incomplete.

Given the low numbers of women in CEO roles compared to men, exclusion of this data means current WGEA gender pay gap data under-reports the gender pay gap. To get more accurate data on gender pay gaps, **it is recommended that employers report to WGEA on remuneration data for Chief Executive Officers (CEOs) or the equivalent** (Recommendation 7.1.d). Individual remuneration would not be public but would be aggregated to calculate gender pay gaps and used for other remuneration analysis and insights.

Enable WGEA to collect data on non-binary people

In line with the ABS 2020 *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables*, it is recommended that employers provide WGEA with gender equality data on non-binary people in their workforce (Recommendation 7.2). Implementing this recommendation requires further consultation with stakeholders, particularly affected stakeholders, and amendment of the Workplace Gender Equality Act.

Further work needed on improving other aspects of GEIs

Recommendation 7.3 proposes that further work needs to be done with stakeholders to identify the best way to approach the improvement of various other aspects of GEIs.

Occupations and jobs

Many employers raised concerns in the consultation process about WGEA's reporting requirements on occupations and jobs. Some employers have reported that ANZSCO level 3 is not specific enough to accurately reflect employee roles. Expanding to level 4 of this non-manager category means WGEA would collect data on specific roles. For example, WGEA currently collects data on employees in the major group 'Technicians and Trades Workers' (ANZSCO level 1). Expanding to level 4 of this non-manager category means WGEA would collect data on 'Automotive Electricians'. This improved description makes it easier for employers to match their job roles to the correct occupational category. In contrast, a number of universities noted that the ANZSCO classifications are not a good fit for employment structures in universities.

More granular data on occupations and job classifications will enable greater insights from the data, particularly the impact of labour market segmentation as it contributes to the gender pay gap. Given the stakeholder issues raised about reporting on occupations, it is **recommended that further work be done to identify the best approach to report on occupations and jobs** at Australian and New Zealand Standard Classification of Occupations (ANZSCO) level 4 for non-managers (Recommendation 7.3.a).

Partnerships

Partners in partnership structures are not 'employees' for WGEA reporting purposes. Partners are considered owners – not employees – of the business. However, stakeholders said this results in an under-reporting of WGEA's gender pay gap figures. This is because partnership structures are used in industries with high gender pay gaps, such as legal and accounting industries. WGEA's 2019-20 dataset shows that the Legal and Accounting Services group has a full-time gender pay gap of 18.9 per cent, and this does not include partner remuneration. To improve the value of the WGEA dataset, and get a true picture of the gender pay gap in their workplaces, it is **recommended that further work be done to identify the best approach to including partnerships and partners in the WGEA dataset more comprehensively than they are currently** (Recommendation 7.3.b).

Implementing this recommendation requires further consultation with stakeholders, particularly affected stakeholders such as law firms and consulting firms. Issues to address in implementing the recommendation that partnerships and partners are more comprehensively included in WGEA's dataset include:

- collecting data on promotions and resignations of partners
- collecting disaggregated data on the composition and equity status of partners in firms with partnership structures, and
- requiring employers to report remuneration data on partners in partnership structures.

Individual entities within corporate structures

Stakeholders reported the complexity of reporting as a parent group/hierarchy. Most reporting organisations are reporting on this data as it relates to the employing entity, but there are a substantial number that submit their report as it relates to their parent entity/group hierarchy. To enable consistent comparison data across employers and industries, it is **recommended that more work be done to identify the best way to make it mandatory for relevant employers to report on data as it relates to individual entities within corporate structures**, not as it relates to the group hierarchy (Recommendation 7.3.c).

Work by WGEA on 'manager categories'

Stakeholders have reported that WGEA's current 'manager categories' could align better with existing workplace reporting structures. The WGEA manager categories are based on responsibilities rather than reporting levels to the CEO. Data on the composition of leadership by gender is important to understand progress through the leadership pipeline and identify and address the continued challenges to increasing the proportion of women in leadership. WGEA is currently leading work to determine the best approach to **manager categories**, which will improve the value of benchmarking for employers.

Other opportunities to improve data in the short-term

While not the subject of numbered recommendations, there are other short-term opportunities to improve the collection and analysis of data. This includes requiring employers to **report against one 'snapshot' date**. Currently they can choose any date to report on within the 1 April-31 March reporting period. The data that employers report to WGEA is used to analyse gender equality issues in the workplace. It would improve comparability and timeliness of the data if employers were required to report on one snapshot date. It is suggested this discussion be included in the proposed GEI consultations with stakeholders.

Another opportunity is that **WGEA should be able to specify the mechanism (e.g. the WGEA digital platform) that employers must use for reporting to WGEA**. WGEA advises that 99 per cent of employers already use the WGEA online platform to report. WGEA has set up their online reporting platform to efficiently collate reports submitted by employers. Sometimes employers submit their reporting documents outside of the online system, which means it takes longer for these employers to see and use the data outputs from their reports.

Recommendation 7 – refine the gender equality indicators

7.1 Amend the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) to include mandatory reporting of:

- a. employee age (year of birth), noting many employers report voluntarily
- b. employee's primary workplace location, noting many employers report voluntarily
- c. whether superannuation is paid by an employer when an employee is on paid, unpaid employer-funded and/or government-funded parental leave, noting many employers report voluntarily, and
- d. remuneration data for Chief Executive Officers (CEOs) or the equivalent (individual remuneration would not be public but would be aggregated to calculate gender pay gaps and used for other remuneration analysis and insights).

7.2 Amend the Workplace Gender Equality Act and associated legislative instruments, in line with the ABS 2020 *Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables*, to enable WGEA to collect data on non-binary people.

7.3 To identify the best approach to improve other aspects of gender equality indicator reporting and reduce the regulatory burden on employers, the Department of Prime Minister and Cabinet is to do further work – including conducting further stakeholder consultation and a regulatory impact assessment for any proposals – to assess the need for legislative amendments to:

- a. require employers to report to WGEA on **occupations and jobs** at Australian and New Zealand Standard Classification of Occupations (ANZSCO) level 4 for non-managers
- b. **include partnerships and partners in the WGEA dataset more comprehensively than they are currently** (partners in partnership structures are considered owners not employees, this skews the reporting of gender pay gap data to WGEA), and
- c. make it mandatory for relevant employers to report on data as it relates to **individual entities within corporate structures**, not as it relates to the group hierarchy.

Strengthen compliance and enforcement

Current approach

Australian employers are highly compliant with the Act. In the 2019-20 reporting period, 97.5 per cent of relevant employers complied with the Act. WGEA works closely with relevant employers to assist them in complying with their gender equality reporting obligations. WGEA has a collaborative regulatory posture in applying its legislative functions.

Compliance

All relevant employers must report against the gender equality indicators. This requires employers to report data. But it does not require employers to report their action or progress toward meeting any particular target. For example, employers with 500 or more employees meet the 'minimum standard' simply by having a formal policy or strategy to support gender equality. There is no requirement to assess the effectiveness of the policy or strategy, or take action to improve gender equality in the workplace. Employers currently comply with the Act if they:

- submit to WGEA an annual report with the required data on time
- have the CEO sign the public report
- comply with notification and access requirements (this requires employers to inform employees, members and shareholders of their report and provide access to comment on it)
- meet the minimum standards (as discussed earlier in 'Bridge the action gap with new gender equality standards', this only requires employers with 500 or more employees to have *one* policy or strategy of one of four gender equality indicators)
- provide information to review compliance if asked by WGEA, and
- do not include anything false or misleading in their report or in the extra compliance information WGEA may request.

The Act enables WGEA to review an organisation's compliance and seek further information from employers. For example, WGEA does ask for further information to ensure data quality. WGEA also issues compliance certificates to employers to confirm that an employer is compliant with its obligations under the Act.

Enforcement

In instances where employers do not comply, WGEA may publicly name employers as non-compliant (section 19D of the Act).

Non-compliant employers 'may not be eligible to compete for contracts under the Commonwealth procurement framework and may not be eligible for Commonwealth grants or other financial assistance' (section 18 of the Act).

Responsibility for procurement and grants is shared across several Australian Government departments:

- the Department of Finance is responsible for both Commonwealth procurement and grants policy
- the Office for Women in the Department of Prime Minister and Cabinet is responsible for the Workplace Gender Equality Procurement Principles
- the Department of Industry, Science, Energy and Resources (DISER) is responsible for the Business Grants Hub
- the Department of Social Services (DSS) is responsible for the Community Grants Hub, and
- individual policy entities are responsible for administering their grants and applying the Commonwealth procurement and grant frameworks.

The Workplace Gender Equality Procurement Principles describe the Australian Government procurement policy associated with the Workplace Gender Equality Act (<https://www.wgea.gov.au/what-we-do/compliance-reporting/wgea-procurement-principles>).

Proposed approach

Stakeholders called for WGEA to have stronger enforcement powers. Many consider WGEA's existing enforcement powers inadequate, while a number of stakeholders asked that there be no change to the existing powers.

Procurement and grants

Stakeholders strongly support making it clearer that relevant employers *must* comply with WGEA's reporting obligations to receive Commonwealth procurement contracts and grants. As there are not many enforcement mechanisms in the Workplace Gender Equality Act it is important they are clear and effective. That is why **it is recommended that relevant employers *must* comply with WGEA's reporting obligations for Commonwealth grants eligibility and Commonwealth procurement participation** (Recommendation 8.1).

During the consultation process, the relevant Australian Government departments (Department of Finance, the Office for Women, DISER and DSS) agreed with views expressed by stakeholders that there is scope to strengthen the effectiveness of the procurement and grants.

In response to stakeholder concerns that it is not clear how the Commonwealth Government applies the procurement principles in practice, it is recommended that the **Workplace Gender Equality Procurement Principles be reviewed** (Recommendation 8.1). Issues to consider in reviewing the principles include whether any exemptions might be needed. For example, an exemption might be needed to apply to a procurement where there are limited suppliers due to type or location of an activity. Recommendation 8.1 was developed in consultation with the Department of Finance, the Office for Women, DISER and DSS.

To increase the effectiveness of using eligibility for grants as a compliance tool, some stakeholders suggested that there should be a grants policy similar to the Workplace Gender Equality Procurement Principles. However, the grants and procurement frameworks operate differently. Unlike procurement, the Department of Finance advises that it is not necessary to have a grant-connected policy if the Workplace Gender Equality Act is amended to require employers to comply with WGEA's reporting obligations to be eligible for Commonwealth grants. If the Act is amended to require WGEA compliance to be eligible for Commonwealth grants, standard clauses could be developed about WGEA compliance for inclusion in grant agreements.

