



20 December 2024

Secretary
Senate Finance and Public Administration Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: fpa.sen@aph.gov.au

Dear Secretary,

Inquiry into the Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024

The Australian Human Rights Commission (the Commission) welcomes the opportunity to make this submission to the Senate Finance and Public Administration Committee's (Committee) inquiry into the Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024 (WGEA Bill) (Inquiry).

Recommendations

Recommendation 1: The Commission recommends employers of 100 and more employees be required to meet the obligations set out in the WGEA Bill.

Recommendation 2: The Commission recommends that employers pick 4 targets (2 numeric and 2 action) to meet over the three-year reporting period.

Recommendation 3: The Commission recommends the inclusion of an additional numeric target under GEI 4 which requires employers to report on the uptake of flexible working arrangements by people of all genders.

Recommendation 4: The Commission recommends the addition of numeric targets under each of the GEIs to collect data on the experiences of workers with disability and from LGBTIQ+, First Nations and culturally and racially marginalised backgrounds.

Background

The Commission welcomes the WGEA Bill and the potential impact it will have on achieving gender equality. The Commission also recognises and applauds the significance of existing requirements under the *Workplace Gender Equality Act 2012* (Cth), as well as the Positive Duty provision under the *Sex Discrimination Act 1984* (Cth), in effecting change in Australian workplaces. Despite this important work, and commitment from the Australian Government in recent years to address gender inequality, progress has been too slow and there is significant work to be done. For example:

- 1 in 3 Australians hold a negative bias about women's ability to participate fully economically, politically or in education
- 1 in 5 women have experienced sexual assault since the age of 15
- 68% of migrant and refugee women have experienced at least one form of sexual harassment in the last 5 years
- women continue to do more paid and unpaid care work than men
- 35.7% of women cite caring for children as the main reason they are unavailable to start work or work more hours, compared to 7.3% of men
- the median gender pay gap in Australia is 19%
- the estimated median weekly total personal income for First Nations women is \$517.47, a gap of 23.7% compared to non-Indigenous women and 47.8% compared to men.¹

We also know that the intersection of gender with other forms of inequality results in women and gender diverse people with disability, who are LGBTIQ+, First Nations and from culturally and racially marginalised (CARM) backgrounds experiencing higher rates of inequality and barriers to support.

Extending Gender Equality Targets

The WGEA Bill will require certain employers who have 500 or more employees to select and meet three gender equality targets, which fall under the following Gender Equality Indicators (GEIs), and to report on their progress over a three-year period:

- GEI 1 – gender composition of the workforce

¹ Commonwealth Government, Office for Women, 2024 *Status of Women Report Card* (2024), <https://genderequality.gov.au/sites/default/files/2024-03/status-of-women-report-card-2024.pdf>

- 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
- GEI 6 – sexual harassment, harassment on the ground of sex or discrimination.

In welcoming the contents of the WGEA Bill the Commission recommends employers of 100 and more employees, rather than 500, be required to meet the obligations set out in the WGEA Bill. This will create more significant impact and achieve greater cultural change. This recognises that achieving gender equality in the workplace is too slow and workplaces can be resistant to change. The Commission also recommends that employers pick 4 targets (2 numeric and 2 action), rather than 3, to meet over the three-year reporting period.

There is a significant way to go to achieve gender equality, but the amendments proposed in the WGEA Bill are a step in the right direction. The Commission believes the extension of the WGEA Bill as we suggest would positively contribute to addressing gender inequality.

Recommendation 1: The Commission recommends employers of 100 and more employees be required to meet the obligations set out in the WGEA Bill.

Recommendation 2: The Commission recommends that employers pick 4 targets (2 numeric and 2 action) to meet over the three-year reporting period.

Collection of Data

We know that women continue to do more unpaid care than men.² Whilst policies to support flexible working arrangements and parental leave are

² Commonwealth Government, Office for Women, 2024 *Status of Women Report Card* (2024), <https://genderequality.gov.au/sites/default/files/2024-03/status-of-women-report-card-2024.pdf>

essential to closing this gap, data indicating the uptake of these policies is just as important. The policy is the first step but in order to measure success, we need to know whether employees are using the policy effectively and thus the measurement of the uptake or use of flexible working arrangements is essential. A suggested numeric target under GEI 4 in the Explanatory Memorandum requires employers to note how much the representation of [under-represented gender] taking primary carers leave has increased in the three-year period.³ The Commission recommends including an additional numeric target under GEI 4 which requires employers to report on the uptake of flexible working arrangements by people of all genders. This is rather than just the action targets currently included which focus on the maintenance or expansion of existing flexible working arrangement policies.

Recommendation 3: The Commission recommends the inclusion of an additional numeric target under GEI 4 which requires employers to report on the uptake of flexible working arrangements by people of all genders.

Disaggregated data

This year, the Commission held 61 consultations online and in-person throughout Australia as part of its Speaking from Experience project, which focuses on hearing from people about their advice and ideas on how to address workplace sexual harassment. In particular, the Commission heard from Aboriginal and Torres Strait Islander workers, young people, CARM workers, people with disability and LGBTIQ+ workers about their experiences of workplace sexual harassment. The experience of these groups of workers is not represented sufficiently in existing research on the nature and extent of sexual harassment, and yet we know that they experience higher rates of workplace sexual harassment.⁴ Hearing from these sections of the workforce improves our understanding of how sexual harassment intersects with other types of harassment and discrimination in Australian workplaces.

A key theme from consultations was a lack of understanding of intersectionality. This lack of understanding is not only around its role in how sexual harassment can occur, but also how it can impact a person's ability and willingness to make a

³ Explanatory Memorandum, Workplace Gender Equality Amendment (Setting Gender Equality Targets) Bill 2024 (Cth).

⁴ Australian Human Rights Commission, *Time for respect: Fifth national survey on sexual harassment in Australian workplaces* (2022), <https://humanrights.gov.au/time-for-respect-2022>.

complaint. A clear outcome of the consultations was the need for education around how harassment and other discriminatory behaviour can be intersectional, and the impact this can have on the severity of an incident, the harm caused and the actions a person can take to keep themselves safe.

The Commission recommends the addition of numeric targets under each of the GEIs to collect data on the experiences of workers with disability and from LGBTIQ+, First Nations and CARM backgrounds, to inform workplaces on what 'gender' really means, and how to achieve true gender equality. Increasing transparency on gender in the workplace, as well as reporting on how gender equality will be progressed, will help contribute to significant cultural change.

Recommendation 4: The Commission recommends the addition of numeric targets under each of the GEIs to collect data on the experiences of workers with disability and from LGBTIQ+, First Nations and culturally and racially marginalised backgrounds.

The Commission welcomes the WGEA Bill and is happy to provide further assistance to the Committee in its consideration of this matter.

Yours sincerely

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