

Submission on the Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024

Public Sector Gender Equality Commissioner, Victoria, Dr Niki Vincent
December 2024

As Victoria's Public Sector Gender Equality Commissioner (Commissioner), I welcome the opportunity to make this submission to the Senate Finance and Public Administration Committee on the Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024 (the Bill).

I support the Government's efforts to ensure that the *Workplace Gender Equality Act 2012* (Cth) (WGE Act) and associated legislative instruments accelerate progress on gender equality and make reporting easier for employers. In my submission on the Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023, I urged the Australian Government to also implement recommendation 3.1a of the 2021 review of the WGEA (the 2021 review). I am pleased to see that progress has been made in addressing the outstanding recommendations of the 2021 review.

I support the proposed amendments outlined in the Bill. The Bill seeks to bridge the 'action gap' by establishing new requirements for certain employers with 500 or more employees, or designated relevant employers (DREs).

If passed, these employers will be required to commit to, achieve, or at a minimum improve on, and report to the Workplace Gender Equality Agency (WGEA) on measurable targets to progress gender equality in their workplace. The Bill will improve transparency for employees and the community, and ensure greater accountability, which is needed to accelerate the rate of change in workplace gender equality in Australia.

My submission is informed by my experience as the Commissioner for Gender Equality in the Public Sector, as well as my previous experience serving as the South Australian Commissioner for Equal Opportunity. The submission is also informed by Victoria's baseline report on the 2021 public sector workplace gender audit data collected under the *Gender Equality Act 2020* (the Act), and more recently, the audit data submitted to me by duty holders as part of the second round of progress reporting under the Act.

The Gender Equality Act 2020

In 2020, Victoria introduced the nation-leading and ground-breaking *Gender Equality Act 2020* (Vic) (the Act). The objectives of the Act are to improve workplace gender equality across the Victorian public sector, universities, and local councils with 50 or more employees, and to embed gender equitable outcomes in the community by applying a gender lens to certain policies, programs and services that have a direct and significant impact on the public.



The Act recognises that gender equality requires systemic and structural change beyond equal opportunity and treatment. It also acknowledges the social and economic benefits that accrue through intersectional gender equality and the historical discrimination and disadvantage women have experienced.¹

The Act does not currently stipulate the use of gender targets or quotas. However, Section 17 of the Act provides that the regulations may prescribe targets or quotas relating to workplace gender equality.

Gender Equality Action Plan

Under the Act, duty holders are required to prepare a Gender Equality Action Plan (GEAP) every four years, which includes conducting a workplace gender audit to assess the state and nature of gender inequality within the organisation.

Section 10 specifies that duty holders must collect data and report on the status of their organisation against the workplace gender equality indicators and, where available, data on other attributes, such as Aboriginality, age, disability, ethnicity, gender identity, race, religion, and sexual orientation.

Based on the audit results, duty holders must develop strategies and measures for promoting gender equality in the workplace. The audit is intended to serve as a diagnostic tool that helps duty holders assess their current status regarding workplace gender equality. Information from the first audit provides them with a baseline position on gender equality and can be used to develop strategies and measures to improve gender equality in the workplace. Each subsequent audit and the published report will track progress towards gender equality over time, ensuring improved outcomes and greater accountability.

Progress reporting

Section 19 stipulates that duty holders must prepare a report every two years to demonstrate their progress on the measures and strategies outlined in their GEAP and the workplace gender equality indicators. Duty holders must demonstrate progress in relation to workplace gender equality indicators and any prescribed gender equality targets and quotas.

Gender Impact Assessment

The Act requires duty holders to undertake a gender impact assessment (GIA) when developing a policy, program or service that has a direct and significant impact on the public and report on it. This ensures improved and responsive policy making and service delivery, helps to prevent unintended negative consequences where a policy, program or service might contribute to inequality and supports the better use of resources.

¹ Hansard, *Gender Equality Bill 2019, Second reading*, 6 February 2020.



Gender equality targets drive progress, promote transparency, and increase accountability

Currently, the WGE Act requires relevant employers to submit annual reports addressing the six gender equality indicators and to develop policies or strategies against these indicators. By creating obligations to set, achieve, or at a minimum improve on, targets, the Bill helps to improve transparency around an employer's commitment to addressing workplace gender equality. The new approach also provides an opportunity to recognise employers who are consistently addressing workplace gender inequality issues, and can ensure better and more targeted dissemination of best practice tools and materials. This could also enhance an employer's corporate reputation.

The Bill does not prescribe specific gender equality targets for DREs to adopt, nor does it outline the rules for selecting those targets. Instead, it empowers the Minister for Women via a legislative instrument to "set targets in relation to specified gender equality indicators and specified target cycles and specify rules for the selection of targets." A full menu of targets will be available for DREs to select and will comprise either 'action' or 'numeric.' Targets will vary in complexity, in recognition that employers vary in maturity and readiness over a three-year-cycle. This approach ensures flexibility and ensures these targets can be tailored to the circumstances of each organisation.

I acknowledge that, as part of the development of this Bill, a range of consultations were undertaken and Dr Leonora Risse was commissioned to conduct research to help inform the development of a menu of targets by WGEA. I am pleased that WGEA will support employers to set and meet their objectives and that they will provide relevant tools and resources for target setting. This will help to support organisations, and build the capacity and skills needed to promote gender equality in the workplace.