Additional compliance and enforcement tools

Stakeholders also suggested that WGEA should have additional compliance and enforcement tools. Some noted WGEA cannot seek a penalty order from a court or an order for specific performance. Many stakeholders recommend strengthening WGEA's enforcement functions with remedies such as financial penalties, improvement notices, and mandatory training. Some also noted that WGEA has an audit power (section 19A of the Act) but it is under-utilised and should be used more.

Stakeholders noted that the high compliance rate with WGEA's reporting obligations can be explained by the low bar in the Workplace Gender Equality Act for compliance (discussed earlier in 'Bridge the action gap with new gender equality standards'). If reporting obligations are increased stakeholders said WGEA's enforcement tools should also be strengthened. This is because it would be expected that compliance rates will fall if the requirements for compliance are increased.

However, **financial penalties, and compliance or improvement notices are not recommended** at this stage. As noted above, WGEA has a collaborative regulatory posture. It supports employers meet their obligations to achieve progress on gender equality in Australian workplaces. If the Government adopts the recommendations in the report, WGEA should assist employers meet the ambitious proposed new standards in the first instance rather than enforce new punitive compliance mechanisms.

After employers have had an opportunity to adjust to any new standards flowing from this report, any **future review** of the Workplace Gender Equality Act (see Recommendation 10) should **assess whether stronger enforcement powers are needed**. That will be an opportunity to consider additional enforcement powers, such as improvement notices and financial penalties, if there is a reduction in the high compliance rate.

Recommendation 8 – strengthen compliance and enforcement

- 8.1** Amend the Workplace Gender Equality Act so all relevant employers **must comply with WGEA’s** reporting obligations **for Commonwealth grants eligibility and Commonwealth procurement participation**. To support implementation of this recommendation, the Office for Women in the Department of Prime Minister and Cabinet, together with the Department of Finance and other relevant departments, will **review the Workplace Gender Equality Procurement Principles**.

Set WGEA up for future success to support employers drive gender equality in workplaces

As required by the Terms of Reference, this report assesses the effectiveness of WGEA's existing practices in the promotion and improvement of gender equality in Australian workplaces, and identifies areas of future focus for WGEA. In line with the Australian Government's deregulation agenda the WGEA Review has also identified opportunities to reduce the reporting burden on business.

The recommendations of the WGEA Review propose legislative and policy work by Commonwealth departments, and implementation work by WGEA. To fully realise the potential of the reforms for employers and their workplaces **additional investment in WGEA** will need to be considered by the Australian Government (Recommendation 9.1).

This report proposes suggestions to improve how WGEA's legislation operates and is understood. It is **recommended that the title of 'Director of WGEA' change to Chief Executive Officer (CEO)**. (Recommendation 9.2). This is to avoid confusing the role with that of company directors in a business setting. The recommendation aligns with the language of business and is also used by Government (e.g. Safe Work Australia).

WGEA's **Employer of Choice for Gender Equality (EOCGE) citation** identifies and recognises leading practice employers. Relevant employers who are compliant with the Act are eligible to apply for the citation by demonstrating how they meet the EOCGE criteria. Each year WGEA increases the criteria for the EOCGE citation in order to 'raise the bar' for leading practice and reflect what works for improving workplace gender equality.

However, stakeholder consultation during the review, and employer feedback previously provided to WGEA, identified frustration among some employers who are interested in seeking the citation, but are not yet able to achieve the ever increasing high bar of the EOCGE criteria.

WGEA currently collaborates with other organisations that provide gender equality workplace citations and have additional reporting frameworks. WGEA shares insights from WGEA data and other datasets relevant to gender equality. For example, WGEA is part of a data working group with SAGE (Science in Australia Gender Equality) and the Victorian Commission for Gender Equality in the Public Sector in order to improve and streamline data collection, particularly with institutions who are accredited under the SAGE Athena Swan Accreditation Framework and who report through the Victorian public sector reporting scheme. Some stakeholders have called for harmonising these data reporting requirements and datasets, with the possibility of allowing employers to report the data once and have data sharing between governments.

WGEA has an ongoing process for consulting on and considering improvements to the EOCGE citation criteria and approach. WGEA has recently sought feedback on an approach whereby employers have a pathway into the EOCGE program, by first meeting rigorous but 'entry level' criteria which increases over time ensuring they continue to make progress in gender equality outcomes.

To accelerate progress on workplace gender equality outcomes, it is **recommended that WGEA review the effectiveness of the EOCGE citation** as a motivator for more employers to implement gender equality policies and take practical action (Recommendation 9.3). This could involve assessing the viability of mutual recognition arrangements with other workplace gender equality citation schemes to reduce duplicate effort for employers.

There are concrete actions for WGEA to undertake to continue to improve the way it supports employers advance gender equality in their workplaces. These are set out at Recommendation 9.4. The measure of success for these actions is that employers use the full range of WGEA's tools and supports and find them helpful to improve gender equality in their workplaces.

Recommendation 9 – set WGEA up for future success to support employers to drive gender equality in Australian workplaces

- 9.1 **WGEA is a critical enabler of the WGEA Review recommendations.** The recommendations have **resourcing implications for WGEA** that will require consideration by the Australian Government. To maximise effectiveness, WGEA will need additional investment to implement the WGEA Review recommendations to drive action on gender equality in Australian workplaces.
- 9.2 To avoid confusion with company director roles, amend the Workplace Gender Equality Act to **change the title of the 'Director of WGEA' to Chief Executive Officer (CEO).**
- 9.3 WGEA to **review its Employer of Choice Gender Equality citation** to improve its effectiveness as a citation and incentive for more employers to progress gender equality in their workplaces.
- 9.4 **WGEA to continue to improve the way it supports employers progress gender equality** in their workplaces including by:
- a. reviewing the reports it provides to employers
 - b. expanding its educational resources
 - c. developing tailored 'off the shelf' policies for small and medium enterprises
 - d. publicising the positive progress of employers
 - e. improving the functionality of WGEA's digital reporting platform
 - f. strengthening its capacity to assist employers to bridge their action gaps, and
 - g. leading employers through the change management required by any reforms flowing from recommendations in this report.

The measurement of success for this work by WGEA is that employers use the full range of tools and supports and find them helpful to improve gender equality in their workplaces.

Five year review of Workplace Gender Equality Act

The WGEA Review proposes targeted changes to the Workplace Gender Equality Act and its associated legislative instruments to accelerate the pace of change in reducing Australia's gender pay gap, improving gender equality in Australia workplaces, and increasing employer accountability for workplace gender equality. This review also proposes changes to reduce the regulatory reporting burden for employers while continuing to ensure quality gender data is provided to WGEA.

A staged approach to implementation has been suggested in some recommendations. The intent is to support employers adjust to any new standards flowing from the report. A review five years after the commencement of any legislative amendments flowing from this WGEA Review will assess the effectiveness of reforms and provide an opportunity to course correct if needed.

As discussed in 'Strengthen compliance and enforcement' a future review of the Workplace Gender Equality Act will be a good opportunity to assess whether to introduce stronger enforcement powers.

Annual progress on driving gender equality in Australian workplaces is reported in WGEA's Gender Equality Scorecard (<https://www.wgea.gov.au/publications/australias-gender-equality-scorecard#download-2020-scorecard>). In advance of the proposed five-year review, the WGEA Scorecard will show progress on gender equality in workplaces.

Recommendation 10 – review the Workplace Gender Equality Act in five years from the date any legislative changes commence

10.1 Formally review the effectiveness of action flowing from this WGEA Review five years from the commencement of any legislative reform. This timeframe will give employers an opportunity to adapt to the changes and accelerate progress on gender equality in their workplaces.

Appendices

Appendix 1 – Terms of Reference

Review of the Workplace Gender Equality Act 2012

Context

The Government announced in the Women's Budget Statement 2021-22 a targeted review (the Review) of the *Workplace Gender Equality Act 2012* (the WGE Act). This followed the Workplace Gender Equality Agency's 2019-20 Progress Report, which recommended a review of the WGE Act to drive further progress on gender equality in Australia.

The WGE Act replaced the *Equal Opportunity for Women in the Workplace Act 1999* and has not been reviewed since its introduction in 2012.

The Review will consider if the Workplace Gender Equality Agency (WGEA) – a statutory agency created by the WGE Act – has appropriate powers, tools and levers to achieve the objectives of the WGE Act, including to promote and improve gender equality in Australian workplaces, support employers to remove barriers to the full and equal participation of women in the workplace and to eliminate discrimination on the basis of gender in relation to employment matters.

In the Women's Budget Statement 2021-22, the Government also committed to amending the WGE Act to require Australian Public Service organisations to report to WGEA on gender equality initiatives. This amendment will create a more comprehensive, representative and accurate data set of the Australian workforce.

Scope

The targeted Review will examine the application of the WGE Act and assess the effectiveness of WGEA's existing practices in the promotion and improvement of gender equality in employment and in workplaces. The Review will also identify areas of future focus for WGEA to further promote gender equality over the next ten years, including reducing gender pay gaps, and if needed, recommend options for reform of the WGE Act and its related instruments.

The Review will consider:

- coverage of the WGE Act, including size and types of organisations required to report;
- reporting requirements and data collected under the six gender equality indicators, set out in the *Workplace Gender Equality (Matters in relation to Gender Equality)* Instrument;
- benchmarks, public reporting, data quality and analysis, and sharing of data, with consideration given to the sharing of data between WGEA and other agencies such as the Australian Bureau of Statistics and the Australian Taxation Office;
- reviewing compliance, minimum standards and actions relating to non-compliance with the WGE Act; and
- other actions which can contribute to improvements in gender equality in the workplace.

The Review will take into account:

- WGEA input on the effectiveness of the WGE Act in achieving its purposes, including the WGEA Progress Report 2019-20 and its outlined opportunities for improvement, and input from a broad range of stakeholders;
- The Government's deregulation agenda, including whether there are opportunities to reduce the reporting burden on business through streamlining reporting tools or better sharing of data (such as from Single Touch Payroll) between Commonwealth agencies;

- Any changes needed for WGEA to implement the recommendations of the Respect@Work national inquiry and the Government's response; and
- Australian and international evidence and approaches.

Stakeholder Consultation

The review will be informed by consultation with targeted representatives from the business and not-for-profit sectors, employee organisations, higher education providers, relevant government agencies, including the Department of the Prime Minister and Cabinet (PM&C), Treasury, Department of Finance, the Australian Bureau of Statistics, the Australian Taxation Office, the Australian Public Service Commission and the Human Rights Commission, the women's sector, users of the WGEA data and other interested parties.

Governance and Deliverables

The Review will commence in September 2021. It will be led by a WGEA Review Team in PM&C, in consultation with WGEA, and with guidance from external Expert Advisers. The project sponsor is the Deputy Secretary Social Policy in PM&C. A report will be provided before the end of 2021 to the Minister for Women as the Minister with portfolio responsibility for WGEA and to the Minister for Women's Economic Security.

Appendix 2 – Ten questions from the WGEA Review Consultation Paper, October 2021

This is an extract from the *WGEA Review Consultation Paper*, October 2021 at <https://www.pmc.gov.au/office-women/workplace-gender-equality/review-workplace-gender-equality-act-2012-submissions>

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

Appendix 3 – Consultation methodology

Consultation launch

The Australian Government announced in the *Women's Budget Statement 2021–22* a targeted review (the WGEA Review) of the *Workplace Gender Equality Act 2012*. On Wednesday 20 October 2021, the Minister for Women published a media release to announce the WGEA Review consultation was public on the Department of the Prime Minister and Cabinet (PM&C) website. Also on 20 October the PM&C WGEA Review Team put the WGEA Review Consultation Paper on the PM&C website and circulated it on social media. The PM&C WGEA Review Team also sent emails to key stakeholders to inform them of the consultation.

Overview of the consultation approach



Virtual roundtables

A range of stakeholders were convened across five virtual roundtables held between 15–29 November 2021. These roundtables were with a variety of organisations and targeted representatives from the business and not-for-profit sectors, employee organisations, higher education providers, the women's sector, users of the WGEA data and other interested parties (see full list in subsequent pages).



Virtual Australian Government and State and Territory Government roundtables

Australian Government officials were convened for a virtual roundtable, as were State and Territory Government officials. Relevant Australian Government departments and agencies engaged included the Department of the Prime Minister and Cabinet (PM&C), Treasury, Department of Finance, the Australian Bureau of Statistics, the Australian Taxation Office, and the Australian Public Service Commission among others (see full list in subsequent pages).



Virtual data roundtable

Government and private sector data experts were convened for a virtual data roundtable.



Written submissions

Stakeholders were invited to respond to the consultation paper which was released on 20 October 2021. The consultation paper invited written responses for 10 questions (extracted in Appendix 2). Submissions were due on 24 November 2021 and 155 submissions were received.



Desktop literature review

The PM&C WGEA Review Team conducted a desktop literature review (see 'Key Resources' in Appendix 5).



PM&C WGEA Review Team meetings

In addition to participating in all eight virtual roundtables, the WGEA Review Team held a range of other meetings to gather input. They had meetings with WGEA, Australian Government officials, state and territory officials, Digital Service Providers and other stakeholders. The PM&C WGEA Review Team also met with the Global Institute of Women and Leadership (both Kings College London and the Australian National University) about their recent comparative reports on gender pay gap reporting in different countries.



ThinkPlace consulting firm assistance: Gender equality and data expertise

The PM&C WGEA Review Team contracted ThinkPlace to facilitate the consultation process and provide advice on the WGEA Review. In addition to providing advice, ThinkPlace facilitated the above eight virtual roundtables.



Expert Advisers

Two Expert Advisers assisted the review, Pip Marlow, CEO Salesforce, and Kerri Hartland, Principal Advisor, Proximity (and former secretary for the department that had portfolio responsibility for WGEA). The Expert Advisers provided strategic guidance drawing on their fields of expertise. They provided different perspectives on engaging with WGEA as a large and smaller employer respectively.

Part A: Roundtables

Eight virtual roundtables were held between 15–29 November 2021. Five of these roundtables were with a variety of organisations, one was with state and territory officials, one with Australian Government officials, and the final one was a data-focused roundtable.

These roundtables were split into three sessions:

1. How effective is the Workplace Gender Equality Act 2012?
2. What works in your organisation to progress gender equality?
3. What changes do we need to the Act to realise a significant change in gender equality in the next 10 years?

These sessions required individual reflection against the sub-questions on a digital whiteboard and discussion at the end of each session. Some participants had technical issues with the IT and so some of those listed below did not participate in a full session.

Roundtable participants:

Name	Organisation
Roundtable 1 – Monday 15 November, 2021	
Gemma Lloyd	Co-CEO and Founder, WORK180
Robyn Nolan	President, National Council of Women Australia (NCWA)
Tamsin Lawrence	Deputy Director Workplace Relations, Australian Chamber of Commerce and Industry (ACCI)
Denita Wawn	CEO, Master Builders Australia (MBA)
Sarah Buckley	CEO, Women's Leadership Institute Australia (WLIA)
Susan Metcalf	CEO, Chief Executive Women (CEW)
Ella Melican	Policy Adviser, Women in Super
Dr Leonora Risse	Co-Founder and National Chair, Women in Economics Network (Senior Lecturer in Economics, RMIT University)
Marian Vidal-Fernandez	NSW Committee Member, Women in Economics Network (Associate Professor, University of Sydney)
Sally Moyle	Vice President, National Foundation of Australian Women (NFAW)
Roundtable 2 – Tuesday 16 November, 2021	
Alana Bastin-Byrne	Co-Founder, Femeconomy
Alexandra Hordern	Advocacy Director, Australian Small Business and Family Enterprise Ombudsman (ASBFEO)
Cameron Dyson-Smith	Assistant Director of Advocacy, ASBFEO
Jade Collins	Co-Founder, Femeconomy
Jessica Gallagher	Organisational Development and Workforce Diversity Manager, University of Western Australia
Karolina Szukalska	Manager, Education, Minerals Council of Australia (MCA)
Nicola Street	National Manager – Workplace Relations Policy, Ai Group
Philippa Hall	WEL Executive Committee Member, Women's Electoral Lobby Australia
Shelley Cable	CEO, Generation One, Minderoo
Val Madsen	Executive General Manager, People, St Barbara Ltd
Victoria Weekes	Non-Executive Director & Audit & Risk Chair, Australian Gender Equality Council
Roundtable 3 – Wednesday 17 November, 2021	
Renee Hamilton	CEO, National Women's Safety Alliance (NWSA)

Name	Organisation
Jane Madden	President, National Foundation of Australian Women (NFAW)
Carol Kulik	Research Professor of Human Resource Management, University of South Australia
Catherine Fox	Author
Libby Lyons	Chair, Aged Care Workforce Industry Council; Director of WGEA (2015-2021)
Marian Baird	Professor of Gender and Employment Relations, Head of Discipline of Work and Organisational Studies, University of Sydney
Sarah Kerr	Head of Inclusion, Sustainability & Engagement, Medibank
Stephanie Reuss	Co-Founder and Co-CEO, Beam Australian Operations Pty Ltd
Victoria Stuart	Co-Founder and Co-CEO, Beam Australian Operations Pty Ltd
Theresa Kellett	Senior Project Officer, Australia's National Research Organisation for Women's Safety (ANROWS)
Vanamali Hermans	Policy and Project Officer, Women with Disabilities Australia (WWDA)
Amelia Bitsis	Director Social Impact and Indigenous Engagement, Business Council of Australia (BCA)
Helen Dalley-Fisher	Manager, Equality Rights Alliance (ERA)
Kim Rubenstein	Co-Director, 50/50 by 2030 Foundation
Amy Love	Senior Inclusion Manager, RMIT University
Stephanie Flechas	NSW Committee Secretary, Women in Economics Network
Chris Wallace	Associate Professor, 50/50 by 2030 Foundation
Coral Ross	Founding Director and Board Chair, Australian Gender Equality Council
Roundtable 4 – Monday 22 November, 2021	
Annika Freyer	CEO, Champions of Change Coalition (CCC)
Castaly Haddon	Stakeholder and Policy Manager, Council of Small Business Organisations Australia (COSBOA)
Claire Braund	Executive Director, Women on Boards
Jennifer Lanahan	Manager, Diversity Equity and Inclusion, Sparke Helmore Lawyers
Louise Weine	CEO, National Association of Women in Operations (NAWO), Board Member, Australian Gender Equality Council
Pip Marlow	CEO, Salesforce and WGEA Review Expert Adviser
Rachael Phillips	Diversity and Inclusion Partner, Woolworths
Sandra Creamer	CEO, National Aboriginal and Torres Strait Islanders Women's Alliance (NATSIWA)
Sara Charlesworth	Professor of Work, Gender & Regulation, RMIT University
Terry Fitzsimmons	Board Member and Managing Director, Australian Gender Equality Council, Senior Lecturer in Leadership, University of Queensland
Roundtable 5 – Tuesday 23 November, 2021	
Sophie Ismail	Legal and Industrial Officer - Gender Equity, Australian Council of Trade Unions (ACTU)
Alex Kershaw	Policy Lawyer, Law Council of Australia (LCA)
Bianca Hartge-Hazelman	CEO, Financy
Cathy Brown	Director, Policy & Projects, Diversity Council Australia (DCA)
Heidi La Paglia	Director of Policy and Programs, Women with Disabilities Australia (WWDA)
Jennifer Cameron	Adviser, Science in Australia Gender Equity (SAGE)
Kate Jenkins	Sex Discrimination Commissioner, Australian Human Rights Commission (AHRC)