The design of the Bill recognises that time is needed to make progress on gender equality. The three-year cycle provides employers with the appropriate time to set up processes, resources, and practices to support their gender equality initiatives. The Bill also establishes compliance measures. If an employer has failed to meet a target or demonstrate that they have improved against a target without reasonable excuse, they will have failed to comply with the WGE Act. They could be named as being non-compliant with their reporting obligations or not be issued with a certificate of compliance. This underscores that change demands both commitment and sustained effort. I note that the Bill's explanatory memorandum states that work is underway to consider the development of an effective review mechanism for future introduction.

The explanatory memorandum for the Bill also explains that the decision to focus on employers with 500 or more employees, rather than all relevant employers under



the WGE Act, which reflects the findings of the 2021 review and the subsequent feedback gathered during stakeholder consultations. If the Bill is adopted, I encourage WGEA to regularly monitor the progress of the targets scheme and over time, to consider improvements to its operation, with a view to consider the potential expansion of the targets scheme to cover more workplaces and strengthening the compliance and enforcement actions.

Research shows target setting and action planning can improve gender equality outcomes

I also want to draw the Committee's attention to some of my commissioned research. These research insights highlight the significant potential of setting targets and quotas and provide key recommendations for their implementation. When executed effectively, they have the power to transform workplace cultures and drive meaningful change.

In the chapter "Gender Targets and Quotas in Leadership Roles," McGrath, Ryan, and Sojo acknowledge that research on the impact of leadership gender quotas is comparatively young. Although primarily focused on quotas, their review still offers valuable insights into the profound impacts of action setting through quotas. Their review of the existing literature highlighted three key themes:

- Gender quotas at one level of an organisation, or in one sector, do not appear to have spill-over effects to other levels or sectors in the short to medium term. Quotas should be considered for all roles where women are underrepresented.
- To take full advantage of leadership gender quotas, organisations must create a 'pipeline' of women suitable for senior positions.
- Quotas must complement other efforts to transform social and organisational norms and values and should not, on their own, be expected to translate to substantive outcomes for women.²

In another study that I commissioned, Ghalebeigi et al. assessed the capability and capacity of the Victoria Government's Department of Transport and the Major Transport Infrastructure Authority to implement the Gender Equality Act. The findings showed that overall, targets were strongly endorsed by all 22 executive interviewees. Some participants viewed that targets could "help focus people's attention on the key quantitative aspects of the problem" and "accelerate cultural change, particularly in areas historically heavily over-represented by men, such as engineering occupations."³ However, for these targets to be effective, it is essential to consider both structural and cultural requirements and obstacles. The authors

² McGrath et al., "Gender Targets and Quotes in Leadership Roles," in *What works, what's fair? Using systematic reviews to build the evidence base on strategies to increase gender equality in the public sector* (Melbourne: The University of Melbourne, The Australian National University, and Swinburne University of Technology, 2022), 108.

³ Ghalebeigi et al., *Assessing Progress in Implementing the Gender Equality Act 2020* (Melbourne: RMIT University, 2022), 34.



observed that some of the key considerations in driving effective change through targets include “setting realistic targets, ensuring appropriate allocation of managerial responsibilities, providing adequate resources, designing effective auditing and monitoring systems, and cultivating awareness and whole-organisation buy-in.”⁴

A further study that I commissioned considered how duty holders under the Gender Equality Act can work towards gender equality for culturally diverse women in the Victorian public sector. These researchers emphasised that “while many organisations have expressed the intent to create genuinely inclusive workplaces, efforts to address inequality and identify its underlying causes have been disparate and ineffective.”⁵ They state that most initiatives that focus on addressing diversity, equity, and inclusion (DEI) issues “take siloed approaches that lack a broader understanding of systems and structures and are not reflected in organisational goals.”⁶ Using the existing literature and interviews reflecting on DEI application, they developed a practical step-by-step roadmap to tackle the barriers Culturally and Linguistically Diverse women face in the workplace. The authors commented that “metrics and targets are vital to measure organisational and individual performance and progress. Performance as measured against set targets and cascaded down the organisation, will ensure accountability for results.”⁷

Additionally, in recently published research funded by the Winston Churchill Trust, Amy Rogers, an Australian human rights lawyer and policy specialist, found that there is “limited understanding of the relationship between pay gaps and pay equality, and that pay gap reporting alone is insufficient.” From her observations of international jurisdictions with the best practices, employers were required to take additional steps following their pay gap analysis. This included identifying and reporting the drivers of the gender pay gap; target setting and taking relevant remedial actions; investigating whether pay-based discrimination is occurring by conducting salary analysis and job evaluations; and to then make substantive changes to underlying business systems to mitigate the risk of pay inequity reoccurring.⁸ Rogers highlighted that jurisdictions such as Iceland, Sweden and Wales have pay equality regimes that went beyond pay gap analysis to requiring action and, when properly executed, this has seen employers eliminate the risk of, and correct, pay inequity.⁹ Ultimately Rogers notes that the proposal to bridge the action gap by setting targets “represents a significant shift” in the current reporting regime from a process duty to an output focused, action duty.¹⁰

⁴ Ibid.

⁵ MindTribes Research Team and the Victorian Multicultural Commission, *How defined entities can achieve gender equality for Culturally Diverse Women in the Victorian Public Sector* (Melbourne: 2020).

⁶ Ibid.

⁷ Ibid, 80.

⁸ Amy Rogers, *Revaluing Work* (Churchill Trust: 2024), 12.

⁹ Ibid., 13.

¹⁰ Ibid., 302.



Conclusion

Noting the above, I am supportive of the Bill and welcome the amendments as they drive action to achieve workplace gender inequality in Australia. I am also happy to provide further assistance to the Committee as it considers this matter.