Name	Organisation
Katie Biddlestone	National Industrial Officer, National Women's Officer, Shop, Distributive & Allied Employees' Association (SDA)
Leonie Campbell	Deputy Director of Policy, Law Council of Australia (LCA)
Lisa Annese	CEO, Diversity Council Australia (DCA)
Natasha Molt	Law Council of Australia (LCA)
Nicola Street	National Manager – Workplace Relations Policy, Ai Group
Dr Sarah Pritchard SC	Chair, Law Council of Australia (LCA)
Simone Clarke	CEO, UN Women Australia (UNWA)
Troy Roderick	Director, Strategic Initiatives and Insights, and Program Director STEM, Champions of Change Coalition (CCC)
Wafa El-Adhami	CEO, Science in Australia Gender Equity Ltd (SAGE)
Roundtable 6 (Australian Government) – Wednesday 24 November, 2021	
Angela Wojtaszak	Assistant Director, Grants Policy, Department of Finance
Bjorn Jarvis	Program Manager, Labour Statistics Branch, Australia Bureau of Statistics (ABS)
Rhiannon Box	Manager, Secretariat and Corporate Governance, Department of Social Services (DSS)
Carol Treneski	Director, Procurement Policy, Department of Finance
Deborah Fulton	Assistant Secretary, National Indigenous Australians Agency (NIAA)
Simon Gotzinger	Senior Executive Lawyer, Department of Education, Skills and Employment (DESE)
Jennifer Kay	Assistant Secretary, Business Grants Hub, Department of Industry, Science, Energy and Resources (DISER)
Jody Anderson	First Assistant Secretary, Safety and Industry Policy Division, Attorney-General's Department (AGD)
Julia Neville	Assistant Commissioner, Policy, Analysis and Legislation, Australian Tax Office (ATO)
Lace Wang	Assistant Secretary, Employment Conditions Division, Attorney-General's Department (AGD)
Elizabeth Minogue	Senior Adviser, Regulatory Policy, Department of the Prime Minister and Cabinet (PM&C)
Katrina Purcell	Assistant Commissioner, Inclusion, Australian Public Service Commissioner (APSC)
Catherine Seaberg	Assistant Commissioner, Inclusion, Australian Public Service Commissioner (APSC)
Sandra Roussel	Assistant Secretary, Regulatory Policy, Department of the Prime Minister and Cabinet (PM&C)
Sarah Goulding	Assistant Secretary, Gender Equality Branch, Department of Foreign Affairs and Trade (DFAT)
Shanan Gillies	Assistant Secretary, Science Policy and Governance, Department of Industry, Science, Energy and Resources (DISER)
Rebecca Cassells	Assistant Secretary, Macroeconomic Group, Department of the Treasury
Tanya Spisbah	Director, Office for Women, Department of Prime Minister and Cabinet
Roundtable 7 (States and Territories) – Thursday 25 November, 2021	
Caroline Jeppesen	ACT Government – Office for Women
Tina Dixon	ACT Government– Office of LGBTIQ+ Affairs
Caroline Tuthill	Government of Western Australia– Department of Communities
Sarah Charbonneau	Government of Western Australia– Department of the Premier and Cabinet
Helen Philippidis	Government of Western Australia – Department of the Premier and Cabinet
Karen Webb	Government of Western Australia – Department of Communities
Amanda Underwood	Government of South Australia – Office for Women

Name	Organisation
Fiona Buchanan	Government of South Australia – DFFH
Sanjuga Vas Dev	Government of South Australia – Office for Women
Jo Pride	Victorian Government – Department of Families, Fairness and Housing
Kate Berry	Victorian Government – Commission for Gender Equality in the Public Sector
Sarah Tuberville	Victorian Government – Department of the Premier and Cabinet
Julie Dwyer	NSW Government – FACS
Tanya Smyth	NSW Government – Women NSW/Carers NSW
Lucy Hartas	NSW Government – Department of Premier and Cabinet
Patricia Rooney	QLD Government – Office of Fair and Safe Work
Kylie Stephen	QLD Government – Office for Women and Violence Prevention
Lisa Meagher	QLD Government – Department of Premier and Cabinet
Sarah Burchett	NT Government – Gender Equity and Diversity
Tamara Biro	NT Government – Intergovernmental Relations
Chantelle Stratford	Assistant Secretary, Office for Women, Department of the Prime Minister and Cabinet
Kerri Hartland	Principal Adviser, Proximity and WGEA Review Expert Adviser
Roundtable 8 (Data Workshop) – Monday 29 November, 2021	
Bjorn Jarvis	Program Manager, Labour Statistics Branch, Australia Bureau of Statistics
Lace Wang	Assistant Secretary, Employment Conditions Division, Attorney-General's Department
Bridie Costigan	Pay Equity and Participation, Attorney-General's Department
Michael Radzevicius	Pay Equity and Participation, Attorney-General's Department
Laura Munsie	Usability Section, Attorney-General's Department
Vanessa Barone	Workforce Metrics, Strategic Policy and Research Group, Australian Public Service Commission
Bek Symonds	Assistant Director Workforce Metrics, Strategic Policy and Research Group, Australian Public Service Commission
Ian Colhoun	Director, Single Touch Payroll and Economic Stimulus Program, Australian Taxation Office
Travis Wright	Single Touch Payroll and Economic Stimulus Program, Australian Taxation Office
Michael Kerr Brown	Australian Tax Office
Casey Mills	Workforce Participation, Department of Education, Skills and Employment
Thea McKenzie	Department of Industry, Science, Energy and Resources
Zara Shroff	Department of Industry, Science, Energy and Resources
Suchi Misra	Department of Industry, Science, Energy and Resources
Deborah Fulton	Employment Branch Manager, Economic Policy and Programs Group, National Indigenous Australians Agency
Tanya Spisbah	Director, Data, Research and Analysis, Office for Women, Department of the Prime Minister and Cabinet
Evelyn Andrew	Data, Research and Analysis, Office for Women, Department of the Prime Minister and Cabinet
David Hansell	Data, Research and Analysis, Office for Women, Department of the Prime Minister and Cabinet
Chantelle Stratford	Assistant Secretary, Office for Women, Department of the Prime Minister and Cabinet
Krishna Kenche	Office of Best Practice Regulation, Department of the Prime Minister and Cabinet
Andrew Lalor	Assistant Secretary, Data and Digital, Department of the Prime Minister and Cabinet

Name	Organisation
Bernard Fischer	Digital Technology Taskforce, Department of the Prime Minister and Cabinet
Orlando Parish	Salesforce
Timothy Louie	Salesforce
Jean Gabriel	Salesforce
Elzina Hodzic	Salesforce
Abi Kuttner	Treasury
Ella Gillespie	Treasury
Janin Bredehoeft	Workplace Gender Equality Agency
Mary Wooldridge	Workplace Gender Equality Agency

Other attendees and facilitators:

The PM&C WGEA Review Team attended all eight roundtables. Other Australian Government officials observed various roundtables including officials from the Workplace Gender Equality Agency, the Office for Women, and the Office of Best Practice Regulation.

Name	Organisation
Catherine Hawkins	Head of the WGEA Review Team, PM&C
Prudence Mooney	WGEA Review Team, PM&C
Freya Jansens	WGEA Review Team, PM&C

Facilitators

Name	Organisation
Dr Nina Terrey	Chief for Gender Equality, ThinkPlace
Tessa Laven	ThinkPlace
Thomas Grimshaw	ThinkPlace
Skylen Dall	ThinkPlace

Part B: Written submissions

Consultation paper

As noted earlier, the *WGEA Review Consultation Paper* was released on 20 October 2021. It invited written responses for 10 questions.

Submissions were due on 24 November 2021 and 155 submissions were received in total.

Submissions received

The list of written submissions below is in line with the express privacy consent provided at the time of making a submission. People were given the option of having their submission published with their name, published without their name (anonymous), or not published (shown in the list below as 'don't publish').

Written submissions received:

Sub #	Name (if disclosed)	Sub #	Name (if disclosed)
1	Bronwyn Bell	24	University of Technology Sydney
2	Australia Taxpayer's Alliance	25	Anonymous
3	Anonymous	26	Osmond Chiu
4	Don't publish	27	Anonymous
5	Cloe Sophia	28	Gregory Davies
6	Don't publish	29	Australian Federation of Business & Professional Women (BPW Australia)
7	Anonymous	30	Alice Delaney
8	Andrew Dunlop	31	Anonymous
9	Associate Professor Becky Batagol (Monash University)	32	Anonymous
10	Flagships AU	33	Nadine James
11	Anonymous	34	Anonymous
12	Dae Bailey	35	Anonymous
13	Workplace Gender Equality Agency (WGEA)	36	Don't publish
14	Robbie Lloyd	37	Kirsten Walpole Sinnamon
15	Industry Professor Nareen Young (Jumbunna Institute, UTS) and Associate Professor Dimitria Groutsis (University of Sydney Business School)	38	Australian Local Government Women's Association
16	Anonymous	39	Casceilia Morrissey
17	Anonymous	40	Anonymous
18	Femeconomy	41	Dianne Pittaway
19	Samson Naylor	42	Don't publish
20	Jodie Miller	43	Don't publish
21	Don't publish	44	Soroptimist International of Brisbane Inc
22	Anonymous	45	Breastfeeding Advocacy Australia
23	Rainbow Families	46	Australian Greens
		47	Chief Executive Women

Sub #	Name (if disclosed)
48	National Foundation for Australian Women (NFAW)
49	Dr Ramona Vijeyarasa (University of Technology Sydney)
50	Australian Centre for Leadership for Women
51	Melior Investment Management
52	Industry Super Australia
53	Kathy Bond
54	Don't publish
55	Clare Henderson
56	Anonymous
57	Sy Densley
58	Own Your Health Collective
59	Australian National University (ANU) Global Institute for Women's Leadership (GIWL) (ANU GIWL)
60	Australian Gender Equality Council
61	Forcibly Displaced People Network
62	University of Technology Sydney
63	Women's Electoral Lobby Australia
64	Australian Federation of Medical Women
65	Anonymous
66	Dalane Drexler
67	Adamantem Capital and Legend Corporation
68	Don't publish
69	ACON
70	Diversity Council of Australia (DCA)
71	Australian Higher Education Industrial Association (AHEIA)
72	Women on Boards (WOB Australia)
73	Don't publish
74	Alexandra Heron
75	Women's Services Network (WESNET)/Australian Women Against Violence Alliance (AWAVA)
76	Australian Small Business and Family Enterprise Ombudsman (ASBFEO)
77	Voices of Influence Australia
78	HESTA

Sub #	Name (if disclosed)
79	Anonymous
80	Australia Council of Trade Unions (ACTU)
81	Women of Colour Australia
82	Women in Super
83	Carers Australia
84	Women with Disabilities Australia (WWDA)
85	Law Council of Australia
86	Electrical Trades Union Australia (ETU)
87	Anonymous
88	Public Sector Gender Equality Commissioner (Victoria)
89	South Australian Premier's Council for Women
90	Australian Industry Group (Ai Group)
91	YWCA Canberra
92	Women in Gaming and Hospitality Australasia
93	Western Sydney University
94	Australian Breastfeeding Association
95	Australia's eSafety Commissioner
96	National Rural Women's Coalition
97	Australian Institute of Company Directors (AICD)
98	Settlement Services International
99	Queensland Law Society
100	Shop Distributive and Allied Employees' Association (SDA)
101	Anonymous
102	Australian Financial Markets Association (AFMA)
103	Cultural Infusion
104	Future Super Group
105	Australian Council of Superannuation Investors
106	Per Capita
107	The Australian Work + Family Policy Roundtable (W+FPR)
108	Law Firms Australia
109	Gender Equity Victoria
110	RMIT University

Sub #	Name (if disclosed)
111	Women Barristers Association (Victoria)
112	50/50 by 2030 Foundation (University of Canberra)
113	Safe and Equal
114	Life Course Centre
115	Professor Marian Baird, Professor Rae Cooper and Dr Meraiah Foley (Women and Work Research Group, University of Sydney)
116	Minderoo Foundation
117	Victorian Trades Hall Council
118	Anonymous
119	Science in Australia Gender Equity (SAGE) Limited
120	Carers NSW
121	Don't publish
122	Australian Lawyers for Human Rights
123	Anonymous
124	Bankwest Curtin Economics Centre
125	Dr Leonora Risse
126	Australian Discrimination Law Experts Group
127	Australian Retailers Association
128	Don't publish
129	Australian Resources and Energy Group
130	Equality Rights Alliance (ERA)
131	Don't publish
132	Anonymous
133	Professor Susan Harris Rimmer, Professor Emeritus Glenda Strachan, and Professor Paula Brough (Griffith University)

Sub #	Name (if disclosed)
134	Anonymous
135	KPMG
136	Anonymous
137	Australian Chamber of Commerce and Industry (ACCI)
138	Harmony Alliance
139	AbbVie Pty Ltd
140	Women Lawyers' Association of NSW
141	Bryn Dickson
142	Don't publish
143	Australian Institute of Superannuation Trustees (AIST)
144	Don't publish
145	Our Watch
146	Commonwealth Bank of Australia (CBA)
147	National Women's Safety Alliance
148	Minerals Council of Australia (MCA)
149	Australian Competition and Consumer Commission (ACCC)
150	Australia's National Research Organisation for Women's Safety (ANROWS)
151	Don't publish
152	Australian Government Attorney-General's Department
153	Don't publish
154	Government of Western Australia Department of Communities
155	Business Council of Australia (BCA)

Appendix 4 – What we heard: summary of consultation themes

Extract – Consultation Report for Review of the Workplace Gender Equality Act, prepared by ThinkPlace, December 2021



What was heard

Several key themes emerged from consultation including:

- The WGEA **dataset is world-leading** and gives a high-level picture of the progress being made on gender equality in workplaces over the eight years. Similarly, **WGEA has made a contribution** to help reduce the gender pay gap in Australia in the last decade through its work as an **educator, influencer and regulator**.
- The Workplace Gender Equality Act and WGEA are only one part of a **holistic approach** to address gender inequality in the workplace. Governments, employers, and the community all have a role in promoting and improving gender equality in Australian workplaces.
- The **rate of change** on gender equality in workplaces is **not happening fast enough**. Gender gaps in pay, leadership, and representation continue to exist. Australia is also falling behind in international gender equality rankings. More action from employers and support from WGEA is required to drive real and meaningful change for diverse groups of women and men in the workforce.
- While reporting to WGEA has opened a window into the current state of gender equality in organisations, there is a **large disconnect between reporting and real action**. There are concerns that the current WGEA reporting is seen by some employers as a 'tick a box compliance exercise' rather than helping drive change. Current compliance mechanisms and reporting standards are not going far enough to hold organisations accountable for progressing gender equality.
- There is also a **gap between policy and behaviour** where organisations have policies in place but access to those policies is inequitable and culture is slow to change.
- **Increasing women's workforce participation** is vital for **economic growth and productivity**, which is so important in the recovery from COVID-19.
- A number of employers expressed concern about the **burden of current reporting obligations** to WGEA. SMEs (Small and Medium Enterprises) and other employers are concerned about the regulatory burden that any additional reporting would bring. Further consultation is needed to understand opportunities for streamlining data reporting, particularly given the COVID-19 challenges facing employers.
- There are **gaps in the dataset** that mean the true state of gender equality in the economy is not being reflected, and therefore is not being fully leveraged to drive targeted action. Key gaps include **intersectional perspectives** from Aboriginal and Torres Strait Islander women, women living with disabilities, culturally and linguistically diverse (CALD) women, and non-binary people. Other gaps include reporting from SMEs and Government.
- **WGEA can play a larger role** in **educating and enabling** organisations to take action on gender equality. They also have a larger role to play in compliance with the Act and **holding organisations accountable**.
- A range of stakeholders called for **further consultation** on any legislative reform proposals that might flow from this WGEA Review.

What needs to change – themes from consultations

There were a number of recommendations, considerations and concerns put forward by stakeholders. A summary of these changes is outlined below.



There are recommendations from stakeholders to increase the ambition of the Act to eliminate Australia's gender pay gap and for WGEA to work with employers to drive change in their workplaces and generate solutions to gender inequalities. There is support for WGEA to be seen as one part of a gender equality ecosystem and that Australia should aspire to having a world-class, national gender equality sector that enables organisations to develop strategies and measures to improve and sustain gender equality. Legislation should enable closer collaboration between the Australian Human Rights Commission (AHRC) and alignment with *the Fair Work Act 2009* could strengthen legislative measures to address gender inequality.



There is strong, but not unanimous, agreement that the current coverage of the Act, around 40 per cent of employees, is too small and there is significant concern that the existing threshold excludes critical sectors: the exclusion of the public sector includes a large proportion of female employees including health and education. The exclusion of SMEs includes vulnerable casual and part-time employment by smaller businesses, male-dominated industries including construction, and states and territories where the dominant business model in some jurisdictions is small business. There is strong support for expanding the scope of the Act, with consideration for reporting approaches that are proportionate to the size of organisations. However, business groups are concerned about regulatory burden including for smaller employers.



There is strong agreement that focus on making gender pay gap data transparent at the *organisation* level (as opposed to just the *industry* level, which is currently reported by WGEA) will accelerate the pace of change towards closing the gender pay gap, as well as promote ethical leadership. The support for pay transparency is qualified by concerns of unintended consequences including impact on wage growth and morale. There are recommendations that organisations need support to transition to pay transparency and that an approach be developed in consultation with employers.



There is strong agreement that the current model of minimum standards is not creating change fast enough, organisations have policies in place, yet inequities persist, and culture change is slow. Inequitable access to policies is a significant barrier to their effectiveness.

Recommendations from stakeholders include:

- Action and progress on gender equality, through measurable and specific targets and benchmarking
- Targets and benchmarks to be co-designed with employers to be relevant to different sectors
- Expanded coverage of the minimum standards, to apply to all organisations covered by the Act
- Increase the minimum standards to include all of the gender equality indicators.



There is concern that the WGEA reporting process is burdensome and seen by some as a 'tick a box' compliance requirement that provides little return in shifting gender inequality within their organisations, while others highlight that reporting to WGEA makes gender equality salient to organisations. There are recommendations to simplify the process, align reporting requirements in relation to gender equality and reduce reporting to every second year. There is concern that classifications must reflect sectors and contemporary organisational structures (some said that ANZSCO classifications are not relevant to the higher education sector).



There is very strong support for the collection of diversity data, it is considered important that WGEA data is reflective of the diversity of the Australian community, and that the compounding factors contributing to gender inequality are addressed. However, it is also acknowledged that currently there is little diversity data available and there are risks associated with employers collecting the data. Most significantly there are sensitivities about data collection and disclosure of complex identities in environments where there are inequities and discrimination, and women feel unsafe. There is a longer-term vision for mandatory collection of additional diversity. There are also short-term recommendations for the collection of diversity data to be voluntary while WGEA addresses sensitive issues for both employers and employees arising from collecting additional diversity data. These issues include privacy issues, resourcing implications and employee uptake issues.



The *Respect@Work* report has highlighted the failure of our current regulatory framework to keep workers safe from gendered violence and harassment, including sexual harassment. There is support for a recommendation that sex-based harassment and discrimination be specified as GEI 6 and that additional data is collected as specified by the Respect@Work Council is strongly supported. Further stakeholder recommendations include obligations on employers to report any sexual harassment complaints to an overarching body, such as WGEA or the Australian Human Rights Commission.



The understanding and definition of workplace flexibility and the intersections between home and work have been transformed by the COVID-19 pandemic. Stakeholder recommendations include:

- Dividing GEI 4 into two separate indicators: Flexible working arrangements and caring responsibilities
- Expand policy and leave related to domestic violence.



There is concern that the current procurement principles are not consistently applied or effective for all organisations and strong stakeholder recommendation for a review of these principles. There is acknowledgement that any expanded scope of the Act will require new compliance mechanisms and that these should be in line with WGEA's current compliance posture, with proportionate and relevant sticks and carrots for organisations at all stages of progress and commitment towards gender equality. There are recommendations for stronger penalties for serious non-compliance.



Many stakeholders called for ensuring the consistency and comparability with existing WGEA data collections is maintained, aligning data collection across different reporting mechanisms and ensuring all WGEA data is appropriately understood and cited (there were concerns about users mis-quoting WGEA data).



There is strong agreement that WGEA should be resourced to support any changes to the Act and should work closely with employers in different sectors to understand and achieve an action-based approach, step up the level of ambition on gender equality and work towards the elimination of Australia's gender pay gap.



Given the importance of gender equality, there should be further targeted consultation with both employers and specialist organisations on all these recommendations.

Appendix 5 – Key resources

Key legislation

- *Workplace Gender Equality Act 2012*
- *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)*
- *Workplace Gender Equality (Minimum Standards) Instrument 2014*

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Appendix 6 – WGEA Gender Pay Gap Fact Sheet August 2021

[Gender pay gap factsheet august2021.pdf \(wgea.gov.au\)](#)



Australia's Gender Pay Gap Statistics

August 2021

Australia's full-time gender pay gap

Average weekly earnings, May 2021

Gender pay gap by state and territory

Lowest	Highest
South Australia 7.0%	Western Australia 21.9%

Gender pay gap by industry

Lowest	Highest
7.3% Public Administration and Safety	25.3% Professional, Scientific and Technical Services

14.2% ▲ 0.8 p.p.

Full-time average
weekly earnings of
women ◀ **\$1,575.50**

Women earn on average
\$261.50 per week less
than men

\$1,837.00 ▶ Full-time average
weekly earnings of
men



About the Gender Pay Gap

The gender pay gap (GPG) is the difference between women's and men's average weekly full-time equivalent earnings, expressed as a percentage of men's earnings. It is a measure of women's overall position in the paid workforce and does not compare like roles.

The gender pay gap is influenced by a number of factors, including:

- discrimination and bias in hiring and pay decisions
- women and men working in different industries and different jobs, with female-dominated industries and jobs attracting lower wages
- women's disproportionate share of unpaid caring and domestic work
- lack of workplace flexibility to accommodate caring and other responsibilities, especially in senior roles
- women's greater time out of the workforce impacting career progression and opportunities.

Gender pay gaps are an internationally established measure of women's position in economy. Directly comparing international gender pay gaps is problematic due to differences in sources, definitions and methods used to calculate the gender pay gap in different countries.

However, it is clear that gender pay gaps in favour of men are a common feature of economies worldwide.

Calculating the gender pay gap

Australian gender pay gaps are calculated by the Workplace Gender Equality Agency (WGEA, the Agency). The GPG is derived as the difference between women's and men's average weekly full-time equivalent earnings, expressed as a percentage of men's earnings.

$$\text{GPG} = 100\% \times \frac{\text{Male Average Earnings} - \text{Female Average Earnings}}{\text{Male Average Earnings}}$$

Changes to the data since 2020

Traditionally, the data used by WGEA for calculating the national gender pay gap is the ABS Full-Time Adult Average Weekly Ordinary Time Earnings Trend series from the Australian Weekly Earnings survey.⁵

However, given the impact of COVID-19 on the labour market and that it is currently not known whether this impact will be short, medium or long-term, the ABS have suspended the use of trend data.⁶

Instead, seasonally adjusted data has been used to calculate average weekly earnings during the COVID-19 period. Given the extent of change in the labour market and the impact of COVID-19 is ongoing, it will be important to continue monitoring the data to further understand the impact of COVID-19 on Australia's workforce.

The data used by WGEA for calculating the national gender pay gap is the Australian Bureau of Statistics (ABS) Full-Time Adult Average Weekly Ordinary Time Earnings Trend series from the Australian Weekly Earnings (AWE) survey.¹ The survey estimates the full-time adult average weekly ordinary time earnings (trend/seasonal) before tax, excluding overtime, pay that is salary sacrificed, junior and part-time employees.

Data is also sourced from the ABS Employee Earnings and Hours employer survey² (age group and method of setting pay) and from the Agency's own gender pay gap data (occupation and overall).³ Gender pay gap calculations derived from each of these data sources vary due to differences in timing and scope.

ABS and WGEA data both show a gender pay gap favouring full-time working men over full-time working women in every industry and occupational category in Australia.

The national gender pay gap

Currently, Australia's national gender pay gap is 14.2%.

The national gender pay gap is calculated by WGEA using data from the ABS.

At May 2021, women's average weekly ordinary full-time earnings across all industries and occupations was \$1,575.00 compared to men's average weekly ordinary full-time earnings of \$1,837.00. This means that on average, women earn \$261.50 less than men.

The full-time total earnings gender pay gap, which includes overtime payments is 16.8%. This means women's average weekly total full-time earnings are \$323.30 less per week compared to men.

Adding the part-time workforce, the total earnings gender pay gap for all employees widens to 31.3%. This means women's average weekly total earnings are \$486.20 less per week than men.⁴

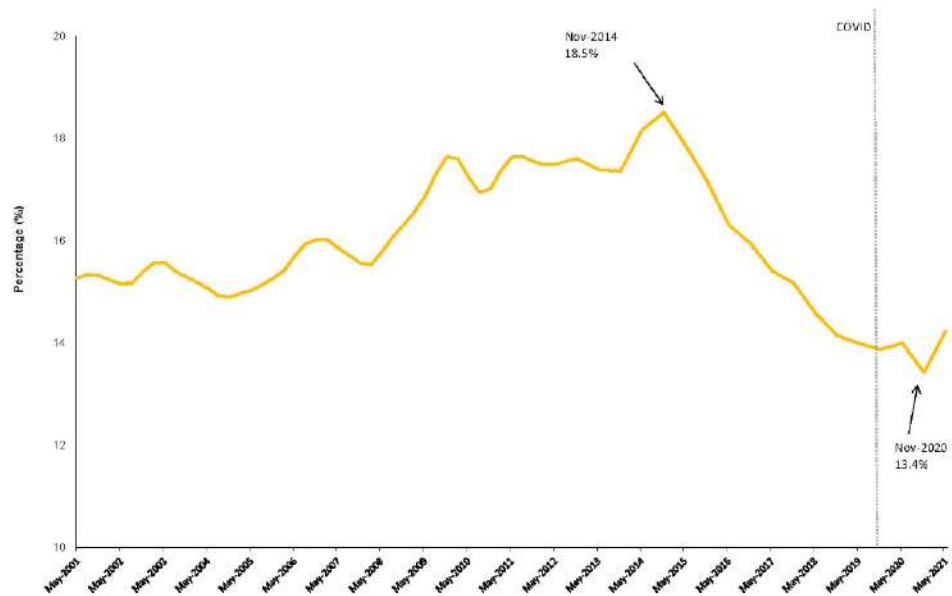


The national gender pay gap over time

Australia's national gender pay gap has hovered between 13% and 19% for the past two decades.⁷ There has been an increase of 0.8 percentage points (pp) to 14.2% in the gender pay gap since November 2020 (13.4%).⁸

Between November 2020 and May 2021, average weekly ordinary full-time earnings increased more for men than for women. This is due, in part, to the growth in earnings in the Construction industry, a male-dominated sector of employment.⁹ In addition, the average weekly earnings for May 2021 accounts for the pay period prior to the recent COVID-19 outbreaks and lockdowns in Australia and a time when many restrictions were eased. Therefore, increases in average weekly earnings between November 2020 and May 2021 are more similar to increases that were seen pre-pandemic.

Figure 1: The Australian gender pay gap, May 2001-May 2021¹⁰



Data: ABS (2021), Average Weekly Earnings, May 2021, cat. no. 6302.0, viewed 19 August 2021, Table 2 <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>

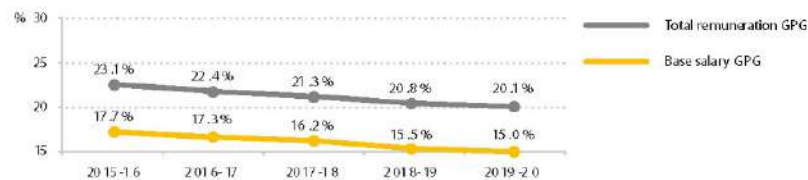
Note: Between November 2000 and November 2019 the national gender pay gap calculations were based on trend data. Due to Covid-19, seasonal data has been used in Figure 1 for all figures after November 2019.

WGEA data

WGEA collects pay data annually from non-public sector organisations with 100 or more employees, covering more than 4 million employees in Australia. This data includes superannuation, bonuses and other additional payments.

The full-time total remuneration gender pay gap based on WGEA data is 20.1%, meaning men working full-time earn nearly \$25,679 a year more than women working full-time.

Figure 2: Full-time base salary and total remuneration, 2015-16 - 2019-20¹¹



Source: WGEA (2020), Australia's gender equality scorecard, https://www.wgea.gov.au/sites/default/files/documents/2019-20%20Gender%20Equality%20Scorecard_FINAL.pdf Note: Total remuneration of full-time employees includes full-time base salary plus any additional benefits payable directly or indirectly, whether in cash or in a form other than cash. Includes: bonus payments (including performance pay), superannuation, discretionary pay, overtime, other allowances and other benefits (for example share allocations).

The gender pay gap by state and territory

The full-time average weekly base salary gender pay gap differs across Australian states and territories. The differences in the gender pay gap can be partly explained by industry profiles of each state and territory. For example, the full-time workforce in Western Australia is concentrated in Mining and Construction sectors, industries with relatively high earnings and low representation of women. In contrast, the majority of the full-time workforce in the Australian Capital Territory (ACT) is employed in the Public Administration and Safety sector, which traditionally has a lower gender pay gap and balanced gender representation. As of May 2021:

- Western Australia has the widest gender pay gap at 21.9%.
- South Australia has the smallest gender pay gap at 7.0%.



Between May 2020 and 2021 the gender pay gap has decreased in ACT, Tasmania, New South Wales, Western Australia and South Australia. The pay gap in South Australia decreased by -1.5pp, while the pay gap in Victoria increased by 2.6pp.

Table 1: Full-Time Adult Weekly Ordinary Time Earnings gender pay gap by state and territory, May 2020 - May 2021¹²

State/Territory	May-20	May-21	Difference (pp)
Western Australia	22.7%	21.9%	-0.8
Queensland	15.3%	15.8%	0.5
New South Wales	15.3%	14.5%	-0.8
Northern Territory	12.2%	12.7%	0.5
Victoria	9.6%	12.2%	2.6
Tasmania	8.5%	8.4%	-0.1
Australian Capital Territory	8.0%	7.9%	-0.1
South Australia	8.5%	7.0%	-1.5

Data source: ABS (2021), Average Weekly Earnings, May 2021, cat. no. 6302.0, viewed 19 August 2021, Table 12 A to Table 12, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release/data-download>

Note: Based on Full-Time Adult Average Weekly Ordinary Time Earnings with May as the reference period. States and territories are ranked from highest gender pay gap to lowest gender pay gap in May 2021. A minus sign indicates that the gender pay gap has decreased from the previous period.

The gender pay gap by industry

The differences between women's and men's average weekly full-time earnings across all industries, including the private and public sectors, shows that across Australia the gender pay gap is:

- highest in Professional, Scientific and Technical Services at 25.3%, followed by Financial and Insurance Services at 24.1% and Health Care and Social Assistance at 20.7%. These industries also had the highest gender pay gaps in May 2020.
- lowest in Other Services at 0.9% and Public Administration and Safety at 7.3%.

Between May 2020 and May 2021:

- the largest gender pay gap increase was in Manufacturing (+4.1 pp)
- the largest gender pay gap reductions were in Electricity, Gas, Water and Waste Services (-2.5 pp) and Administrative and Support Services (-1.8pp)

Table 2: Full-Time Adult Weekly Ordinary Time Earnings gender pay gap by industry, May 2020 - May 2021¹³

Industry	May-20	May-21	Difference (pp)
Professional, Scientific and Technical Services	24.1	25.3	1.3
Financial and Insurance Services	22.6	24.1	1.5
Health Care and Social Assistance	21.3	20.7	-0.7
Rental, Hiring and Real Estate Services	19.0	19.1	0.1
Mining	15.9	17.2	1.3
Construction	15.7	16.6	1.0
Information Media and Telecommunications	17.5	16.6	-0.9
Transport, Postal and Warehousing	15.5	15.2	-0.3
Wholesale	13.3	15.0	1.7
Administrative and Support Services	16.5	14.8	-1.8
Manufacturing	9.2	13.3	4.1
Education and Training	12.3	11.4	-0.8
Arts and Recreation Services	10.7	10.8	0.2
Retail	9.1	10.8	1.7
Accommodation and Food Services	9.6	10.5	0.8
Electricity, gas, water and waste services	10.1	7.6	-2.5
Public Administration and Safety	5.8	7.3	1.5
Other Services	-0.6	0.9	1.5

ABS (2021), Average Weekly Earnings, May 2021, viewed 19 August 2021, Table 10 A and Table 10 D,

<https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>

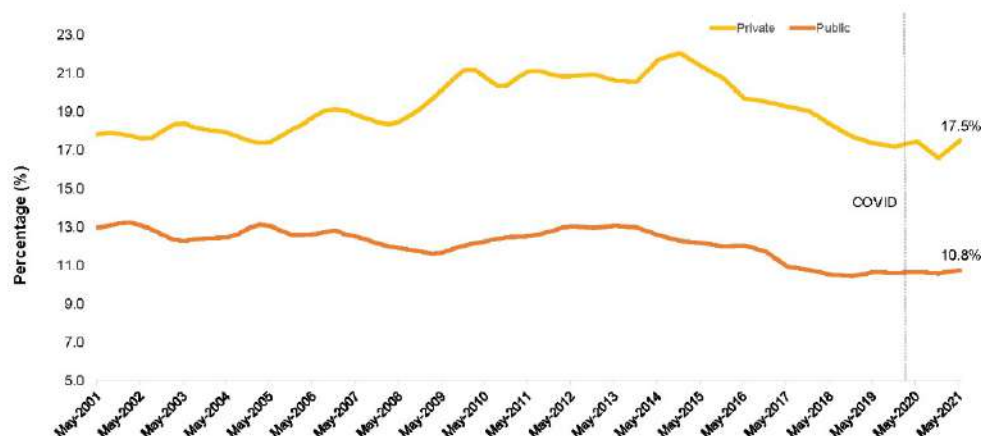
Note: Based on Full-Time Adult Average Weekly Ordinary Time Earnings with May as the reference period. Industries are ranked from highest gender pay gap to lowest gender pay gap in May 2021. A minus sign indicates that the gender pay gap has decreased from the previous period.

Gender pay gaps in the public and private sectors

In May 2021, the gender pay gap was 17.5% in the private sector and 10.8% in the public sector. Figure 3 shows that since 2001 the gender pay gap in the public sector has been lower than in the private sector.

During that time, the gender pay gap has hovered between 16.6% and 22.1% in the private sector and between 10.5% and 13.5% in the public sector.

Figure 3: Gender pay gaps over time in the private and public sectors, May 2001 to May 2021¹⁴



Data Source: ABS (2021), Average Weekly Earnings, May 2021, viewed 19 August 2021, Table 5 and Table 8 <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>

Note: Based on full-time adult average weekly ordinary time earnings. Between May 2001 and November 2019 the national gender pay gap calculations were based on trend data. Due to Covid 19, seasonally adjusted data has been used in Figure 3 for all data points after November 2019.

Method of setting pay and the gender pay gap

The method of setting pay describes how salaries are established, usually by award, collective or individual agreement. Table 3 shows that the gender pay gap was higher when pay was set by individual arrangement, compared to when pay was set by award or collective agreement.

The data shows that, on average, men have higher weekly total cash earnings than women regardless of the method by which pay is set.

Table 3: Average weekly total cash earnings (full-time) by gender and gender pay gap by method of setting pay (2018)¹⁵

Method of Setting Pay	Women	Men	Gender Pay Gap (%)
Award or Collective agreement	\$1,492.80	\$1,732.80	13.9
Individual arrangement	\$1,549.60	\$1,898.40	18.4
Overall	\$1,515.60	\$1,810.90	16.3

Data source: ABS (2019), Employee Earnings and Hours, Australia, Data cube 2, table 1, Jan 2019, viewed 24 August 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release>

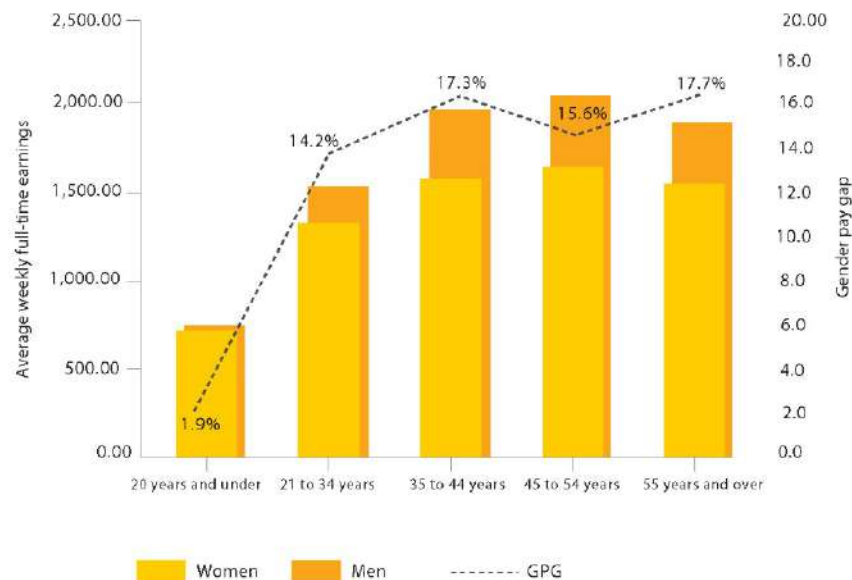
The gender pay gap by age group

The average gender pay gap between women and men working full-time increases with age up to the mid-30s before decreasing slightly to 15.6% in favour of men.

The average gender pay gap is smallest for employees aged 20 years and under and sharply increases for those aged between 21 and 34 years. The gender pay gap is at its widest for the 35 to 44 years age group and for those over 55 years.

The average gender pay gap increases to its highest point at 17.7% for the over 55 years and over age group. Women in this age group are more likely than men to have spent time out of the workforce to care for children and other family members. As a result of the extra time women spend in unpaid care work, they have fewer promotion opportunities and are less likely than men to hold highly compensated jobs.

Figure 4: Average weekly full-time earnings and gender pay gap by age, August 2020¹⁶



Data source: ABS (2019), Employee Earnings and Hours, Australia, Data cube 1, table 4, Jan 2019, viewed 24 August 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release>

Note: Based on full-time average weekly total cash earnings and inclusive of ordinary and overtime earnings.

Gender pay gaps by occupation

Occupational full-time gender pay gaps are calculated across the WGEA dataset by management and non-management occupational categories. The calculations are based on the annualised base salary and total remuneration of employees in non-public sector organisations.

Overall, WGEA data shows that in 2019-20 the gender pay gap was higher among managers compared to non-managers. The smaller gender pay gap is largely due to less discretionary pay and greater reliance on awards and collective agreements among non-managers. In 2019-20:

- the gender pay gap for managers was 23.2% with an average total remuneration dollar difference of \$46,578
- the gender pay gap for non-managers was 18.5% with an average total remuneration dollar difference of \$20,458.

The gender pay gap by manager category

WGEA data across manager categories shows that gender pay gaps increase at higher levels of management. The gender pay gap in total remuneration in part reflects the role of non-salary benefits in management, including bonuses.

In 2019-20:

- the highest average full-time total remuneration gender pay gap was for key management personnel at 23.4%. This means that, on average, women earn \$89,141 less than men.

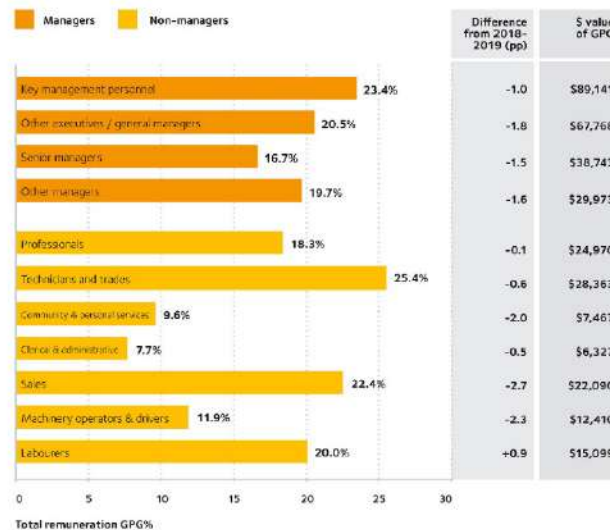
The gender pay gap by occupational category

WGEA data for non-manager occupations shows a gender pay gap in favour of men across all occupational categories. The gender pay gap in total remuneration partly reflects the role of non-salary benefits, including bonuses across specific occupations. For example, Technicians, which includes engineers, are likely to receive bonuses upon completion of projects.

In 2019-20:

- the highest gender pay gap by occupation was for Technicians and trades, at 25.4% full-time total remuneration
- the lowest gender pay gap by occupation was for Clerical and administrative, at 7.7% full-time remuneration.

Figure 5: Gender pay gaps by manager category and non-manager category (full-time total remuneration gender pay gap by manager category and non manager category), 2019-2020¹⁷



Source: WGEA (2020), Australia's gender equality scorecard, https://www.wgea.gov.au/sites/default/files/documents/2019-20%20Gender%20Equality%20Scorecard_FINAL.pdf

Note: Based on total remuneration of full-time employees, which includes full-time base salary plus any additional benefits payable directly or indirectly, whether in cash or in a form other than cash. Includes bonus payments (for example, performance pay), superannuation, discretionary pay, overtime, other allowances and other benefits (for example, share allocations).

WGEA Resources

WGEA Data Explorer: displays gender pay gap data (based on a census of non-public sector organisations with 100 or more employees that are required to report to the Agency and representing over 40% of Australian employees)

Australia's gender equality scorecard: released in November 2019

Gender Equity Insights Reports: Inside Australia's Gender Pay Gap: released March 2017 for a more detailed analysis of the Agency's gender pay gap data (such as by governing boards' gender composition and by whether organisations are more female-dominated, male-dominated or mixed).

References

- 1) ABS (2021), *Average Weekly Earnings, November 2020*, viewed 25 February 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
- 2) Data source: ABS (2019), *Employee Earnings and Hours, Australia*, Jan 2019, viewed 24 August 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release>
- 3) WGEA (2020), *WGEA Data Explorer*: <http://data.wgea.gov.au/>
- 4) ABS (2021), *Average Weekly Earnings, November 2020*, viewed 25 February 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
- 5) ABS (2021), *Average Weekly Earnings, May 2021*, viewed 19 August 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
- 6) ABS (2020) *Methods changes during the COVID-19 period, June 2020*, cat. no. 1359.0, viewed August 2020, <https://www.abs.gov.au/articles/methods-changes-during-covid-19-period>
- 7) Unless otherwise stated, all measures of the gender pay gap are expressed as a percentage (%) based on average weekly ordinary time earnings for full-time employees (trend data), with changes over time provided as the percentage point (pp) difference.
- 8) ABS (2021), *Average earnings growth in May similar to pre-pandemic*, <https://www.abs.gov.au/media-centre/media-releases/average-earnings-growth-may-similar-pre-pandemic>
- 9) ABS (2021), *Average Weekly Earnings, May 2021*, cat. no. 6302.0, viewed 19 August 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#survey-impacts-and-changes>; ABS (2021), *Average earnings growth in May similar to pre-pandemic*, <https://www.abs.gov.au/media-centre/media-releases/average-earnings-growth-may-similar-pre-pandemic>
- 10) Data: ABS (2021), *Average Weekly Earnings, May 2021*, cat. no. 6302.0, viewed 19 August 2021, Table 2 <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
- 11) Source: WGEA (2020), *Australia's gender equality scorecard*, https://www.wgea.gov.au/sites/default/files/documents/2019-20%20Gender%20Equality%20Scorecard_FINAL.pdf
Note: Total remuneration of full-time employees includes full-time base salary plus any additional benefits payable directly or indirectly, whether in cash or in a form other than cash. Includes: bonus payments (including performance pay), superannuation, discretionary pay, overtime, other allowances and other benefits (for example share allocations). Data: ABS (2021), *Average Weekly Earnings, May 2021*, cat. no. 6302.0, viewed 19 August 2021, Table 2 <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
- 12) Data source: ABS (2021), *Average Weekly Earnings, May 2021*, cat. no. 6302.0, viewed 19 August 2021, Table 12 A to Table 12 <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
Note: Based on Full-Time Adult Average Weekly Ordinary Time Earnings with May as the reference period. States and territories are ranked from highest gender pay gap to lowest gender pay gap in May 2021
- 13) ABS (2021), *Average Weekly Earnings, May 2021*, viewed 19 August 2021, Table 10 A and Table 10 D, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
Note: Based on Full-Time Adult Average Weekly Ordinary Time Earnings with May as the reference period. Industries are ranked from highest gender pay gap to lowest gender pay gap in May 2021.
- 14) Data Source: ABS (2021), *Average Weekly Earnings, May 2020*, viewed 19 August 2021, Table 5 and Table 8 <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/average-weekly-earnings-australia/latest-release#data-download>
Note: Based on full-time adult average weekly ordinary time earnings. Between November 2001 and November 2019, the national gender pay gap calculations were based on trend data. Due to Covid 19, seasonally adjusted data has been used in Figure 3 for all data points after November 2019.
- 15) Data source: ABS (2019), *Employee Earnings and Hours, Australia*, Data cube 2, table 1, Jan 2019, viewed 24 August 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release>
- 16) Data source: ABS (2019), *Employee Earnings and Hours, Australia*, Data cube 1, table 4, Jan 2019, viewed 24 August 2021, <https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/employee-earnings-and-hours-australia/latest-release> Note: Based on full-time average weekly total cash earnings and inclusive of ordinary and overtime earnings.
- 17) Data source: WGEA (2020), *Australia's gender equality scorecard*, https://www.wgea.gov.au/sites/default/files/documents/2019-20%20Gender%20Equality%20Scorecard_FINAL.pdf
Note: Based on total remuneration of full-time employees, which includes full-time base salary plus any additional benefits payable directly or indirectly, whether in cash or in a form other than cash. Includes bonus payments (for example, performance pay), superannuation, discretionary pay, overtime, other allowances and other benefits (for example, share allocations).



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Appendix 7 – Summary of Recommendations – what would need to be done and by whom?

Summary of WGEA Review recommendations	What?	Who?
1. Make it easier for employers to report to WGEA and improve collection and sharing of gender data		
1.1. New Gender Data Steering Group to drive and oversee research and stakeholder consultation (including with both human resources and payroll Digital Service Providers) to identify how to:	Consult with stakeholder and research to identify legislative and digital solutions	PM&C OFW PM&C Deputy Secretary, Social Policy (in capacity as Co-Chair of new Gender Data Steering Group)
a. Enable WGEA to use data employers have already provided to government (such as Single Touch Payroll and other data) where possible, and		
b. Invest in a way to assist employers to extract other data from their own employer systems using a digital solution where possible.		
1.2. Establish a new Gender Data Steering Group under the Deputy Secretary Data Group to improve the impact of the Australian Government's collection and use of gender data and oversee Recommendation 1.1.	Set up new Gender Data Steering Group	PM&C OFW Deputy Secretary Social Policy
2. Publish organisation gender pay gaps to accelerate action to close them		
2.1. Allow WGEA to publish gender pay gap information at an employer level as an overall figure and by quartile to encourage change within organisations. Individual employee pay information is not to be published.	Consult on how to implement Assess regulatory impacts Amend <i>Workplace Gender Equality Act 2012</i>	PM&C OFW PM&C Office of Best Practice Regulation (OBPR) In consultation with WGEA
3. Bridge the 'action gap' with new gender equality standards		
3.1. Bridge the 'action gap' to strengthen the existing minimum standards to:	Consult on how to implement	PM&C OFW
a. add a new minimum standard to require relevant employers with 500 or more employees to achieve and report to WGEA on measurable genuine targets against three of the six gender equality indicators	Assess regulatory impacts	PM&C OBPR In consultation with WGEA
b. strengthen the existing minimum standards to require relevant employers with 500 or more employees to have policies or strategies that cover all six gender equality indicators (not just one policy or strategy for one GEI as currently required), and	Amend the <i>Workplace Gender Equality (Minimum Standards) Instrument 2014</i>	
c. rename the minimum standards to be ' gender equality standards .'		
3.2. Strengthen accountability of employers to take action to improve gender equality in workplaces by amending the <i>Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)</i> to:	Amend <i>Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)</i>	PM&C OFW
a. require employers to report the date employers share with their employees, shareholders, and/or members the gender equality reports that the employers provided to WGEA , and		

Summary of WGEA Review recommendations		What?	Who?
b. require employers to provide the Executive Summary report and Industry Benchmark report from WGEA to employers to their Board/Governing Body .			
4. Reduce the regulatory burden on employers			
4.1	Amend the Workplace Gender Equality Act to:	Amend the <i>Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)</i>	PM&C OFW
a.	Remove the 'reporting levels to the CEO' question. Currently employers must report on managerial distance from the CEO or equivalent		
b.	Replace 'annualised full-time equivalent figures'. Enable employers to report on <i>actual earnings</i> of part-time and casual employees as well as the number of hours employees are engaged, and		
c.	Replace 'proportion of workforce' questions with 'number of employees' who have access to paid parental leave, and number of employees who ceased employment during or after that leave.		
5. Support Respect@Work implementation to prevent and address workplace sex-based harassment and discrimination			
5.1	Include 'sex-based harassment and discrimination' as a gender equality indicator in the Workplace Gender Equality Act to align the Act with its associated legislative instrument	Amend <i>Workplace Gender Equality Act 2012</i>	PM&C OFW
6. Research the best way to collect diversity data			
6.1	Research how to collect more diversity data in addition to gender data to enable voluntary reporting, including on Aboriginal and Torres Strait Islander background, cultural and linguistic diversity, and disability.	Qualitative research and stakeholder consultation	WGEA
7. Refine the gender equality indicators			
7.1	Refine gender equality indicators to include mandatory reporting of:	Consult on how to implement	PM&C OFW
a.	age (already reported voluntarily by many)		
b.	primary workplace location, (already reported voluntarily by many)	Assess regulatory impacts	In consultation with WGEA
c.	whether superannuation is paid by an employer when an employee is on paid, unpaid employer-funded and/or government-funded parental leave, and		
d.	remuneration data for Chief Executive Officers (CEOs) or the equivalent (no information is to be published by WGEA on individual remuneration).		
7.2	In line with the ABS 2020 <i>Standard for Sex, Gender, Variations of Sex Characteristics and Sexual Orientation Variables</i> , enable WGEA to collect data on non-binary people.		
7.3	Identify the best approach to improve other aspects of gender equality indicator reporting to:		
a.	require employers to report to WGEA on occupations and jobs at (ANZSCO) level 4 for non-managers		
b.	include partnerships and partners in the WGEA dataset more fully in WGEA dataset, and		
c.	make it mandatory for to individual entities within corporate structures to report.		

Summary of WGEA Review recommendations		What?	Who?
8. Strengthen compliance and enforcement			
8.1	Amend the Workplace Gender Equality Act so all relevant employers must comply with WGEA's reporting obligations for Commonwealth grants eligibility and Commonwealth procurement participation . To support implementation of this recommendation, the Office for Women in the Department of Prime Minister and Cabinet, together with the Department of Finance and other relevant departments, will review the Workplace Gender Equality Procurement Principles .	<p>Amend <i>Workplace Gender Equality Act 2012</i></p> <p>Review and improve <i>Workplace Gender Equality Procurement Principles</i></p> <p>Develop grants policy on WGEA compliance</p>	<p>Jointly led by PM&C OFW and Department of Finance</p> <p>Included in consultation: DSS Community Grants Hub and DISER Business Grants Hub</p>
9. Set WGEA up for future success to support employers to drive gender equality in Australian workplaces			
9.1	The resourcing implications of WGEA Review recommendations for WGEA will require consideration by the Australian Government.	Advice to Minister for Women	PM&C OFW
9.2	To avoid confusion with company director roles, change the title of the 'Director of WGEA' to Chief Executive Officer (CEO) .	Amend the <i>Workplace Gender Equality Act 2012</i>	PM&C OFW
9.3	WGEA to review its Employer of Choice Gender Equality citation to improve its effectiveness.	Review EOCGE	WGEA
9.4	WGEA to continue to improve the way it supports employers improve gender equality.	Review WGEA practices	WGEA
10. Review the Workplace Gender Equality Act in five years from the date any legislative changes commence			
10.1	Review action flowing from this WGEA Review five years from the commencement of any legislative reform.	Conduct a review	PM&C OFW